

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

In the Matter of:)	Docket No. FIFRA-03-2018-0132
)	U.S. EPA-REGION 3-RHC
)	FILED-27SEP2018AM9:57
Mr. Kevin A. Evans)	Proceeding Under Section 14(a) of the
9843 Seashore Highway)	Federal Insecticide, Fungicide and
Bridgeville, Delaware 19933,)	Rodenticide Act, <i>as amended</i> , 7 U.S.C.
RESPONDENT.)	§ 136l(a)

CONSENT AGREEMENT

This Consent Agreement is entered into by the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III ("Complainant") and by Mr. Kevin A. Evans ("Mr. Evans" or "Respondent"), pursuant to Section 14(a) of the Federal Insecticide, Fungicide and Rodenticide Act ("FIFRA"), *as amended*, 7 U.S.C. § 136l(a), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits ("*Consolidated Rules of Practice*"), 40 C.F.R. Part 22 (with specific reference to 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3)). This Consent Agreement and the accompanying Final Order (hereinafter jointly referred to as the "CAFO") resolve Complainant's civil penalty claims against Respondent under FIFRA (or the "Act") for the violations alleged herein.

I. PRELIMINARY STATEMENT AND STIPULATIONS

1. The violations cited herein pertain to the Respondent's alleged commission of unlawful acts by using registered pesticides in a manner inconsistent with product labeling, in contravention of Section 12(a)(2)(G) of FIFRA, 7 U.S.C. § 136j(a)(2)(G), the general duties and prohibited actions provisions of 40 C.F.R. §§ 170.7(a)(1) through (4) and, specifically, by: (a) failing to display, at the location specified in 40 C.F.R. § 170.122(a) and in accordance with the applicable requirements set forth at 40 C.F.R. § 170.122(c)(1) through (4), specific information about pesticides covered under 40 C.F.R. Part 170, Subpart B, that were applied at an agricultural establishment owned, operated and supervised by Respondents within 30 days of worker presence on that agricultural establishment; (b) failing to ensure that agricultural workers required to be trained during the last 5 years, pursuant to 40 C.F.R. § 170.130(a)(1), were timely and properly trained using the training materials required under 40 C.F.R. § 170.130(d)(4); and (c) failing to display, in accordance with 40 C.F.R. § 170.135(a), the pesticide safety poster and the emergency medical care information required pursuant to 40 C.F.R. § 170.135(b) and (c), in a manner and at the location specified in 40 C.F.R. §§ 170.135(d), (e) and (f), at a time when workers were present on an agricultural establishment within 30 days of the date when registered pesticides covered under 40 C.F.R. Part 170, Subpart B, were applied by, or under the supervision of, Respondent at an agricultural establishment.

2. In accordance with 40 C.F.R. § 22.13(b) and .18(b)(2) and (3) of the *Consolidated Rules of Practice*, Complainant hereby simultaneously commences and resolves, as part of the settlement set forth herein, EPA's civil claims alleged in Sections IV and V of this Consent Agreement.

II. JURISDICTION

3. The U.S. Environmental Protection Agency ("EPA") has jurisdiction over the above-captioned matter pursuant to Sections 14(a)(1) and 27(a) of FIFRA, as amended, 7 U.S.C. §§ 136l(a)(1) and 136w-2(a), and 40 C.F.R. §§ 22.1(a)(5) and 22.4 of the *Consolidated Rules of Practice*.

III. GENERAL PROVISIONS

4. For purposes of this proceeding, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and the attached Final Order, hereinafter collectively referred to as the "CAFO."
5. Except as provided in Paragraph 4, immediately above, the Respondent neither admits nor denies the specific factual allegations and legal conclusions set forth in this Consent Agreement.
6. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this CAFO.
7. For purposes of this proceeding only, Respondent hereby expressly waives any right to contest any issue of law or fact set forth in this Consent Agreement and any right to appeal the accompanying Final Order.
8. Respondent consents to the issuance of this CAFO and agrees to comply with its terms and conditions.
9. Each party to this Consent Agreement shall bear its own costs and attorney's fees.

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

10. In accordance with 40 C.F.R. § 22.13(b) and .18(b)(2) and (3) of the *Consolidated Rules of Practice*, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.
11. Mr. Kevin A. Evans ("Mr. Evans") is an individual "person," within the meaning and definition of Section 2(s) of FIFRA, 7 U.S.C. § 136(s).
12. At all times herein relevant, Mr. Evans has been, and currently is, the Managing Member of Evans Farms, LLC, a Delaware Limited Liability Company located in the State of Delaware and having a mailing address of 9843 Seashore Highway, Bridgeville, Delaware 19933.

13. At all times herein relevant, Evans Farms, LLC (“Evans Farms” or the “Establishment”) has been, and presently is, an “agricultural establishment,” within the meaning and definition of 40 C.F.R. § 170.3.
14. At all times herein relevant, Mr. Evans has had, and presently has, a possessory interest in the Establishment and has been, and currently is, the “owner” of the Establishment, within the meaning and definition of 40 C.F.R. § 170.3.
15. At all times herein relevant, Mr. Evans, the Managing Member of Evans Farms, has been a “commercial applicator,” within the meaning and definition of and definition of Section 2(e)(3) of FIFRA, 7 U.S.C. § 136(e)(3), who: (i) used and/or supervised the use of pesticides classified for restricted use on properties other than those owned or rented by him or by Evans Farms; and (ii) also used and/or supervised the use of pesticides classified for restricted use on the Establishment.
16. At all times herein relevant, Mr. Evans was also a “Handler” and a “Handler employer” within the meaning and definition of 40 C.F.R. § 170.3, in that: (i) he was a self-employed person that was employed for compensation by other agricultural establishments to which the requirements of 40 C.F.R. Part 170, Subpart C, apply and who, in such employment capacity and among other things, mixed, loaded, transferred and/or applied pesticides, disposed of pesticides or pesticide containers, and handled open containers of pesticides; and (ii) he also employed handlers for compensation at the Establishment.
17. At all times herein relevant, Mr. Evans has been responsible for the management or condition of the Establishment, has hired or contracted for the services of agricultural workers for compensation to perform activities related to the production of agricultural plants at the Establishment and was and is an “agricultural employer,” within the meaning and definition of 40 C.F.R. § 170.3.
18. At all times herein relevant, the Establishment has included, and currently includes, several “farms,” within the meaning and definition of 40 C.F.R. § 170.3. These “farms” are broken up into various sections or quadrants, according to planting dates, and include, but are not necessarily limited to, the Dickerson Farm, the O’Day Farm, and the McKinney Farm (hereinafter collectively referred to as “the Farm”), which are located at or near the intersection of Redden Road and Chaplin’s Chapple Road, Bridgeville, Delaware, 19933.
19. Section 12(a)(2)(G) of FIFRA, 7 U.S.C. § 136j(a)(2)(G), makes it unlawful for any person to use any registered pesticide in a manner inconsistent with its labeling.
20. Section 2(u) of FIFRA, 7 U.S.C. § 136(u), defines the term “pesticide” in relevant part as “any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.”
21. Section 2(ee) of FIFRA, 7 U.S.C. § 136(ee), defines the phrase “to use any registered pesticide in a manner inconsistent with its labeling” as meaning, in relevant and

- applicable part, “to use any registered pesticide in a manner not permitted by the labeling ...”
22. Pursuant to Section 25(a) of FIFRA, 7 U.S.C. § 136w(a), EPA promulgated the Worker Protection Standard (“WPS” or “the Standard”), as codified at 40 C.F.R. Part 170.
 23. The Standard is “designed to reduce the risks of illness or injury resulting from workers’ and handlers’ occupational exposures to pesticides used in the production of agricultural plants on farms or in nurseries, greenhouses, and forests, and also from the accidental exposure of workers and other persons to such pesticides. It requires workplace practices designed to reduce or eliminate exposure to pesticides and establishes procedures for responding to exposure related emergencies.” 40 C.F.R. § 170.1.
 24. With exceptions not herein applicable, the provisions of the Standard set forth at 40 C.F.R. Part 170, Subpart B (40 C.F.R. §§ 170.103-170.160), apply “when any pesticide product is used on an agricultural establishment in the production of agricultural plants.” 40 C.F.R. § 170.102.
 25. The “[g]eneral duties and prohibited actions” requirements of 40 C.F.R. §§170.7(a)(1) through (4), provide, in relevant and applicable part, that “[t]he agricultural employer or the handler employer, as appropriate, shall: (1)[a]ssure that each worker subject to subpart B of [Part 170] ... receives the protections required by this part[;] (2) [a]ssure that any pesticide to which subpart C of [Part 170] is used in a manner consistent with the labeling of the pesticide, including the requirements of this part [;] (3) [p]rovide, to each person who supervises any worker . . . information and directions sufficient to assure that each worker or handler receives the protections required by this part. Such information and directions shall specify which persons are responsible for actions required to comply with this part [; and] (4) [r]equire each person who supervises any worker . . . to assure that the worker . . . receives the protections required by this part.
 26. Pursuant to 40 C.F.R. § 170.9(a), when any WPS regulations are referenced on the pesticide label, “users must comply with all of its requirements except those that are inconsistent with product-specific instructions on the labeling.”
 27. Pursuant to 40 C.F.R. § 170.9(b), a person who has a duty under 40 C.F.R. Part 170, as referenced on the pesticide product label, and who fails to perform that duty, violates Section 12(a)(2)(G) of FIFRA, 7 U.S.C. § 136j(a)(2)(G), and is subject to a civil penalty under Section 14 of FIFRA, 7 U.S.C. § 136l.
 28. On August 11, 2016, a duly authorized representatives of the EPA (the “EPA Inspector”) and of the Delaware Department of Agriculture (collectively, “the Inspectors”), performed a FIFRA WPS inspection (the “Inspection”) at the Establishment, including the Farm, located at or near the intersection of Redden Road and Chaplin’s Chapple Road, Bridgeville, Delaware, 19933.
 29. When the Inspectors arrived at the Farm area of the Establishment on the morning of August 11, 2016, eight (8) agricultural workers were in one of the Farm fields picking squash.

30. Upon their arrival at the Farm area of the Establishment on the morning of August 11, 2016, the Inspectors initially observed that porta potties, fresh drinking water and a sink with soap and paper towels were available to the agricultural workers at the Farm.
31. An Evans Farms employee approached the Inspectors shortly after their arrival at the Farm area of the Establishment on the morning of August 11, 2016 and, after reviewing the Inspectors' credentials, advised the Inspectors that he was the Evans Farms employee (hereinafter, "Evans Farms supervisor") then supervising the agricultural workers picking squash.
32. In response to an inquiry by the Inspectors, the Evans Farms supervisor confirmed that there was no central agricultural worker meeting location at the Establishment or on the Farm and that the Company did not have an EPA Safety poster, or specific information about pesticides or pesticide applications, posted anywhere at the Establishment or on the Farm.
33. In response to further inquiry by the Inspectors, the Evans Farms supervisor stated that he did not believe that any of the eight (8) agricultural workers then picking squash on the Farm had received WPS training within the past five (5) years.
34. The Evans Farms supervisor subsequently directed the Inspectors to another Establishment location where the Inspectors were advised to speak with Mr. Evans. The Inspectors followed such direction, located Mr. Evans, showed him their respective credentials, provided him with Notice of Inspection and asked him if he or the Company had training records for the eight (8) agricultural workers then picking squash in the fields at the Farm and if he or the Company also had pesticide application records for each of the crop fields located on the Establishment for the past two (2) years.
35. Mr. Evans advised the Inspectors that he was the Managing Member of the Company and that he could obtain the requested training and pesticide application records and send them to the Inspectors. He then signed a statement indicating that he would obtain and send the requested records to the EPA Inspector.
36. The Inspectors subsequently returned to the squash field area of the Farm to once again speak with the Evans Farms supervisor with whom they initially conversed soon after their arrival at the Establishment. The Evans Farms supervisor showed the Inspectors numerous 1-page forms, each entitled "General Employee Policies for Food Safety at Evans Farms" (hereinafter "Food Safety Forms" or "Forms"). Each of these Forms contained fourteen (14) numbered food safety instructions that were written in English.
37. The Evans Farms supervisor advised the Inspectors that each of the agricultural workers employed to work at the Establishment had signed one of these Food Safety Forms upon initial employment at the Establishment that growing season and prior to entering any area of the Farm or Establishment for the purpose of performing agricultural work.

38. The EPA Inspector proceeded to photograph each of the eight (8) Food Safety Forms which bore a signature of one of the agricultural workers who was then in the Farm fields picking squash on August 11, 2016.
39. According to the written dates on the Food Safety Forms photographed by the EPA Inspector, four (4) of the agricultural workers who were picking squash at the Farm on August 11, 2016 signed one of these Forms on August 1, 2016, three (3) other agricultural workers who were picking squash at the Farm on August 11, 2016 signed one of these Forms on August 6, 2016 and one (1) other worker who was picking squash at the Farm on August 11, 2016 signed, but did not date, a Form.
40. Mr. Evans initially failed to provide the EPA Inspector with any of the agricultural worker WPS training records requested during the August 11, 2016 Inspection and the pesticide application records that he did provide to the EPA Inspector were incomplete in that they lacked relevant information including, but not limited to, complete pesticide names and registration numbers.
41. The EPA Inspector performed a follow-up visit to the Establishment on May 17, 2017. As a result of this visit, Mr. Evans subsequently provided the EPA Inspector with current agricultural worker WPS training records – all dated August 11, 2016 – and with supplemental 2015 and 2016 pesticide application records for the pesticides used and applied at the Establishment by, or under the supervision of, Mr. Evans, at the Establishment.
42. The WPS worker training records provided to the EPA Inspector on May 17, 2017 included a list with the names and/or signatures of sixty-six (66) agricultural workers employed at the Establishment who received FIFRA WPS training by a certified applicator and WPS handler qualified to train agricultural workers. These WPS training records, and associated information provided to the EPA Inspector, indicate that WPS training was provided to all sixty-six (66) of these Establishment agricultural workers in the late afternoon and evening of August 11, 2016 --- *i.e.*, subsequent to the Inspection conducted on that date.
43. The WPS training records provided to the EPA Inspector on May 17, 2017 included a short list of the training materials used, and further identified use of “audiovisual” and “oral from written material” training methods in the “Spanish” language. These WPS training records also indicated that four (4) of the eight (8) agricultural workers who the Inspectors observed picking squash in the fields at the Farm during the daytime hours of August 11, 2016 subsequently received the FIFRA WPS training offered at the Establishment in the late afternoon and evening of August 11, 2016. The names of the other four (4) agricultural workers who the Inspectors observed picking squash in the fields at the Farm during the daytime hours of August 11, 2016 did not appear in the August 11, 2016 WPS training records provided to EPA by the Respondents on May 17, 2017.

44. 2015 and 2016 Establishment pesticide application records provided to the EPA Inspector on May 17, 2017 revealed that each of the following registered “pesticide[s],” as that term is defined in Section 2(u) of FIFRA, 7 U.S.C. § 136(u), were used on, and applied to crops at, the Establishment within thirty (30) days of EPA’s August 11, 2016 Inspection: (i) Echo 90 DF Agricultural Fungicide (EPA Reg. No. 60063-10); (ii) DuPont Fontelis Fungicide (EPA Reg. No. 352-834); (iii) Miltrex 10 SC Fungicide, Brand Name “Torino Fungicide” (EPA Reg. No. 8033-103-10163); (iv) Previcur (EPA Reg. No. 264-678); (v) Stimulate Yield Enhancer Plus (EPA Reg. No. 57538-53); and (vi) Phostrol Agricultural Fungicide (EPA Reg. No. 55146-83); and (vii) DuPont Tanos (EPA Reg. No. 352-604).
45. Each of the registered pesticides identified in the preceding Paragraph, when used on an agricultural establishment, are covered under 40 C.F.R. Part 170, Subpart B.
46. The approved labels for each of the registered pesticides identified and referenced in the two preceding Paragraphs include agricultural use requirements which, among other things, provide instruction to: “Use this product only in accordance with its labeling and with the Worker Protection Standard, 40 CFR Part 170. This Standard contains requirements for the protection of agricultural workers on farms, forests, nurseries, and greenhouses and handlers of agricultural pesticides. It contains requirements for training, decontamination, notification, and emergency assistance. It also contains specific instructions and exceptions pertaining to the statements on this label about personal protective equipment (PPE), and restricted-entry interval (REI). The requirements in this box only apply to uses of this product that are covered by the Worker Protection Standard.”
47. 2015 and 2016 Establishment pesticide application records provided to the EPA Inspector on May 17, 2017 further revealed that three (3) registered pesticide applications, involving the following registered pesticides covered under 40 C.F.R. Part 170, Subpart B, were applied to crops at the Establishment within thirty (30) days of EPA’s August 11, 2016 Inspection: (i) the application of DuPont Tanos, Echo 90 DF Agricultural Fungicide and DuPont Fontelis Fungicide to tomato and cucurbit crops at a seven (7) acre portion of the Establishment on July 17, 2016; (ii) the application of Torino Fungicide, Echo 90 DF Agricultural Fungicide, Previcur and Stimulate Yield Enhancer Plus to cucurbit crops at another three-and-a-half (3.5) acre portion of the Establishment August 4, 2016; and (iii) the application of Echo 90 DF Agricultural Fungicide, DuPont Tanos and Phostrol Agricultural Fungicide to cucurbit crops at a different, four (4) acre portion of the Establishment on August 11, 2016.

V. VIOLATIONS ALLEGED

COUNTS 1 - 3 ***(FAILING TO PROPERLY DISPLAY*** ***REQUIRED WORKER SAFETY INFORMATION)***

48. The allegations contained in each of the preceding Paragraphs of this Consent Agreement are incorporated by reference herein, as though fully set forth at length.

49. 40 C.F.R. § 170.122 provides, in relevant and applicable part, that “[w]hen workers are on an agricultural establishment and, within the last 30 days, a pesticide covered by this subpart has been applied on the establishment . . . , the agricultural employer shall display, in accordance with this section, specific information about the pesticide.”
50. 40 C.F.R. § 170.122(a) additionally provides that “[t]he information shall be displayed in the location specified for the pesticide safety poster in [40 C.F.R.] § 170.135(d) and shall be accessible and legible, as specified in [40 C.F.R.] § 170.135 (e) and (f).”
51. 40 C.F.R. § 170.135(d) provides, in relevant part, that “(1) The information shall be displayed in a central location on the farm . . . where it can be readily seen and read by workers[.]” while 40 C.F.R. § 170.135(e) provides that “[w]orkers shall be informed of the location of the information and shall be allowed access to it [;]” and 40 C.F.R. § 170.135(f) further provides that “[t]he information shall remain legible during the time it is posted.”
52. 40 C.F.R. § 170.122(b)(3) further provides, in relevant part, that “the information shall continue to be displayed . . . for at least 30 days after the end of the application[] or at least until workers are no longer on the establishment, whichever is earlier.”
53. 40 C.F.R. § 170.122(c) thereafter prescribes that the specific pesticide information which the agricultural employer must then display, “. . . shall include: (1) The location and description of the treated area[;] (2) The product name, EPA registration number, and active ingredient(s) of the pesticide[;] (3) The time and date the pesticide is to be applied [; and] (4) The restricted-entry interval for the pesticide.”
54. Establishment pesticide application records provided to the EPA Inspector indicate that registered pesticides covered under 40 C.F.R. Part 170, Subpart B, as identified in Paragraph 44, above, were applied to crops at a seven (7) acre, a three-and-a-half (3.5) acre and a four (4) acre portion of the Establishment, as set forth with specificity in Paragraph 47, above, on July 17, 2016, August 4, 2016 and August 11, 2016, respectively.
55. On August 11, 2016, at the time of the Establishment Inspection, there was no accessible or legible pesticide safety poster containing any of the applicable information required pursuant to 40 C.F.R. § 170.122(c) being displayed at any Establishment location where a poster containing such information could readily be seen and read by the Establishment’s agricultural workers.
56. On August 11, 2016, Respondent used the registered pesticides identified in Paragraph 44, above, “in a manner inconsistent with [their] labeling” as that term is defined by Section 2(ee) of FIFRA, 7 U.S.C. § 136(ee), at the Establishment. Specifically, Respondent failed to provide agricultural workers with an accessible, legible and centrally located pesticide safety poster containing pesticide safety information, required pursuant to 40 C.F.R. § 170.122(c), about treated area locations and descriptions, product names, EPA registration numbers and active ingredients, and the times and dates of pesticide applications, with respect to the particular pesticides, covered under the WPS

standards, that were applied on three (3) separate occasions, as specified in Paragraph 47, above, to Establishment crops within 30 days of agricultural worker presence on the Establishment

57. Respondent's failure to have an accessible, legible and centrally located pesticide safety poster containing required pesticide safety information about treated area locations and descriptions, product names, EPA registration numbers and active ingredients, and the times and dates of covered pesticide Establishment applications made within 30 days of agricultural worker presence on the Establishment, constitutes three (3) separate and independent violations of 40 C.F.R. § 170.122 and of Section 12(a)(2)(G) of FIFRA, 7 U.S.C. § 136j(a)(2)(G).
58. The three (3) violations of 40 C.F.R. § 170.122 and of Section 12(a)(2)(G) of FIFRA, 7 U.S.C. § 136j(a)(2)(G), which are identified in the preceding Paragraphs, further constitute three (3) separate unlawful acts under Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L), for which penalties may be assessed against Respondent pursuant to Section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1).

COUNTS 4 - 11
***(FAILING TO ASSURE THAT WORKERS
HAVE BEEN PROPERLY TRAINED WITHIN LAST 5 YEARS)***

59. The allegations contained in each of the preceding Paragraphs of this Consent Agreement are incorporated by reference herein, as though fully set forth at length.
60. 40 C.F.R. § 170.130(a)(1) provides, in relevant and applicable part and with exceptions not herein applicable, that “[t]he agricultural employer shall assure that each worker, required by this section to be trained, has been trained according to this section during the last 5 years, counting from the end of the month in which the training was completed.”
61. WPS training program requirements are generally described in 40 C.F.R. § 170.130(d)(1), which provides that required “information must be presented in a manner that the workers can understand (such as through a translator) using nontechnical terms.”
62. 40 C.F.R. § 170.130(d)(4) sets forth the minimum pesticide WPS safety training information that agricultural workers must receive, which includes information regarding: “(i) Where and in what form pesticides may be encountered during work activities[;] (ii) Hazards of pesticides resulting from toxicity and exposure, including acute and chronic effects, delayed effects, and sensitization[;] (iii) Routes through which pesticides can enter the body; [;] (iv) Signs and symptoms of common types of pesticide poisoning[;] (v) Emergency first aid for pesticide injuries or poisonings[;] (vi) How to obtain emergency medical care[;] (vii) Routine and emergency decontamination procedures, including emergency eye flushing techniques[;] (viii) Hazards from chemigation and drift[;] (ix) Hazards from pesticide residues on clothing[;] (x) Warnings about taking pesticides or pesticide containers home[; and] (xi) Requirements of this subpart designed to reduce the risks of illness or injury resulting from workers' occupational exposure to pesticides, including application and entry restrictions, the design of the warning sign,

- posting of warning signs, oral warnings, the availability of specific information about applications, and the protection against retaliatory acts.”
63. At the time of the August 11, 2016 Establishment Inspection, each of the eight (8) agricultural workers observed by the Inspectors to have entered the Farm fields at the Establishment to pick squash on that date, was a worker required by 40 C.F.R. § 170.130(a)(1) to be trained according to 40 C.F.R. § 170.130 during the last 5 years.
 64. During the course of the August 11, 2016 Establishment Inspection, two (2) Establishment supervisors, including Mr. Evans, the owner and Managing Member of the Company, provided the Inspectors with statements and information indicating that none of the eight (8) agricultural workers who were picking squash in the Farm fields at the Establishment during the daytime hours of August 11, 2016 had received the required 40 C.F.R. § 170.130(d) regulatory WPS training within the prior five (5) year time period.
 65. On August 11, 2016, Respondent used each of the registered pesticides covered by 40 C.F.R. Part 170, Subpart B, as identified in Paragraph 44, above, “in a manner inconsistent with [their] labeling” as that term is defined by Section 2(ee) of FIFRA, 7 U.S.C. § 136(ee). Specifically, Respondent failed to assure that eight (8) agricultural workers who were picking squash at the Establishment when covered pesticides had been applied to Establishment crops within 30 days of their entry and presence there, as described in Paragraph 47, above, had been timely and properly trained in accordance with 40 C.F.R. § 170.130(a)(1) regulatory requirements.
 66. Respondent’s failure to assure that the eight (8) agricultural workers who were picking squash at the Establishment Farm on August 11, 2016 were timely and properly trained, pursuant to 40 C.F.R. § 170.130(a)(1) regulatory requirements within the prior five (5) year time period constitutes eight (8) separate and independent violations of 40 C.F.R. § 170.130(a)(1) and of Section 12(a)(2)(G) of FIFRA, 7 U.S.C. § 136j(a)(2)(G).
 67. The eight (8) violations of 40 C.F.R. § 170.130(a)(1) and of Section 12(a)(2)(G) of FIFRA, 7 U.S.C. § 136j(a)(2)(G), that are identified in the preceding Paragraphs, further constitute eight (8) separate unlawful acts under Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L), for which penalties may be assessed against Respondent pursuant to Section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1).

COUNT 12
(FAILING TO POST
REQUIRED PESTICIDE POSTER AND INFORMATION)

68. The allegations contained in each of the preceding Paragraphs of this Consent Agreement are incorporated by reference herein, as though fully set forth at length.
69. 40 C.F.R. § 170.135(a) generally provides that “[w]hen workers are on an agricultural establishment and, within the last 30 days, a pesticide covered by this subpart has been applied on the establishment . . . the agricultural employer shall display, in accordance with this section, pesticide safety information.”

70. 40 C.F.R. § 170.135(b) [2015 Edition] subsequently provides that “[a] safety poster must be displayed that conveys, at a minimum, the pesticide safety concepts listed in paragraphs (b)(1)(i) through (vii) and (b)(2) of this [40 C.F.R.] section [170.135].”
71. The regulatory sections cited in the preceding Paragraph specifically identify the types of pesticide safety information that must be displayed, which are required to convey the following basic pesticide safety concepts: “(1) Help keep pesticides from entering your body. At a minimum, the following points shall be conveyed: (i) Avoid getting on your skin or into your body any pesticides that may be on plants and soil, in irrigation water, or drifting from nearby applications[;] (ii) Wash before eating, drinking, using chewing gum or tobacco, or using the toilet[;] (iii) Wear work clothing that protects the body from pesticide residues (long-sleeved shirts, long pants, shoes and socks, a hat or scarf)[;] (iv) Wash/shower with soap and water, shampoo hair, and put on clean clothes after work[;] (v) Wash work clothes separately from other clothes before wearing them again[;] (vi) Wash immediately in the nearest clean water if pesticides are spilled or sprayed on the body. As soon as possible, shower, shampoo, and change into clean clothes[;] (vii) Follow directions about keeping out of pesticide treated or restricted areas[;] (2) There are federal rules to protect workers and handlers, including a requirement for safety training.” 40 C.F.R. § 170.135(b)(1)(i) through (vii) and (b)(2) [2015 Edition] ¹
72. 40 C.F.R. § 170.135(c)(1) further provides, in relevant and applicable part, that “[t]he name, address, and telephone number of the nearest emergency medical care facility shall be on the safety poster or displayed close to the safety poster.”
73. With respect to the location, accessibility and legibility of the pesticide safety information required to be posted and displayed under the circumstances cited in 40 C.F.R. § 170.135(a), the regulations at 40 C.F.R. § 170.135(d)(1) provide that: “[t]he information shall be displayed in a central location on the farm . . . where it can be readily seen and read by workers[.]” 40 C.F.R. § 170.135(e) further instructs that “[w]orkers shall be informed of the location of the information and shall be allowed access to it[;] and 40 C.F.R. § 170.135(e) additionally requires that “the information shall remain legible during the time it is posted.
74. On August 11, 2016, Respondent failed, in contravention of 40 C.F.R. § 170.135(a), to display a pesticide safety poster containing the information required pursuant to 40 C.F.R. §§ 170.135(b)(1)(i) through (vii), (b)(2) [2015 Edition] and (c)(1), and meeting the location, accessibility and legibility requirements of 40 C.F.R. §§ 135(c), (d)(1) and (e), in a central location at its Establishment at a time when pesticides covered by 40 C.F.R. Part 170, Subpart B, as identified with specificity in Paragraph 44, above, had been applied to crops on such Establishment within 30 days of agricultural worker entry and presence there, as described in Paragraph 47, above.

¹ See 80 Fed. Reg. 67566 (November 2, 2015) and 40 C.F.R. § 170.135(b) [2015 Edition] and note that “paragraphs (b)(1)(i) through (vii) and (b)(2)” of 40 C.F.R. § 170.135 are present in the 2015 Edition of the C.F.R., but are inadvertently and erroneously omitted from the printed regulation in the subsequent 2016 and 2017 Editions of the C.F.R. This error is currently in the process of correction and the cited paragraphs are properly referenced above.

75. On August 11, 2016, Respondent used each of the registered pesticides identified in Paragraph 44, above, “in a manner inconsistent with [their] labeling” as that term is defined by Section 2(ee) of FIFRA, 7 U.S.C. § 136(ee), at the Facility. Specifically, Respondents failed to provide workers with specific information about the application of these pesticides at the Establishment within the past 30 days, as required pursuant to 40 C.F.R. §§ 170.135(b)(1)(i) through (vii), (b)(2) [2015 Edition] and (c)(1) and in the manner specified in 40 C.F.R. §§ 135(c), (d)(1) and (e). Pursuant to 40 C.F.R. § 170.135, this failure represents the use of registered pesticides in a manner inconsistent with its labeling and is thus a violation of Section 12(a)(2)(G) of FIFRA, 7 U.S.C. § 136j(a)(2)(G).
76. Respondent’s August 11, 2016 failure to comply with required pesticide safety information display requirements and its corresponding use of registered pesticides in a manner inconsistent with their labeling, as described in the preceding Paragraphs, constitutes a violation of a violation of 40 C.F.R. § 170.135(a), and of Section 12(a)(2)(G) of FIFRA, 7 U.S.C. § 136j(a)(2)(G).
77. The August 11, 2016 violation of 40 C.F.R. § 170.135(a) and of Section 12(a)(2)(G) of FIFRA, 7 U.S.C. § 136j(a)(2)(G), as identified and described in the preceding Paragraphs, further constitutes an unlawful act under Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L), for which penalties may be assessed against Respondent pursuant to Section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1).

VI. CIVIL PENALTY

78. In settlement of EPA’s claims for civil monetary penalties assessable for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty of **EIGHT THOUSAND FIVE HUNDRED DOLLARS (\$8,500.00)**, which Respondent agrees to pay in accordance with the payment terms set forth in Paragraph 82, below. Such civil penalty amount shall become due and payable immediately upon Respondent’s receipt of a true and correct signed copy of this CAFO, fully executed by the parties, signed by the Regional Judicial Officer, and filed with the Regional Hearing Clerk. In order to avoid the assessment of interest in connection with such civil penalty as described in this CAFO, Respondent must pay the civil penalty no later than thirty (30) calendar days after the date on which a copy of this CAFO is mailed or hand-delivered to Respondent.
79. The Parties find and represent that the aforesaid settlement amount is reasonable and is based upon Complainant’s consideration of a number of factors, including the statutory factors set forth in Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), *i.e.*, the size of the business, the effect of the penalty on the Respondent’s ability to continue in business, and the gravity of the violation. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA’s *FIFRA Enforcement Response Policy*, dated December 2009 (“ERP”), and its appendix entitled *Interim Final Penalty Policy for the FIFRA WPS*, dated September 1997, which reflect the statutory penalty criteria and factors set forth at Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4). Complainant also has considered the appropriate *Adjustment of Civil Monetary Penalties*

for Inflation, pursuant to 40 C.F.R. Part 19 and the January 11, 2018 Memoranda by EPA Assistant Administrator Susan Parker Bodine, entitled *Amendments to the EPA's Civil Penalty Policies to Account for Inflation (Effective January 15, 2018) and Transmittal of the 2018 Civil Monetary Penalty Inflation Adjustment Rule*. The Parties further acknowledge and represent that the aforesaid settlement is based, in part, upon an analysis of Respondent's ability to pay a civil penalty, performed in accordance with EPA's June 29, 2015 *Guidance on Evaluating a Violator's Ability to Pay a Civil Penalty in an Administrative Enforcement Proceeding*. This analysis was based upon the following information submitted to Complainant by Respondent:

- a. Evans Farms, LLC – Financial Information Balance Sheet (MAFC - 402) as of December 31, 2013 through 2017;
 - b. Evans Farms, LLC - Balance Sheet Trend (MAFC – 425A);
 - c. Kevin Evans – Schedule F (IRS Form 1040) – Profit or Loss from Farming, including applicable statements for tax years 2012 through 2017;
 - d. Katey Jo Evans – Schedule F (IRS Form 1040) – Profit or Loss from Farming for tax year 2017;
 - e. Evans Farms, LLC – (IRS Form 4562) Depreciation and Amortization for tax years 2012 through 2017;
 - f. Debt Repayment Schedule (MAFC 425A), dated 3/12/2018;
 - g. Evans Farms show cause letter response, dated 09/18/2017;
 - h. MidAtlantic Farm Credit letter to EPA, dated 09/18/2017;
 - i. MidAtlantic Farm Credit letter to EPA, including Exhibit 1 & 2 – Evaluation of Repayment Ability, submitted on or around 11/08/2017;
 - j. Evans Farms, LLC - Evaluation of Repayment Ability (MAFC 425A), dated 4/27/2018;
 - k. Evans Farms, LLC - Loan Narrative and Analysis (MAFC 501), dated 4/20/2018; and
 - l. Evans Farms, LLC - Financial Statement for Businesses, signed 3/30/2018.
80. Complainant has relied upon the financial information provided by Respondent and identified in the preceding Paragraph. Based upon an analysis of the same, and in consideration and application of each of the the factors and policies enumerated in the preceding Paragraph to the particular facts and circumstances of this case, it is Complainant's conclusion that the Respondent has established the inability to pay a civil penalty in excess of the dollar amount set forth in Paragraph 78, above, in settlement of

the above-captioned action.

81. By the signature below, Respondent certifies that the information submitted to EPA regarding Respondent's ability to pay and regarding any other matter at issue in this proceeding, is accurate and not misleading. Respondent is aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability. Complainant reserves the right to seek and obtain appropriate relief if Complainant obtains evidence that the information provided and/or representations made by the Respondent to Complainant regarding Respondent's claim of inability to pay, or regarding any of other matter herein at issue, are false or, in any material respect, inaccurate.
82. The civil penalty of **EIGHT THOUSAND FIVE HUNDRED DOLLARS (\$8,500.00)** set forth in Paragraph 78, above, may be paid in seven (7) separate installments, with applicable interest at the rate of one per cent (1%) per annum on the outstanding principal balance, in accordance with the payment schedule instructions and illustrative Chart set forth below:
- a. **1st Payment**: An initial interest free payment, in the amount of **FOUR THOUSAND TWO HUNDRED AND FIFTY DOLLARS (\$4,250.00)**, shall be paid within thirty (30) days of the date on which this CAFO is mailed or hand-delivered to Respondents but, in no event later than October 15, 2018;
 - b. **Payments 2 – 6**: Each of the next five (5) installment payments (*i.e.*, each of payments 2 through 6), which will include principal and applied interest, shall be in equal amounts of **SEVEN HUNDRED FOURTEEN DOLLARS AND SIXTY-FOUR CENTS (\$714.64)**, which and shall be paid in quarterly increments, on or before the 15th day of January 2019, April 2019, July 2019, October 2019 and January 2020, as further specified in the Chart, below; and
 - c. **Payment 7**: A final quarterly installment payment (*i.e.*, payment 7) of the remaining principle balance and applied interest, in the amount of **SEVEN HUNDRED THREE DOLLARS AND SEVENTY-ONE CENTS (\$703.71)**, shall be paid on or before the 15th day of April 2020.

Pursuant to the above schedule, and as specified in the Chart immediately below, Respondent will remit total civil penalty principal payments in the amount of **EIGHT THOUSAND FIVE HUNDRED DOLLARS (\$8,500.00)** and total interest payments in the amount of **TWENTY-SIX DOLLARS AND NINETY-ONE CENTS (\$26.91)** in seven (7) installment payments made over the time period beginning on or before October 15, 2018 and concluding no later than April 15, 2020.

Payment No.	Due Date	Principal Amount	Interest	Total Payment Due
1	10/15/2018	\$ 4,250.00	\$ 0.00	\$ 4,250.00
2	1/15/2019	\$ 714.52	\$ 0.12	\$ 714.64
3	4/15/2019	\$ 705.80	\$ 8.84	\$ 714.64
4	7/15/2019	\$ 707.49	\$ 7.15	\$ 714.64
5	10/15/2019	\$ 709.22	\$ 5.42	\$ 714.64
6	1/15/2020	\$ 711.03	\$ 3.61	\$ 714.64
7	4/15/2020	\$ 701.94	\$ 1.77	\$ 703.71
		\$ 8,500.00	\$ 26.91	\$ 8,526.91

83. If Respondent fails to make timely payment of any one of the required installment payments in accordance with the schedule set forth in the preceding Paragraph, the entire unpaid balance of the penalty and all accrued interest shall become due immediately upon such failure, and Respondent shall immediately pay the entire remaining principal balance of the civil penalty along with any interest that has accrued up to the time of such payment. In addition, Respondent shall be liable for, and shall pay, administrative handling charges and late payment penalty charges as described in Paragraphs 88, 89 and 90, below, in the event of any such failure or default.
84. Respondent may, at any time after commencement of payments under the installment schedule, elect to pay the entire principal balance, together with accrued interest to the date of such full payment.
85. Respondent shall remit payment for the civil penalty set forth in Paragraph 78, above, and any administrative fees and late payment penalties due, if any, in accordance with Paragraphs 88, 89 and 90, below, by either cashier's check, certified check, or electronic wire transfer, in the following manner:
- All payments by Respondent shall reference Respondents' names and address, and the Docket Number of this action, *i.e.*, **FIFRA-03-2018-0132**;
 - All checks shall be made payable to "**United States Treasury**";
 - All payments made by check and sent by regular mail shall be addressed and mailed to:

U.S. Environmental Protection Agency
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

Primary Contact: Craig Steffen, 513-487-2091
Secondary Contact: Contact: Jessica Henderson, 513-487-2718

- d. All payments made by check and sent by overnight delivery service shall be addressed and mailed to:

U.S. Environmental Protection Agency
Cincinnati Finance Center
P.O. Box 979077
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101

Contact: (314) 418-1028

- e. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance
US EPA, MS-NWD
26 W. M.L. King Drive
Cincinnati, OH 45268-0001

86. Respondent may also pay the civil penalty amount described in Paragraph 78, above, electronically or on-line as follows:

- a. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT Address = FRNYUS33
33 Liberty Street
New York, NY 10045
(Field Tag 4200 of the wire transfer message should read:
"D 68010727 Environmental Protection Agency")

- b. All electronic payments made through the automated clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX / Cashlink ACH Receiver
ABA = 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 - Checking

Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737

Remittance Express (REX) contact number: 1-866-234-5681

c. On-Line Payment Option:

WWW.PAY.GOV/PAYGOV

Enter sfo 1.1 in the search field. Open and complete the form.

d. Additional payment guidance is available at:

http://www.epa.gov/ocfo/finservices/make_a_payment.htm

87. A copy of each of Respondent's checks or a copy of each of Respondent's electronic transfer payments shall be sent simultaneously to:

Regional Hearing Clerk (3RC00)
U.S. Environmental Protection Agency, Region III
1650 Arch Street
6th Floor
Philadelphia, Pennsylvania 19103-2029;

and

A.J. D'Angelo
Senior Assistant Regional Counsel (3RC50)
U.S. Environmental Protection Agency, Region III
1650 Arch Street
Philadelphia, PA 19103-2029.

88. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment or to comply with the conditions in this Consent Agreement and the attached Final Order shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.
89. The costs of the EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
90. A late penalty payment of six percent (6%) per year will be assessed monthly on any portion of the civil penalty which remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

91. Respondent agrees not to deduct for federal tax purposes the civil monetary penalty specified in this Consent Agreement and the accompanying Final Order.

VII. EFFECT OF SETTLEMENT

92. The settlement set forth in this CAFO shall constitute full and final satisfaction of all civil claims for penalties which Complainant may have against Respondent under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), for the specific violations alleged in Section V (“Violations Alleged”), above. Compliance with this CAFO shall not be a defense to any action commenced at any time for any other violation of the federal laws and regulations administered by EPA.

VIII. OTHER APPLICABLE LAWS

93. Nothing in this CAFO shall relieve Respondent of the obligation to comply with all applicable federal, state, and local laws and regulations.

IX. CERTIFICATION OF COMPLIANCE

94. Respondent certifies to EPA, upon personal investigation and to the best of his knowledge and belief, that Respondent is currently is complying with all applicable provisions of FIFRA, 7 U.S.C. § 136 *et seq.* and its implementing regulations.

X. RESERVATION OF RIGHTS

95. This Consent Agreement and the accompanying Final Order resolve only EPA’s claims for civil monetary penalties for the specific violations alleged against the Respondent in his CAFO. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the *Consolidated Rules of Practice*, 40 C.F.R. § 22.18(c). Further, EPA reserves any rights and remedies available to it under FIFRA and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO following its filing with the EPA Regional Hearing Clerk.

XI. PARTIES BOUND

96. This Consent Agreement and the accompanying Final Order shall apply to and be binding upon the EPA, the Respondent and the Respondent’s successors, agents and assigns.

XII. EFFECTIVE DATE

97. The effective date of this Consent Agreement and the accompanying Final Order (which is signed by the Regional Administrator of EPA Region III, or his designee, the Regional Judicial Officer), shall be the date the CAFO is filed with the EPA Regional Hearing Clerk pursuant to the *Consolidated Rules of Practice*.

XIII. ENTIRE AGREEMENT


98. This Consent Agreement and the accompanying Final Order constitute the entire agreement and understanding of the Parties regarding settlement of all claims pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the parties other than those expressed in this CAFO.

XIV. EXECUTION

99. The person signing this Consent Agreement on behalf of the Respondent acknowledges and certifies by his signature that he is fully authorized to enter into this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and the accompanying Final Order.

For Respondent:

Date: 9/20/18

By: 
Kevin A. Evans

For Complainant:

Date: 9/24/2018

By: 

A.J. D'Angelo
Sr. Assistant Regional Counsel
UST, Asbestos, Lead & Pesticides Branch (3RC50)
U.S. Environmental Protection Agency, Region III

After reviewing the foregoing Consent Agreement and other pertinent information, the Land and Chemicals Division, EPA Region III, recommends that the Regional Administrator or the Regional Judicial Officer issue the Final Order attached hereto.

Date: 9.26.18

By: 

John A. Armstead, Director
Land and Chemicals Division
U.S. Environmental Protection Agency, Region III

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

In the Matter of:) Docket No. FIFRA-03-2018-0132
)
Mr. Kevin A. Evans) U.S. EPA-REGION 3-RHC
9843 Seashore Highway) FILED-27SEP2018am9:57
Bridgeville, Delaware 19933,)
RESPONDENT.) Proceeding Under Section 14(a) of the
) Federal Insecticide, Fungicide and
) Rodenticide Act, *as amended*, 7 U.S.C.
) § 136l(a)

FINAL ORDER

Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III, and Respondent, Mr. Kevin A. Evans, have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("*Consolidated Rules of Practice*"), 40 C.F.R. Part 22, with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

NOW, THEREFORE, pursuant to Section 14(a)(1) of the Federal Insecticide, Fungicide and Rodenticide Act ("FIFRA" or "the Act"), as amended, 7 U.S.C. § 136l(a)(1), and the *Consolidated Rules of Practice*, after having determined, based on the representations of the Parties set forth in the Consent Agreement, that the civil penalty of **EIGHT THOUSAND FIVE HUNDRED DOLLARS (\$8,500.00)** agreed to therein was based upon a consideration of, *inter alia*, the statutory factors set forth in Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), EPA's *FIFRA Enforcement Response Policy*, dated December 2009; its appendix entitled *Interim Final*

Penalty Policy for the FIFRA WPS, dated September 1997; the appropriate Adjustment of Civil Monetary Penalties for Inflation, pursuant to 40 C.F.R. Part 19; the associated January 11, 2018 Memoranda by EPA Assistant Administrator Susan Parker Bodine, entitled Amendments to the EPA's Civil Penalty Policies to Account for Inflation (Effective January 15, 2018) and Transmittal of the 2018 Civil Monetary Penalty Inflation Adjustment Rule; and, EPA's June 29, 2015 Guidance on Evaluating a Violator's Ability to Pay a Civil Penalty in an Administrative Enforcement Proceeding, IT IS HEREBY ORDERED that Respondent pay a civil monetary penalty of **EIGHT THOUSAND FIVE HUNDRED DOLLARS (\$8,500.00)** in accordance with the provisions of the foregoing Consent Agreement, and comply timely with each of the additional terms and conditions thereof.

The effective date of the foregoing Consent Agreement and this Final Order, signed by the Regional Administrator of the U.S. Environmental Protection Agency, Region III, or his designee, the Regional Judicial Officer, is the date on which this Final Order is filed with the Regional Hearing Clerk.

Date: Sept. 27, 2018



Joseph J. Lisa
Regional Judicial Officer
U.S. Environmental Protection Agency, Region III

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

In the Matter of:) Docket No. FIFRA-03-2018-0132
)
Mr. Kevin A. Evans)
9843 Seashore Highway)
Bridgeville, Delaware 19933,)
RESPONDENT.) Proceeding Under Section 14(a) of the
Federal Insecticide, Fungicide and
Rodenticide Act, as amended, 7 U.S.C.
§ 136l(a)

CERTIFICATE OF SERVICE

I certify that on SEP 27 2018, the original and one (1) copy of foregoing *Consent Agreement* and of the associated *Final Order*, each were filed with the EPA Region III Regional Hearing Clerk. I further certify that on the date set forth below, I served true and correct copies of the same to each of the following persons, in the manner specified below, at the following addresses:

Copies served via **Certified Mail, Return Receipt Requested, Postage Prepaid, (Article No. 7001 2510 0001 1042 9504)**, to the following person at the following address:

Mr. Kevin A. Evans
9843 Seashore Highway
Bridgeville, Delaware 19933

(Respondent)

Copies served via **Hand Delivery or Inter-Office Mail** to:

A.J. D'Angelo, Esq.
Sr. Assistant Regional Counsel (3RC50)
UST, Asbestos, Lead & Pesticides Branch
Office of Regional Counsel
U.S. EPA, Region III
1650 Arch Street
5th Floor, Office #110
Philadelphia, PA 19103-2029

(Attorney for Complainant)

SEP 27 2018

Date

Kevin Esposito

Regional Hearing Clerk
Office of Regional Counsel
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029