

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

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SEP 23 2010
Pesticides & Toxic Substances Branch

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In the Matter of :
 :
 Geneva Biocides LLC :
 :
 Respondent :
 :
 Proceeding under the Federal :
 Insecticide, Fungicide, and :
 Rodenticide Act, as amended :
-----x

**CONSENT AGREEMENT
AND FINAL ORDER**

Docket No. FIFRA-02-2010-5202

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2010 OCT 12 A 9:10
FEDERAL HEARING
CLERK

PRELIMINARY STATEMENT

This administrative proceeding for the assessment of a civil penalty was initiated pursuant to 7 U.S.C. § 136 l(a) of the Federal Insecticide, Fungicide and Rodenticide Act, as amended, 7 U.S.C. § 136 et seq. ("FIFRA" or "the Act"). The Director of the Division of Enforcement and Compliance Assistance, United States Environmental Protection Agency ("EPA"), Region 2, issued this action for Respondent, Geneva Biocides LLC, located at 500 Technolgy Farm Drive, Geneva, New York 14456.

Respondent is subject to 7 U.S.C. § 136g(c)(1) and 40 C.F.R. § 167.85, the requirements under FIFRA governing the submission of annual Pesticide Reports for Pesticide-Producing Establishments ("Pesticide Report").

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Parties to this Consent Agreement agree that the title to this proceeding should properly read "In the Matter of Geneva Biocides LLC".

2. This Consent Agreement is being entered into by Respondent on behalf of Geneva Biocides LLC, and the Respondent is authorized for purposes of this Consent Agreement to bind Geneva Biocides LLC.

3. Respondent's establishment is registered under Section 7 of FIFRA, 7 U.S.C. § 136e. Its assigned EPA Establishment Number is 083017-NY-001.

4. Pursuant to Section 7(c) of FIFRA and 40 C.F.R. § 167.20(f), any producer operating an establishment registered under Section 7 shall annually submit to the EPA the types and amounts of pesticides and, if applicable, active ingredients used in producing pesticides, which the producer is currently producing, has produced during the past year, and has sold or distributed during the past year.

5. Title 40 C.F.R. § 167.85 provides that a producer operating an establishment must submit its annual pesticide production report (the "Report") on or before March 1 of each year, even if the producer has produced no pesticidal product for that reporting year.

6. Respondent failed to submit annual pesticide production reports for 2007, 2008 and 2009.

7. Therefore, Respondent violated Section 7(c)(1) of FIFRA, Section 12(a)(2)(L) of FIFRA, and 40 C.F.R. § 167.85.

8. Respondent requested inactivation of the establishment on July 15, 2010. The facility has not performed any pesticide-related activities since 2007.

CONSENT AGREEMENT

Based on the foregoing, and in accordance with federal laws and regulations, it is agreed that:

1. Respondent admits the jurisdictional allegations of the Consent Agreement and Final Order (CAFO).
2. Respondent agrees to waive any jurisdictional objections regarding proper service of the CAFO and/or any other questions concerning acquisition of personal jurisdiction of Geneva Biocides LLC.
3. Respondent shall comply at all times with the requirements of Section 7 of FIFRA, 7 U.S.C. § 136g and the applicable regulations.
4. Respondent admits the specific factual allegations set forth in the Findings of Fact and the Conclusions of Law in this Consent Agreement.
5. EPA agrees to waive all penalties associated with non-submittal of pesticide production reports due to Respondent's termination of its establishment registration and submission of a zero pesticide production reports for 2007, 2008 and 2009. Such waiver is consistent with the provisions of the FIFRA Enforcement Response Policy (ERP).
6. Respondent's establishment registration is terminated.
7. Nothing in this Consent Agreement and Final Order shall relieve Respondent of the duty to comply with all applicable provisions of FIFRA and other environmental laws.
8. Nothing in this Consent Agreement and Final Order shall preclude Complainant from

9. This Consent Agreement is being entered into by the parties in full settlement of all civil liabilities. Respondent has read the Consent Agreement and Final Order, finds it reasonable, and consents to its issuance and its terms.

10. Respondent explicitly waives its right to request a hearing on this Agreement, or the attached Final Order.

11. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.08 to be present during discussions with or to be served with and to reply to any memorandum or communication addressed to the Regional Administrator or the Deputy Regional Administrator where the purpose of such discussion, memorandum, or communication is to recommend that such official accept this Consent Agreement and issue the attached Final Order.

12. This Consent Agreement shall be binding on both parties to this action, their officers, directors, employees, successors, and assigns.

13. The undersigned representative of each party to this Consent Agreement certifies that he or she is duly authorized by the party whom he or she represents to enter into the terms and conditions of this Agreement and bind that party to it.

14. Each party shall bear its own costs and attorney's fees in the action resolved by this Consent Agreement.

15. Respondent consents to service upon Respondent of a copy of this Consent Agreement and Final Order by an EPA employee other than the Regional Hearing Clerk.

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Docket No. FIFRA-02-2010-5202

RESPONDENT: Geneva Biocides LLC

BY: A. E. Harman
Authorizing Signature

NAME: Gary E. Harman
(PLEASE PRINT)

TITLE: Former Founder

DATE: 9/18/10

(Geneva Biocides
now no longer exists)

COMPLAINANT:

[Signature]

Dore LaPosta, Director
Division of Enforcement and Compliance Assistance
U.S. Environmental Protection Agency, Region 2
290 Broadway
New York, NY 10007


DATE: SEPTEMBER 23, 2010

Please note that there is no longer an
entity named Geneva Biocides.

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FINAL ORDER

The Regional Administrator of the U.S. Environmental Protection Agency, Region 2, ratifies the foregoing Consent Agreement. The Consent Agreement, entered into by the parties to this matter, is hereby approved, incorporated herein, and issued as an Order. The effective date of this Order shall be the date of filing with the Regional Hearing Clerk, U.S. EPA, Region 2, New York, New York.



Helen Ferrara
Regional Judicial Officer
U.S. Environmental Protection Agency, Region 2
290 Broadway
New York, NY 10007

DATE: September 28, 2010

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Docket No. FIFRA-02-2010-5202

CERTIFICATE OF SERVICE

I certify that I have this day caused to be sent the foregoing Consent Agreement with the above-referenced docket number, in the following manner to the respective addressees below:

Original and One Copy
by Interoffice Mail:

Office of Regional Hearing Clerk
U.S. Environmental Protection Agency - Region 2
290 Broadway, 16th floor
New York, NY 10007-1866

USPS First Class Mail

Geneva Biocides LLC
500 Technology Farm Drive
Geneva, NY 14456

Dated: 10/5/10

Edison, NJ

A handwritten signature in black ink, appearing to be "M. A. [unclear]", written over a horizontal line.