



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

September 30, 2021

VIA EMAIL ONLY

Mr. Robert Flashinski
President
Wausau Chemical Corporation
9919 Innovation Way
Wausau, Wisconsin 55501

rflashinski@wausauchemical.com

Consent Agreement and Final Order
In the Matter of Wausau Chemical Corporation
Docket Number FIFRA-05-2021-0027

Mr. Flashinski:

Enclosed please find a copy of a fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. This document was filed on September 30, 2021 with the Regional Hearing Clerk.

The civil penalty in the amount of \$38,400.00 is to be paid in the manner described in paragraphs 82-83 of the CAFO.

Thank you for your cooperation in resolving this matter.

Sincerely,

ABIGAIL
WESLEY

Digitally signed by
ABIGAIL WESLEY
Date: 2021.09.10
13:30:26 -05'00'

Abigail Wesley
Enforcement Officer
Pesticides and Toxics Compliance Section

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	Docket No. FIFRA-05-2021-0027
)	
Wausau Chemical Corporation)	Proceeding to Assess a Civil Penalty
Wausau, Wisconsin)	Under Section 14(a) of the
)	Federal Insecticide, Fungicide, and
)	Rodenticide Act, 7 U.S.C. § 136l(a)
Respondent.)	
<hr/>)	

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 136l(a), and Sections 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules) as codified at 40 C.F.R. Part 22.

2. The Complainant is the Director of the Enforcement and Compliance Assurance Division, United States Environmental Protection Agency (EPA), Region 5.

3. Respondent is Wausau Chemical Corporation (“Wausau Chemical”), a corporation doing business at 9919 Innovation Way, Wausau, Wisconsin 54401.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the

adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO, and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and its right to appeal this CAFO.

9. Respondent certifies that it is complying with FIFRA, 7 U.S.C. §§ 136-136y, and the regulations promulgated thereunder.

Statutory and Regulatory Background

10. Section 2(s) of FIFRA, 7 U.S.C. § 136(s), defines the term “person” as “any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.”

11. Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), defines the term “to distribute or sell” as “to distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, release for shipment, or receive and (having so received) deliver or offer to deliver.” Also see 40 C.F.R. § 152.3.

12. Section 2(t) of FIFRA, 7 U.S.C. § 136(t), defines the term “pest” as “(1) any insect, rodent, nematode, fungus, weed, or (2) any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism (except viruses, bacteria, or other micro-organisms on or in living man or other living animals) which the Administrator [of the EPA] declares to be a pest” under Section 25(c)(1) of FIFRA, 7 U.S.C. § 136w(c)(1). Also see 40 C.F.R. § 152.5.

13. Section 2(u) of FIFRA, 7 U.S.C. § 136(u), defines the term “pesticide” as, among other things, “(1) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, (2) any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.” Also see 40 C.F.R. § 152.3.

14. 40 C.F.R. §152.3 defines the term “pesticide product” as “a pesticide in the particular form (including composition, packaging, and labeling) in which the pesticide is, or is intended to be, distributed or sold. The term includes any physical apparatus used to deliver or apply the pesticide if distributed or sold with the pesticide.”

15. Section 2(p)(1) of FIFRA, 7 U.S.C. § 136(p)(1), defines a “label” as “written, printed, or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers.”

16. Section 2(p)(2) of FIFRA, 7 U.S.C. § 136(p)(2), defines “labeling” as “all labels and all other written, printed, or graphic matter accompanying the pesticide or device at any time or to which reference is made on the label or in literature accompanying the pesticide or device.”

17. Section 2(w) of FIFRA, 7 U.S.C. § 136(w), defines the term “produce” in part as “to manufacture, prepare, compound, propagate, or process any pesticide or device or active ingredient used in producing a pesticide.” Also see 40 C.F.R. § 167.3.

18. Section 2(dd) of FIFRA 7 U.S.C. § 136(dd), defines an “establishment” as “any place where a pesticide or device or active ingredient used in producing a pesticide is produced, or held, for distribution or sale.”

19. Section 7(c) of FIFRA, 7 U.S.C. § 136e(c) requires any producer operating a registered pesticide-producing establishment to inform EPA of the types and amounts of pesticides (and, if applicable, active ingredients used in producing pesticides): which it is

producing; which it has produced during the past year; and which it has sold or distributed during the past year. In addition, § 136e(c) provides that the required information shall be kept current and submitted to the Administrator annually, as required by regulations prescribed by the Administrator.

20. 40 C.F.R. § 167.85 (a) and (b) (*who must report and information required*), requirements for reporting any pesticide, active ingredient, or device produced at registered pesticide-producing establishment: (1) the name and address of the establishment; and (2) the amount of pesticide product: (i) produced during the past year; (ii) sold or distributed during the past year; and (iii) estimated to be produce during the current year.

21. 40 C.F.R. § 167.85(c) (*how to report*), requires the producer to obtain, complete and submit annually a pesticide reporting form supplied by EPA. The applicable form, “EPA Form 3540-16, Pesticide Report for Pesticide-Producing and Device-Producing Establishments” (“Report”) requires, inter alia, identification of the establishment; identification of the company; authorized signature and signature date; and specific pesticide production information. In addition, the “Instructions for Completing EPA Form 3540-16 Pesticide Report for Pesticide-Producing and Device-Producing Establishments” provides additional detail regarding information required on the Report.

22. Section 8(a) of FIFRA, 7 U.S.C. § 136f(a), in pertinent part, provides that “The Administrator may prescribe regulations requiring producers, registrants, and applicants for registration to maintain such records with respect to their operations and the pesticides and devices produced as the Administrator determines are necessary for the effective enforcement of this Act.”

23. 40 C.F.R. § 169.2, in pertinent part, provides that “All producers of pesticides,

devices, or active ingredients used in producing pesticides subject to this Act, including pesticides produced pursuant to an experimental use permit and pesticides, devices, and pesticide active ingredients produced for export, shall maintain the following records:

- (a) Records showing the product name, EPA Registration Number, Experimental Permit Number if the pesticide is produced under an Experimental Use Permit, amounts per batch and batch identification (numbers, letters, etc.) of all pesticides produced. In cases where the product is an active ingredient used in producing a pesticide or where the product is a pesticide which is not registered, is not the subject of an application for registration, or is not produced under an Experimental Use Permit, the records shall also show the complete formula. The batch identification shall appear on all production control records. These records shall be retained for a period of two (2) years.

24. Section 19(e) of FIFRA, 7 U.S.C. § 136q(e), in pertinent part, provides that “the Administrator shall, in consultation with the heads of other interested Federal agencies, promulgate regulations for the design of pesticide containers that will promote the safe storage and disposal of pesticides.”

25. Section 19(f) of FIFRA, 7 U.S.C. § 136q(f), in pertinent part, provides that “the Administrator shall, in consultation with the heads of other interested Federal agencies, promulgate regulations prescribing procedures and standards for the removal of pesticides from containers prior to disposal.”

26. Section 19 of FIFRA, 7 U.S.C. § 136q(a)(1), states, in pertinent part, “[t]he Administrator may require under [Section 3 or 6 of FIFRA] that— . . . (B) the labeling of a pesticide contain requirements and procedures for the transportation, storage, and disposal of the

pesticide, any container of the pesticide, any rinsate containing the pesticide, or any other material used to contain or collect excess or spilled quantities of the pesticide.”

27. 40 C.F.R. § 156.10(a)(1) states that every pesticide product shall bear a label containing the information specified by FIFRA and the regulations in 40 C.F.R. Part 156.

28. 40 C.F.R. § 156.10(a)(1)(viii) states that the contents of a label must show clearly and prominently, in pertinent part, the directions for use as prescribed in 40 C.F.R. § 156.10(i).

29. 40 C.F.R. § 156.10(i)(2) states, in pertinent part, “[t]he directions for use shall include the following, under the headings ‘Directions for Use’: . . . (ix) [s]pecific directions concerning the storage, residue removal and disposal of the pesticide and its container, in accordance with subpart H of [40 C.F.R. Part 156 for Container Labeling]. These instructions must be grouped and appear under the heading ‘Storage and Disposal.’”

30. 40 C.F.R. § 156.140, states, in pertinent part, that for products other than plant-incorporated protectants, the following statements, as applicable, must be placed on the label or container:

(a) *Nonrefillable container.* For non-refillable containers, the statements in paragraphs (a)(1) through (a)(4) of 40 C.F.R. § 156.140 are required.

(a)(1) *Statement identifying a nonrefillable container.* The following phrase is required: “Nonrefillable container.”

(a)(2) *Reuse statement.* One of the following statements is required.

(a)(2)(i) “Do not reuse or refill this container.”

(a)(2)(ii) “Do not reuse this container to hold materials other than pesticides or dilute pesticides (rinsate). After emptying and cleaning, it may be allowable to temporarily hold rinsate or other pesticide-related

materials in the container. Contact your state regulatory agency to determine allowable practices in your state.”

(a)(2)(iii) The following statement may be used if a product is “ready-to-use” and its directions for use allow a different product (that is a similar, but concentrated formulation) to be poured into the container and diluted by the end user: “Do not reuse or refill this container unless the directions for use allow a different (concentrated) product to be diluted in the container.”

(a)(3) *Recycling or reconditioning statement.* One of the following statements is required:

(a)(3)(i) “Offer for recycling if available.”

(a)(3)(ii) “Once cleaned, some agricultural plastic pesticide containers can be taken to a container collection site or picked up for recycling. To find the nearest site, contact your chemical dealer or manufacturer or contact [a pesticide container recycling organization] at [phone number] or [website].”

(a)(3)(iii) A recycling statement approved by EPA and published in an EPA document, such as a Pesticide Registration Notice.

(a)(3)(iv) An alternative recycling statement that has been reviewed and approved by EPA.

(a)(3)(v) “Offer for recondition if appropriate.”

(a)(4) *Batch code*. A lot number, or other code used by the registrant or producer to identify the batch of the pesticide product which is distributed and sold is required.

(b) *Refillable container*. For refillable containers, one of the following statements is required:

(b)(1) “Refillable container. Refill this container with pesticide only. Do not reuse this container for any other purpose.”

(b)(2) “Refillable Container. Refill this container with [common chemical name] only. Do not reuse this container for any other purpose.”

31. 40 C.F.R.§ 165.70(j) provides that refillers who repackage pesticide products into refillable containers must maintain all the records listed in [this section] in addition to the applicable records identified in parts 40 C.F.R.§§ 167 and 169.

“(1) For each pesticide product distributed or sold in refillable containers, all of the following records must be maintained for the current operating year and for 3 years after that:

(i) The written contract from the pesticide product's registrant for the pesticide product.

(ii) The written refilling residue removal procedure for the pesticide product.

(iii) The written description of acceptable containers for the pesticide product.

(2) Each time you repackage a pesticide product into a refillable container and distribute or sell the product, the following records must be generated and maintained for at least 3 years after the date of repackaging:

(i) The EPA registration number of the pesticide product distributed or sold in the refillable container.

(ii) The date of the repackaging.

(iii) The serial number or other identifying code of the refillable container.”

32. Section 12(a)(2)(B)(i) of FIFRA, 7 U.S.C. § 136j(a)(2)(B)(i), states that it is unlawful for any person to refuse to prepare, maintain, or submit any records required by or under section 5, 7, 8, 11, or 19 of FIFRA.

33. Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L), states that it is unlawful for any person to violate any provision of Section 7 of FIFRA, 7 U.S.C. § 136e.

34. Section 12(a)(2)(S) of FIFRA, 7 U.S.C. § 136j(a)(2)(S), states that it is unlawful for any person to violate any regulation issued under section 3(a) or 19 of FIFRA.

35. Section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1), states that any registrant, commercial applicator, wholesaler, dealer, retailer or other distributor who violates any provision of FIFRA may be assessed a civil penalty by EPA of not more than \$7,500 for each offense that occurred after January 12, 2009 through November 2, 2015. The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended through 2015, 28 U.S.C. § 2461, and its implementing regulations at 40 C.F.R. Part 19, increased the amount that can be assessed to \$20,528 for each offense occurring after November 2, 2015 and assessed after December 23, 2020. See 85 Fed. Reg. 247 (December 23, 2020).

Factual Allegations and Alleged Violations

36. At all times relevant to this CAFO, Respondent was an individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.

37. At all times relevant to this CAFO, Respondent was a “person” as defined at Section 2(s) of FIFRA, 7 U.S.C. § 136(s).

38. At all times relevant to this CAFO, Respondent was a “registrant” as defined at Section 2(y) of FIFRA, 7 U.S.C. § 136(y).

39. At all times relevant to this CAFO, Respondent was a “producer” as defined at Section 2(w) of FIFRA, 7 U.S.C. § 136(w).

40. At all times relevant to this CAFO, Respondent “distributed or sold” pesticides as that term is defined in Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg).

41. At all times relevant to this CAFO, Respondent owned or operated a business at 2001 North River Drive, Wausau, Wisconsin 54403 (“Respondent’s facility”).

42. At all times relevant to this CAFO, Respondent’s facility was an “establishment” as defined at Section 2(dd) of FIFRA 7 U.S.C. § 136(dd), identified by EPA Establishment Number (EPA Est. No.) 15265-WI-1.

43. At all times relevant to this CAFO, Respondent’s facility was a place where a pesticide or device or active ingredient used in producing a pesticide was produced, or held, for distribution or sale.

44. On or about September 10, 2019, an inspector employed by the Wisconsin Department of Agriculture, Trade and Consumer Protection (WDATCP) and authorized to

conduct inspections under FIFRA conducted an inspection at Respondent's facility ("inspection").

Hay Green, EPA Registration Number (EPA Reg. No.) 15265-19

45. During the inspection, the inspector collected a bin label and receiving, production, and distribution records for **Hay Green**, EPA Reg. No. 15265-19, for production occurring during calendar years 2017 and 2018.

46. At all times relevant to this CAFO, **Hay Green**, EPA Reg. No. 15265-19 was a "pesticide" as defined at Section 2(u) of FIFRA, 7 U.S.C. § 136(u).

47. During calendar years 2017 and 2018, Respondent "produced" **Hay Green**, EPA Reg. No. 15265-19, as defined at Section 2(w) of FIFRA, 7 U.S.C. § 136(w).

48. Respondent's production records for calendar years 2017 and 2018 for **Hay Green**, EPA Reg. No. 15265-19, failed to contain an EPA Reg. No. as required by 40 C.F.R. § 169.2.

49. The storage and disposal statements on the label for **Hay Green**, EPA Reg. No. 15265-19, failed to identify the container type as refillable or nonrefillable.

50. The bin label collected during the inspection for **Hay Green**, EPA Reg. No. 15265-19, was represented by Wausau Chemical to be representative of distributions of products containing such bin label during calendar years 2017 and 2018.

51. During calendar years 2017 and 2018, Respondent distributed or sold **Hay Green**, EPA Reg. No. 15265-19, on at least two separate occasions.

Hay Saver Plus, EPA Reg. No. 15265-19-80866

52. During the inspection, the inspector collected a bin label and receiving, production, and distribution records for **Hay Saver Plus**, EPA Reg. No. 15265-19-80866, for production occurring during calendar years 2017 and 2018.

53. At all times relevant to this CAFO, **Hay Saver Plus**, EPA Reg. No. 15265-19-80866 was a “pesticide” as defined at Section 2(u) of FIFRA, 7 U.S.C. § 136(u).

54. During calendar years 2017 and 2018, Respondent “produced” **Hay Saver Plus**, EPA Reg. No. 15265-19-80866, as defined at Section 2(w) of FIFRA, 7 U.S.C. § 136(w).

55. Respondent’s production records for calendar years 2017 and 2018 for **Hay Saver Plus**, EPA Reg. No. 15265-19-80866, failed to contain an EPA Reg. No. as required by 40 C.F.R. § 169.2.

56. The storage and disposal statements on the label for **Hay Saver Plus**, EPA Reg. No. 15265-19-80866, failed to identify the container type as refillable or nonrefillable.

57. The bin label collected during the inspection for **Hay Saver Plus**, EPA Reg. No. 15265-19-80866, was represented by Wausau Chemical to be representative of distributions of products containing such bin label during calendar years 2017 and 2018.

58. During calendar years 2017 and 2018, Respondent distributed or sold **Hay Saver Plus**, EPA Reg. No. 15265-19-80866, on at least two separate occasions.

2019 and 2020 Calendar Year Production Reports

59. On or about January 22, 2020 and January 15, 2021, Respondent submitted a Pesticide Report for Pesticide-Producing and Device-Producing Establishments (EPA Form

3540-16) (“Production Reports”) for EPA Est. No. 15265-WI-1, for production occurring during calendar years 2019 and 2020, respectively.

60. Respondent’s Production Reports for calendar years 2019 and 2020 identified production and distribution of “D-BACT INDUSTRIAL,” with EPA Reg. No. 10324-81-74298.

61. “D-BACT INDUSTRIAL,” EPA Reg. No. 10324-81-74298, is an invalid EPA Reg. No.

Count 1

62. Complainant incorporates by reference the allegations contained in paragraphs 1 through 51 of the CAFO.

63. Respondent’s failure to maintain complete production records for **Hay Green**, EPA Reg. No. 15265-19, during calendar years 2017 and 2018, on at least one occasion constitutes an unlawful act pursuant to Section 12(a)(2)(B)(i) of FIFRA, 7 U.S.C. § 136j(a)(2)(B)(i).

64. Respondent’s violation of Section 12(a)(2)(B)(i) of FIFRA subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of FIFRA.

Counts 2-3

65. Complainant incorporates by reference the allegations contained in paragraphs 1 through 51 of the CAFO.

66. At all times relevant to this CAFO, the bin label collected for **Hay Green**, EPA Reg. No. 15265-19, was in violation of 40 C.F.R. § 156.140, as it failed to identify the container type as refillable or nonrefillable.

67. Respondent's failure to identify the container type as refillable or nonrefillable for **Hay Green**, EPA Reg. No. 15265-19, on at least two separate occasions, constitutes two separate violations of Section 12(a)(2)(S) of FIFRA.

68. Respondent's violations of Section 12(a)(2)(S) of FIFRA subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of FIFRA.

Count 4

69. Complainant incorporates by reference the allegations contained in paragraphs 1 through 44, and 52 through 58 of the CAFO.

70. Respondent's failure to maintain complete production records for **Hay Saver Plus**, EPA Reg. No. 15265-19-80866, on at least one occasion during calendar years 2017 and 2018, constitutes an unlawful act pursuant to Section 12(a)(2)(B)(i) of FIFRA, 7 U.S.C. § 136j(a)(2)(B)(i).

71. Respondent's violation of Section 12(a)(2)(B)(i) of FIFRA subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of FIFRA.

Counts 5-6

72. Complainant incorporates by reference the allegations contained in paragraphs 1 through 44, and 52 through 58 of the CAFO.

73. At all times relevant to this CAFO, the bin label collected for **Hay Saver Plus**, EPA Reg. No. 15265-19-80866, was in violation of 40 C.F.R. § 156.140, as it failed to identify the container type as refillable or nonrefillable.

74. Respondent's failure to identify the container type as refillable or nonrefillable for **Hay Saver Plus**, EPA Reg. No. 15265-19-80866, on at least two separate occasions, constitutes two separate violations of Section 12(a)(2)(S) of FIFRA.

75. Respondent's violations of Section 12(a)(2)(S) of FIFRA subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of FIFRA.

Counts 7-8

76. Complainant incorporates by reference the allegations contained in paragraphs 1 through 44, and 59 through 61 of the CAFO.

77. Respondent's Production Reports for calendar years 2019 and 2020 failed to identify an accurate EPA Reg. No. for reported production and distribution of "D-BACT INDUSTRIAL." EPA Reg. No. 10324-81-74928 as required by 40 C.F.R. § 167.85.

78. Respondent's failure to submit complete pesticide Production Reports for calendar years 2019 and 2020, constitutes two separate violations of Section 12(a)(2)(L) of FIFRA.

79. Respondent's violations of Section 12(a)(2)(L) of FIFRA subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of FIFRA.

Civil Penalty

80. Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), requires the Administrator to consider the size of the business of the person charged, the effect on the person's ability to

continue in business, and the gravity of the violation, when assessing an administrative penalty under FIFRA.

81. Based on an evaluation of the facts alleged in this CAFO, the factors in Section 14(a)(4) of FIFRA, EPA's Enforcement Response Policy for the Federal Insecticide, Fungicide, and Rodenticide Act, dated December 2009, and Respondent's good faith efforts to comply with FIFRA, Complainant has determined the appropriate penalty to settle this action is **\$38,400**.

82. Within 30 days after the effective date of this CAFO, Respondent must pay a **\$38,400** civil penalty for the FIFRA violations. Respondent must pay the penalty by electronic funds transfer, payable to "Treasurer, United States of America," and sent to:

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 68010727
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

In the comment or description field of the electronic funds transfer, state "Wausau Chemical Corporation" and the docket number of this CAFO. To pay on-line, go to www.pay.gov. Use the Search Public Forms option on the tool bar and enter SFO 1.1 in the search field. Open the form and complete the required fields.

83. Respondent must send a notice of payment that states Respondent's name and the case docket number to EPA at the following addresses when it pays the penalty:

Regional Hearing Clerk
whitehead.ladawn@epa.gov

Abigail Wesley
wesley.abigail@epa.gov

Joanna Glowacki
glowacki.joanna@epa.gov

84. This civil penalty is not deductible for federal tax purposes.

85. If Respondent does not pay the civil penalty in a timely manner, EPA may refer the matter to the Attorney General who will recover such amount by action in the appropriate United States district court under Section 14(a)(5) of FIFRA, 7 U.S.C. § 136l(a)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

86. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date payment was due at a rate established by the Secretary of the Treasury. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

87. Consistent with the Standing Order Authorizing E-Mail Service of Orders and Other Documents Issued by the Regional Administrator or Regional Judicial Officer under the Consolidated Rules, dated March 27, 2015, the parties consent to service of this CAFO by e-mail at the following valid e-mail addresses for their respective representatives:

glowacki.joanna@epa.gov (counsel for Complainant), and rflashinski@wausauchemical.com (President of Wausau Chemical Corporation for Respondent). The parties waive their right to service by the methods specified in 40 C.F.R. § 22.6.

88. The Respondent's full compliance with this CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in the CAFO.

89. This CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

90. This CAFO does not affect Respondent's responsibility to comply with FIFRA and other applicable federal, state and local laws.

91. This CAFO is a "final order" for purposes of EPA's FIFRA Enforcement Response Policy.

92. The terms of this CAFO bind Respondent, its successors and assigns.

93. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.


94. Each party agrees to bear its own costs and attorneys fees, in this action.

95. This CAFO constitutes the entire agreement between the parties.

In the Matter of Wausau Chemical Corporation
Docket No. FIFRA-05-2021-0027


Wausau Chemical Corporation, Respondent

9/9/2021
Date


Robert Flashinski
President
Wausau Chemical Corporation

United States Environmental Protection Agency, Complainant

Harris,
Michael

 Digitally signed by Harris,
Michael
Date: 2021.09.29
15:33:52 -05'00'

Michael D. Harris
Director
Enforcement and Compliance Assurance Division

In the Matter of:
Wausau Chemical Corporation
Docket No. FIFRA-05-2021-0027

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

ANN COYLE Digitally signed by ANN
COYLE
Date: 2021.09.30
08:23:17 -05'00'

Ann L. Coyle
Regional Judicial Officer
United States Environmental Protection Agency
Region 5

Consent Agreement and Final Order
In the Matter of: Wausau Chemical Corporation
Docket Number: **FIFRA-05-2021-0027**

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, docket number **FIFRA-05-2021-0027**, which was filed on September 30, 2021, in the following manner to the following addressees:

Copy by E-mail to
Attorney for Complainant: Ms. Joanna Glowacki
glowacki.joanna@epa.gov

Copy by E-mail to
Respondent: Mr. Robert Flashinski
rflashinski@wausauchemical.com

Copy by E-mail to
Regional Judicial Officer: Ms. Ann Coyle
coyle.ann@epa.gov

LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5