



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

MAR 09 2017

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ms. Joan Fisher
Regulatory Manager
RiceCo International, LLC
5100 Poplar Avenue, Suite 2428
Memphis, Tennessee 38137

Re: RiceCo International, LLC
Ratified Consent Agreement and Final Order
Docket No. FIFRA-04-2017-3126(b)

Dear Ms. Joan Fisher:

Enclosed is a copy of the ratified Consent Agreement and Final Order (CAFO) in the above-referenced matter. The original CAFO has been filed with the Regional Hearing Clerk and served on the parties as directed in Section 22.6 of the Consolidated Rules of Practice, 40 C.F.R. Part 22.

Please refer to Section V of the CAFO for penalty information and payment requirements. To ensure proper processing, the respondent name and docket number for this case, identified above and in the CAFO, should be noted on any cashier's or certified check submitted in payment of the penalty.

Also, enclosed is a copy of a document entitled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts you on notice of your potential duty to disclose to the Securities and Exchange Commission any environmental enforcement actions taken by the U.S. Environmental Protection Agency. Where used in the document, "SEC" refers to the Securities and Exchange Commission.

Should you have any questions about this matter or your compliance status in the future, please contact Dr. Karen Hill of the EPA Region 4 staff at (404) 562-8972.

Sincerely,

A handwritten signature in black ink, appearing to read "Anthony G. Toney".

Anthony G. Toney
Chief

Chemical Safety and Enforcement Branch

Enclosures

enforcement action as the Complainant in this matter, and has the authority to sign consent agreements memorializing settlements between the EPA and Respondent.

3. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 C.F.R. § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

II. Preliminary Statements

4. Pursuant to 40 C.F.R. § 22.5(c)(4), the following individual is authorized to receive service for the EPA in this proceeding:

Karen M. Hill
Pesticides Section
U.S. EPA Region 4
61 Forsyth Street SW
Atlanta, Georgia 30303-8960.

5. Respondent RiceCo International, LLC, is a limited liability company licensed to do business in the State of Tennessee with its principle office located at 5100 Poplar Avenue, Suite 2428, Memphis, Tennessee.
6. Respondent is a "person" as defined by Section 2(s) of FIFRA, 7 U.S.C. § 136(s), and as such is subject to FIFRA and the regulations promulgated thereunder.

III. Specific Allegations

7. The importation of pesticides into the United States is governed by Sections 17(c) and (e) of FIFRA, 7 U.S.C. §§ 136o(c) and 136o(e), and the regulations promulgated thereunder by the Secretary of the Treasury in consultation with the Administrator of the EPA. These

regulations are found in 19 C.F.R. Part 12.

8. Pursuant to FIFRA Section 17(c) and 19 C.F.R. § 12.112, an importer of pesticides or devices into the United States is required to submit a Notice of Arrival of Pesticides and Devices (NOA) to the EPA using EPA Form 3540-1, prior to the arrival of the shipment in the United States. Pursuant to 19 C.F.R. § 12.113(b), when a shipment of pesticides or devices arrives in the United States without the presentation by the importer or its agent to the U. S. Customs and Border Protection (CBP) of an NOA reviewed by the EPA, the shipment shall be detained by CBP until the completed NOA is presented or other disposition is ordered by the EPA.
9. On or about August 19, 2016, RiceCo, through its customs broker, Worldwide Logistics Partners, submitted to the EPA an NOA (EPA Form 3540-1), for a shipment of one hundred and ninety-eight (198), 5.3 gallon (20 liters), containers of a pesticide product. The NOA contained an incorrect brand name, "RCO-050H," for the pesticide product which is associated with the EPA registration number 71085-40 that was provided on the NOA. The correct pesticide product brand name associated with the EPA registration number 71085-40 is "RiceOne SC."
10. The shipment of RiceOne SC referenced above in paragraph 9 arrived at the Port of Savannah [Port 1703] on August 26, 2016.
11. Enclosed with the NOA was a copy of the pesticide product label that was on the containers and boxes holding the pesticide product, however, the label did not provide the correct brand name and the correct EPA registration number. In addition, the label contained a statement that the pesticide product RiceOne SC was "for experimental field trial use only - for control of weeds on rice." This statement is not found on the EPA-approved master label for RiceOne SC. Therefore, the language on the label was not

EPA-approved label language for the pesticide product RiceOne SC.

12. The EPA has determined that the containers of the pesticide product RiceOne SC (EPA registration number 71085-40) in the above-referenced shipment were misbranded because the labels bore an incorrect brand name, lacked the correct EPA registration number, and contained additional language not approved by the EPA.
13. The term “misbranded” as defined by Section 2(q) of FIFRA, 7 U.S.C. § 136 (q), includes labeling [which] bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular. Therefore, the NOA submitted by RiceCo and its broker was incorrect and the imported pesticide product containers were misbranded.
14. Pursuant to Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E) it is unlawful for any person in any State to distribute or sell to any person any pesticide which is adulterated or misbranded. Pursuant to Sections 2(q)(1)(A) and (D) of FIFRA, 7 U.S.C. § 136q(1)(A) & (D), a pesticide is misbranded if its labeling: (A) bears any statement which is false or misleading in any particular and (D) does not bear the registration number assigned under Section 136e of FIFRA to each establishment in which it was produced. The EPA alleges that Respondent has violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E) as described above in paragraphs 11 and 12, on one occasion.
15. Pursuant to Section 12(a)(2)(N) of FIFRA, 7 U.S.C. § 136j(a)(2)(N), it is unlawful for a registrant, wholesaler, dealer, retailer, or other distributor to fail to file any reports required by this Act. An NOA is a report that must be filed with the EPA in accordance with Section 12(a)(2)(N) of FIFRA. An NOA submitted to the EPA for review must provide accurate information to enable the EPA and CBP to adequately review and process the information included in the NOA pertaining to the pesticides or devices that

are to be imported.

16. Respondent failed to submit an accurate NOA to the EPA prior to the importation of the pesticide shipment into the United States as described in paragraph 9 above. Therefore, the EPA alleges that Respondent has violated Section 12(a)(2)(N) of FIFRA, 7 U.S.C. § 136j(a)(2)(N), on one occasion.
17. Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), in conjunction with the Debt Collection Improvement Act of 1996, authorizes the assessment of a civil penalty.
18. Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), requires the EPA to consider the appropriateness of the assessed penalty to the size of business of the Respondent, the effect on Respondent's ability to continue in business, and the gravity of the violation(s).
19. After consideration of the factors set forth in Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), the EPA proposes to assess a total civil penalty of **SIXTEEN THOUSAND, NINE HUNDRED AND TWENTY-FIVE DOLLARS (\$16,925)** against the Respondent for the above-described violations. Civil penalties under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), may be assessed by Administrative Order.

IV. Consent Agreement

20. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the factual allegations set forth above.
21. Respondent waives its right to a hearing on the allegations contained herein and its right to appeal the proposed Final Order accompanying the Consent Agreement.
22. Respondent consents to the assessment of the penalty proposed by the EPA and agrees to pay the civil penalty as set forth in this CAFO.
23. Compliance with this CAFO shall resolve the allegations of the violations contained herein. This CAFO shall not otherwise affect any liability of Respondent to the United

States. Other than as expressed herein, neither the EPA nor Complainant waives any right to bring an enforcement action against Respondent for violation of any federal or state Statute, regulation or permit, to initiate an action for imminent and substantial endangerment, or to pursue criminal enforcement.

24. Complainant and Respondent agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of FIFRA.

V. Final Order

25. Respondent is assessed a civil penalty of **SIXTEEN THOUSAND, NINE HUNDRED AND TWENTY-FIVE DOLLARS (\$16,925)**. Payment shall be paid within thirty (30) days of the effective date of this CAFO.
26. Respondent shall remit payment of the penalty by either a cashier's or certified check made payable to the "Treasurer, United States of America," and shall send the check.

The check shall reference on its face the name of the Respondent and Docket number of this CAFO.

Payment of the penalty shall be sent by one of the methods below.

Address for payment submittal using the United States Postal Service (excluding USPS overnight mail):

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000.

Address for payment by USPS overnight mail or other delivery service (e.g., Federal Express, United Parcel Service, DHL, etc.):

U.S. Bank
Government Lockbox 979077
US EPA Fines & Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, Missouri 63101
Contact Number: (314) 425-1819.

27. At the time of payment, Respondent shall send a separate copy of the check and a written statement that the payment is being made in accordance with this CAFO, to the following persons at the following addresses:

Regional Hearing Clerk
U.S. EPA Region 4
61 Forsyth Street SW
Atlanta, Georgia 30303-8960; and

Karen M. Hill
Pesticides Section
U.S. EPA Region 4
61 Forsyth Street SW
Atlanta, Georgia 30303-8960.

28. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, the EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. In accordance with 40 C.F.R. § 13.11(a), interest on any civil penalty assessed in a CAFO begins to accrue on the date that a copy of the CAFO is mailed or hand-delivered to the Respondent. However, the EPA will not seek to recover interest on any amount of such civil penalty that is paid within 30 calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a). A charge will also be assessed to cover the administrative costs,

both direct and indirect, of overdue debts. In addition, a late payment penalty charge shall be applied on any principal amount not paid within 90 days of the due date.

29. For the purposes of state and federal income taxation, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for any civil penalty payment made pursuant to this CAFO. Any attempt by Respondent to deduct any such payments shall constitute a violation of this CAFO.
30. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
31. This CAFO shall be binding upon the Respondent, its successors and assigns.
32. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and hereby legally binds that party to it.

THIS SECTION INTENTIONALLY LEFT BLANK

VI. Effective Date

33. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:

Respondent: RiceCo International, LLC

Docket No.: FIFRA-04-2017-3126(b)

By: Joan Fisher (Signature) Date: 1-18-17
Name: Joan Fisher (Typed or Printed)
Title: Regulatory Manager (Typed or Printed)

Complainant: U. S. Environmental Protection Agency

By: Beverly H. Banister Date: 2-14-17
Beverly H. Banister
Director
Air, Pesticides and Toxics Management Division

APPROVED AND SO ORDERED this 7th day of March 2016⁷.

Tanya Floyd
Tanya Floyd
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that on the date set out below, I filed the original and one copy of the foregoing Consent Agreement and Final Order and served a true and correct copy of the foregoing Consent Agreement and Final Order, In the Matter of RiceCo International, LLC Docket Number: FIFRA-04-2017-3126(b), to the addressees listed below.

Ms. Joan Fisher
Regulatory Manager
RiceCo International, LLC
5100 Poplar Avenue, Suite 248
Memphis, Tennessee 38137

(via Certified Mail, Return Receipt Requested)


Mr. Robert Caplan
Senior Attorney
Office of Regional Counsel
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

(via EPA's internal mail)

Karen M. Hill, Ph.D.
Air, Pesticides and Toxics
Management Division
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

(via EPA's internal mail)

3/9/17
DATE


Patricia Bullock
Regional Hearing Clerk
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
404-562-9511