



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

SEP 25 2015

REPLY TO THE ATTENTION OF:  
LC- 8J

**CERTIFIED MAIL: No.7011 1150 0000 2641 7079**  
**RETURN RECEIPT REQUESTED**

Mr. Chris Dooley / President  
Industrial Specialty Chemicals, Inc.  
16880 Lathrop Avenue  
Harvey, Illinois 60426

Consent Agreement and Final Order In the Matter of  
Industrial Specialty Chemicals, Inc. Docket No. FIFRA-05-2015-0047

Mr. Dooley:

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 25, 2015 with the Regional Hearing Clerk.

The civil penalty in the amount of \$4,536 is to be paid in the manner described in paragraphs 32 and 33. Please be certain that the docket number is written on both the transmittal letter and on the check.

Thank you for your cooperation in resolving this matter.

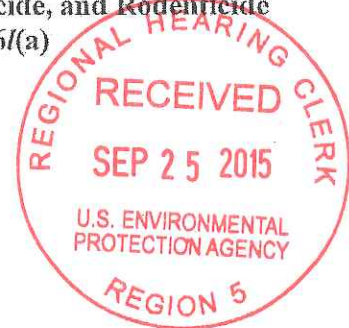
Sincerely,

for Claudia Niess  
Pesticides and Toxics Compliance Section

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

|                                      |   |   |
|--------------------------------------|---|---|
| In the Matter of:                    | ) | Docket No. FIFRA-05-2015-0047           |
|                                      | ) |   |
| Industrial Specialty Chemicals, Inc. | ) | Proceeding to Assess a Civil Penalty    |
| Harvey, Illinois                     | ) | Under Section 14(a) of the Federal      |
|                                      | ) | Insecticide, Fungicide, and Rodenticide |
| Respondent.                          | ) | Act, 7 U.S.C. § 136l(a)                 |
| _____                                | ) |   |



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 Land and Chemicals Division, United States Environmental Protection Agency (EPA), Region 5.
3. Respondent is Industrial Specialty Chemicals, Inc., a corporation doing business in the State of Illinois.
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.

**Statutory and Regulatory Background**

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

11. Section 7 of FIFRA, U.S.C. § 136(e), states that no person shall produce any pesticide subject to FIFRA or active ingredient used in producing a pesticide subject to FIFRA in any State unless the establishment in which it is produced is registered with the Administrator.

12. The term "person" as defined in Section 2(s) of FIFRA, 7 U.S.C. § 136(s), means any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.

13. The term "produce" as defined at 40 C.F.R. § 167.3, means to manufacture, prepare, propagate, compound, or process any pesticide, including any pesticide produced pursuant to Section 5 of FIFRA, any active ingredient or device, or to package, repack, label, relabel, or otherwise change the container of any pesticide or device.

14. The term "State" as defined in Section 2(aa) of FIFRA, 7 U.S.C. § 136(aa), means a

State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, and American Samoa.

15. A "pesticide," as defined in Section 2(u) of FIFRA, 7 U.S.C. § 136(u) is, among other things, any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.

16. A "pest" is defined at Section 2(t) of FIFRA, 7 U.S.C. § 136(t), as any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism which the Administrator of EPA declares to be a pest under Section 25(e)(1) of FIFRA.

17. The term "establishment," as defined in Section 2(dd) of FIFRA, 7 U.S.C. § 136(dd), means any place where a pesticide or device or active ingredient used in producing a pesticide is produced, or held, for distribution or sale

18. Section 14(a)(1), 7 U.S.C. § 136(a)(1), provides that any registrant, commercial applicator, wholesaler, dealer, retailer or other distributor who violates any provision of FIFRA may be assessed a civil penalty by the Administrator of not more than \$5,000 for each offense.

19. Pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461 note, as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 note, and 40 C.F.R. Part 19, the Administrator of EPA may assess a civil penalty against any registrant, commercial applicator, wholesaler, dealer, retailer, or other distributor who violates any provision of FIFRA of up to \$7,500 for each offense that occurred after January 12, 2009.

#### **Factual Allegations and Alleged Violations**

20. Respondent owned or operated a place of business during at least calendar year 2013, located at 16880 South Lathrop Avenue, Harvey, Illinois 60426.

21. Respondent is a "person" as defined at Section 2(s) of FIFRA, 7 U.S.C. § 136(s).
22. On or about February 27, 2014, Respondent submitted to EPA a Pesticide Report for Pesticide-Producing and Device-Producing Establishments (EPA Form 3540-16).
23. The EPA Form 3540-16 submitted to EPA by Respondent contained an affirmative response to the question, "Did you produce or distribute in 2013?" and contained pesticide production and distribution information.
24. The EPA Form 3540-16 submitted to EPA by Respondent stated that pesticide production occurred at 16880 South Lathrop Avenue, Harvey, Illinois.
25. Respondent is a producer under 40 C.F.R. § 167.3.
26. Respondent's place of business located at 16880 South Lathrop Avenue, Harvey, Illinois 60426 is an "establishment" as defined at Section 2(dd) of FIFRA, 7 U.S.C. § 136(dd).
27. Illinois is a "State" as defined at Section 2(aa) of FIFRA, 7 U.S.C. § 136(aa).
28. According to EPA records from April 23, 2014, and its Section Seven Tracking System database (SSTS), Respondent's establishment was not registered with EPA.
29. Respondent produced pesticides during calendar year 2013.
30. Respondent produced pesticides in an unregistered establishment in violation of Section 7(a) of FIFRA, 7 U.S.C. § 136e.
31. Producing a pesticide in an unregistered establishment constitutes an unlawful act pursuant to Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L).

#### Civil Penalty

32. Pursuant to Section 14(a)(4) of FIFRA, 7 U.S.C. § 136/(a)(4), Complainant determined that an appropriate civil penalty to settle this action is \$4,536. In determining the

penalty amount, Complainant considered the appropriateness of the penalty to the size of Respondent's business, the effect on Respondent's ability to continue in business, the fact that the Respondent registered their establishment with EPA on May 20, 2014, and the gravity of the violation. Complainant also considered the *Enforcement Response Policy for the Federal Insecticide, Fungicide, and Rodenticide Act* (July 2, 1990). Complainant has determined that there was no economic benefit associated with the alleged violation.

33. Within 30 days after the effective date of this CAFO, Respondent must pay a \$4,536 civil penalty for the FIFRA violations by sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. EPA  
Fines and Penalties  
Cincinnati Finance Center  
Post Office Box 979077  
St. Louis, Missouri 63197-9000

The check must note Respondent's name and the docket number of this CAFO.

34. 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 (E-19J)  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

Claudia Niess (LC-8J)  
Pesticides and Toxics Compliance Section  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

Puja Lakhani (C-14J)  
Office of Regional Counsel  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604]

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

36. If Respondent does not pay timely the civil penalty, 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.

37. 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

38. This CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts alleged in the CAFO.

39. 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.


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

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

- 42. The terms of this CAFO bind Respondent, its successors and assigns.
- 43. 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.
- 44. Each party agrees to bear its own costs and attorneys fees, in this action.
- 45. This CAFO constitutes the entire agreement between the parties.


**Industrial Specialty Chemicals, Inc., Respondent**

9/10/15  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Christopher Dooley  
President  
Industrial Specialty Chemicals, Inc.

**United States Environmental Protection Agency, Complainant**

9/22/2015  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Margaret M. Guerriero  
Director  
Land and Chemicals Division



**In the Matter of:**  
**Industrial Specialty Chemicals, Inc.**  
**Docket No. FIFRA-05-2015-0047**

**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.

23 September 2015  
Date



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Susan Hedman  
Regional Administrator  
United States Environmental Protection Agency  
Region 5

In the matter of: Industrial Specialty Chemicals, Inc.  
Docket Number: FIFRA-05-2015-0047

**CERTIFICATE OF SERVICE**

I certify that I served a true and correct copy of the foregoing *Consent Agreement and Final Order*, which was filed on September 25, 2015, in the following manner to the addressees:

Copy by Certified Mail  
Return-receipt:

Mr. Chris Dooley / President  
Industrial Specialty Chemicals, Inc.  
16880 Lathrop Avenue  
Harvey, Illinois 60426

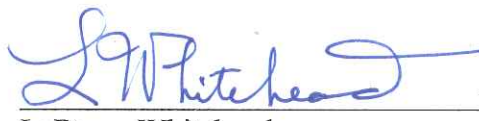
Copy by E-mail to  
Attorney for Complainant:

Puja Lakhani  
lakhani.puja@epa.gov

Copy by E-mail to  
Regional Judicial Officer:

Ann Coyle  
coyle.ann@epa.gov

Dated: September 25, 2015



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

CERTIFIED MAIL RECEIPT NUMBER(S): 7011 1150 0000 2641 7079