



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

JUN 26 2008

4APT-PTSB

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Chris Howard, Corporate Counsel
Syngenta Crop Protection, Inc.
410 South Swing Road
Greensboro, NC 27409-2080

SUBJ: Docket No. FIFRA-04-2007-9118(b)
Syngenta Crop Protection, Inc.

Dear Mr. Howard:

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 CFR Part 22.

Please make note of the provisions in Section IV of the Final Order, with respect to payment of the assessed penalty of \$70,200, which is due within 30 days from the effective date of the CAFO. As required by paragraph 24 of this CAFO, please ensure that the face of your cashier's or certified check includes the name of the company name and docket number of this case.

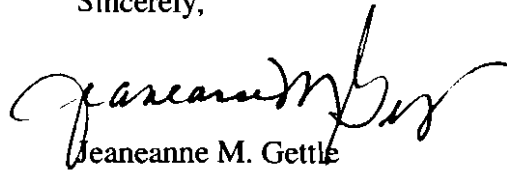
Also enclosed is a copy of the October 2001 *Enforcement Alert* titled "U.S. EPA Notifying Defendants of Securities and Exchange Commission's Environmental Disclosure Requirements." This document notifies you of your potential duty to disclose to the Securities and Exchange Commission (SEC) any environmental enforcement actions taken by the EPA. Please note that the contact phone number on page three of the Notice has been changed to (202) 551-3115.

Internet Address (URL) • <http://www.epa.gov>

Recycled/Recyclable • Printed with Vegetable Oil Based Inks on Recycled Paper (Minimum 30% Postconsumer)

Penalty payment questions should be directed to Ms. Lori Weidner either by telephone at (513) 487-2125 or by written correspondence to her attention at the U.S. EPA, Cincinnati Finance Center address identified in Section IV of the CAFO. Should you have any questions about your compliance status in the future, please call me or Ms. Cheryn Jones at (404) 562-9006.

Sincerely,



Jeaneanne M. Gettle
Chief
Pesticides and Toxic
Substances Branch

Enclosures (2)

cc: Shannon Joyner
NC Department of Agriculture
and Consumer Services

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
ATLANTA, GEORGIA

2008 JUN 26 AM 6:13
FIFRA DIVISION
REGISTRATION SECTION

In the Matter of:)
)
Syngenta Crop Protection, Inc.)
)
Respondent.)
_____)

Docket No. FIFRA-04-2007-91186

CONSENT AGREEMENT AND FINAL ORDER

I. Nature of the Action

1. This is a civil penalty proceeding pursuant to Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, 7 U.S.C. § 136l(a) (hereinafter "FIFRA"), and pursuant to the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), 40 CFR Part 22. Complainant is the Director of the Air, Pesticides, and Toxics Management Division, United States Environmental Protection Agency, Region 4 (EPA). Respondent is Syngenta Crop Protection, Inc.
2. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 CFR § 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 CFR § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

II. Preliminary Statements

3. The authority to take action under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), is vested in the Administrator of EPA. The Administrator of EPA has delegated this authority under FIFRA by EPA Delegation 5-14, dated May 11, 1994.
4. Pursuant to 40 CFR § 22.5(c)(4) the following individual represents EPA in this matter and is authorized to receive service for EPA in this proceeding:

Cheryn L. Jones
Pesticides Management Section
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960
(404) 562-9006.
5. Respondent is Syngenta Crop Protection, Inc., incorporated in the State of Delaware, and doing business in North Carolina. Respondent is located at 410 South Swing Road, Greensboro, NC 27409.
6. Respondent is a "person" as defined by Section 2(s) of FIFRA, 7 U.S.C. § 136(s), in that it is a corporation, and as such is subject to FIFRA and the regulations promulgated thereunder.
7. Respondent is a "registrant" as defined by Section 2(y) of FIFRA, 7 U.S.C. § 136(y) in that it is a person who has registered pesticides pursuant to the provisions of FIFRA.
8. Respondent is a "producer" as defined by Section 2(w) of FIFRA, 7 U.S.C. § 136(w), in that it is a person who manufactures, prepares, compounds, propagates, or processes any pesticide.
9. "Pesticide" is defined by Section 2(u) of FIFRA, 7 U.S.C. § 136(u), to mean any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.

10. “Restricted Use Pesticide” means a pesticide the Administrator (or designee) has determined that, when applied in accordance with its directions for use, warnings and cautions and for the uses for which it is registered, or for one or more of such uses, or in accordance with a widespread and commonly recognized practice, may generally cause, without additional regulatory restrictions, unreasonable adverse effects on the environment, including injury to the applicator, as set forth in Section 3(d)(1)(C) of FIFRA, 7 U.S.C. § 136a(d)(1)(C).
11. Respondent produces pesticides, including restricted use pesticides, “to distribute or sell” as that term is defined by Section 2(gg) of FIFRA, 7 U.S.C. §136(gg), in that the pesticides are held for distribution, held for sale, held for shipment, shipped, delivered for shipment, released for shipment or received and (having so received) delivered or offered to deliver.
12. On or about January 19, 2007, Respondent discovered and self-disclosed violations of Section 12(a)(2)(E) of FIFRA, 7 U.S.C. § 136j(a)(2)(E), to EPA, regarding three print advertisements of restricted use pesticides (RUPs), which did not identify the products as RUPs. On or about February 14, 2007, Respondent self-disclosed in writing to EPA that it had discovered 17 advertisements of RUPs produced and distributed by Respondent which did not identify the products as RUPs.
13. It is unlawful according to Section 12(a)(2)(E) of FIFRA, 7 U.S.C. § 136j(a)(2)(E), for a registrant, wholesaler, dealer, retailer, or other distributor to advertise a product registered under FIFRA for restricted use without giving the classification of the product assigned to it under Section 3, of FIFRA, 7 U.S.C. § 136a.

14. Respondent self-disclosed a total of 20 separate advertisements of RUPs that failed to identify the products as RUPs.
15. Respondent violated Section 12(a)(2)(E) of FIFRA, 7 U.S.C. § 136j(a)(2)(E), on at least 20 separate occasions and is therefore subject to the assessment of civil penalties under Section 14 of FIFRA, 7 U.S.C. § 136l.
16. After consideration of the factors set forth in Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), EPA proposes to assess a total civil penalty of SEVENTY THOUSAND TWO HUNDRED DOLLARS (\$70,200) 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.

III. Consent Agreement

17. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the factual allegations.
18. 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.
19. Respondent consents to the assessment of the penalty proposed by EPA and agrees to pay the civil penalty as set forth in this CAFO.
20. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of FIFRA.
21. 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 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.

22. 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.

IV. Final Order

23. Respondent is assessed a civil penalty of SEVENTY THOUSAND TWO HUNDRED DOLLARS (\$70,200) which shall be paid within 30 days from the effective date of this CAFO.

24. Respondent shall remit the penalty by either a cashier's or certified check made payable to the "Treasurer, United States of America," and shall send the check via U.S. mail to the following address:

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

**The check shall reference the name and the Docket Number of the CAFO
[“Syngenta Crop Protection, Inc., FIFRA-04-2007-9118(b)”].**

25. 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, S.W.
Atlanta, Georgia 30303-8960;

Cheryn L. Jones
Pesticides Management Section
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960;

and

Saundi Wilson
Office of Environmental
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960.


26. 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.
27. Pursuant to 31 U.S.C. § 3717, 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. Interest will therefore begin to accrue on the civil penalty from the date of entry of this CAFO, if the penalty is not paid by the date required. 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.
28. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
29. This CAFO shall be binding upon the Respondent, its successors and assigns.
30. The undersigned representative of the party to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally binds that party to this CAFO.

V. Effective Date

31. 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:

Syngenta Crop Protection, Inc.

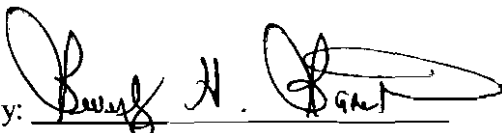
By:  (Signature)

Date: 5-19-2008

Name: CHRIS HOWARD (Typed or Printed)

Title: CORPORATE COUNSEL (Typed or Printed)

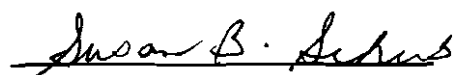
U.S. Environmental Protection Agency

By: 

Date: 6-13-08

Beverly H. Banister
Director
Air, Pesticides and Toxics
Management Division
61 Forsyth Street
Atlanta, Georgia 30303-8960

APPROVED AND SO ORDERED this th 25 day of June 2008.


Susan B. Schub
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing Consent Agreement and Final Order, in the Matter of: Syngenta Crop Protection, Inc., FIFRA Docket No. FIFRA-04-2007-9118(b), on the parties listed below in the manner indicated.

Cheryn L. Jones
4APT-PTSB
Pesticides Management Section
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, GA 30303-8960
(404) 562-9006

(Via EPA's internal mail)

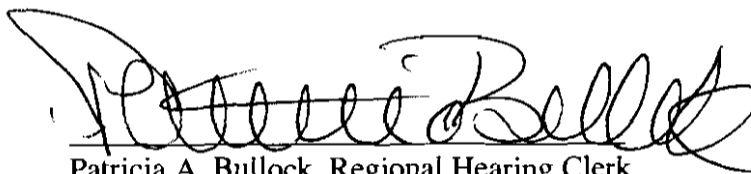
Michiko Kono
Office of Environmental Accountability
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, GA 30303-8960
(404) 562-9558

(Via EPA's internal mail)

Chris Howard
Corporate Counsel
Syngenta Crop Protection, Inc.
410 South Swing Road
Greensboro, NC 27409-2080

(Via Certified Mail - Return Receipt
Requested)

Date: 6-26-08



Patricia A. Bullock, Regional Hearing Clerk
United States Environmental
Protection Agency, Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street
Atlanta, GA 30303-8960
(404) 562-9511

EPA ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

TO BE COMPLETED BY THE ORIGINATING OFFICE:

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Saundi J Wilson on 6-23-08
(Name) (Date)

in the OEH at (404) 562-9504
(Office) (Telephone Number)

Non-SF Judicial Order/Consent Decree
USAO COLLECTS

Administrative Order/Consent Agreement
FMO COLLECTS PAYMENT

SF Judicial Order/Consent Decree
DOJ COLLECTS

Oversight Billing - Cost Package required:
Sent with bill

Not sent with bill

Other Receivable

Oversight Billing - Cost Package not required

This is an original debt

This is a modification

PAYEE: Syngenta Crop Protection, Inc
(Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 70,200
(If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: FIFKA 04 2007 9118(b)

The Site Specific Superfund Account Number: _____

The Designated Regional/Headquarters Program Office: _____

TO BE COMPLETED BY LOCAL FINANCIAL MANAGEMENT OFFICE:

The IFMS Accounts Receivable Control Number is: _____ Date: _____

If you have any questions, please call: _____ of the Financial Management Section at: _____

DISTRIBUTION:

A. **JUDICIAL ORDERS:** Copies of this form with an attached copy of the front page of the **FINAL JUDICIAL ORDER** should be mailed to:

- | | |
|--|---|
| 1. Debt Tracking Officer
Environmental Enforcement Section
Department of Justice RM 1647
P.O. Box 7611, Benjamin Franklin Station
Washington, D.C. 20044 | 2. Originating Office (EAD)
3. Designated Program Office |
|--|---|

B. **ADMINISTRATIVE ORDERS:** Copies of this form with an attached copy of the front page of the Administrative Order should be to:

- | | |
|--|---|
| 1. Originating Office
2. Regional Hearing Clerk | 3. Designated Program Office
4. Regional Counsel (EAD) |
|--|---|