



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

JUN 27 2017

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ms. Amy Stewart
Willowood USA, LLC
1600 Northwest Garden Valley Boulevard
Suite 120
Roseburg, Oregon 97471

Re: Willowood USA, LLC
Ratified Consent Agreement and Final Order
Docket No.: FIFRA-04-2017-3006(b)

Dear Ms. Stewart:

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 Kimberly Tomczak of the EPA Region 4 staff at (404) 562-8987.

Sincerely,

A handwritten signature in blue ink, appearing to read "A. Toney", with a long horizontal flourish extending to the right.

Anthony G. Toney
Chief
Chemical Safety and Enforcement Branch

Enclosures

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA, GEORGIA**

In the Matter of:)
)
Willowood USA, LLC)
)
Respondent.)
)
)
)
_____)

Docket No.: FIFRA-04-2017-3006(b)

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) (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 C.F.R. Part 22. Complainant is the Director of the Air, Pesticides and Toxics Management Division, United States Environmental Protection Agency (EPA), Region 4. Respondent is Willowood USA, LLC (Willowood).
2. The authority to take action under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), is vested in the Administrator of the EPA. The Administrator of the EPA has delegated this authority under FIFRA to the EPA Region 4 by the EPA Delegation 5-14, dated May 11, 1994. The Regional Administrator, Region 4, has redelegated this authority to the Director of the Air, Pesticides and Toxics Management Division, by the EPA Region 4 Delegation 5-14, dated September 7, 2005. Pursuant to that Delegation, the Director of the Air, Pesticides and Toxics Management Division has the authority to commence an

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:

Kimberly Tomczak
Pesticides Section
U.S. EPA Region 4
61 Forsyth Street S.W.
Atlanta, Georgia 30303-8960.

5. Respondent Willowood is licensed to do business in the State of Oregon. Respondent has imported pesticide products into the United States through the Port of Charleston in Charleston, South Carolina.
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.
7. Respondent is a “producer” as defined at Section 2(w) of FIFRA, 7 U.S.C. § 136(w), as the person who manufactures, prepares, compounds, propagates, or processes any pesticide.

8. The term “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.
9. A “pest” is defined in 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 (except viruses, bacteria, or other microorganisms on or in living man or other living animals) which the Administrator declares to be a pest under Section 25(c)(1) of FIFRA, 7 U.S.C. § 136w(c)(1).
10. The term “establishment” is defined in Section 2(dd) of FIFRA, 7 U.S.C. § 136(dd) and 40 C.F.R. § 167.3, to mean, any place where a pesticide or device or active ingredient used in producing a pesticide is produced, or held, for distribution or sale.
11. The term “to distribute or sell” as defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), includes to distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, or release for shipment.
12. Pursuant to Section 17(c) FIFRA, 7 U.S.C. § 136o(c) and the regulations at 19 C.F.R. § 12.112, an importer desiring to ship pesticides into the United States is required to submit to the EPA Administrator a Notice of Arrival of Pesticides and Devices (NOA) [EPA Form 3540-1], prior to the arrival of the shipment(s) into the United States.
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.
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 offer for sale a misbranded pesticide.

III. Specific Allegations

15. On or about August 30, 2016, the EPA received a NOA EPA Form 3540-1 for a shipment of the pesticide product Willowood Ethofumesate Technical (EPA Registration Number 87289-1).
16. The NOA presented to the EPA as described above in paragraph 15, notified the EPA that the pesticide product Willowood Ethofumesate Technical was being presented for import into the United States at the Port of Charleston.
17. The NOA submitted to the EPA for the shipment of the above-referenced pesticide bore the EPA Producer Establishment Number 74280-IND-001, which the EPA determined to be an inactive EPA Producer Establishment Number.
18. On September 1, 2016, the EPA notified Willowood that the NOA above-referenced in paragraph 15, listed an inactive EPA Producer Establishment number. Subsequently, on or around September 1, 2016, Willowood confirmed to the EPA Region 4 that the bags of Willowood Ethofumesate Technical, were affixed with product labels which bore the aforementioned incorrect EPA Establishment number.
19. On October 3, 2016, the EPA issued a Stop Sale, Use or Removal Order (SSURO) to the Respondent pertaining to shipment of the pesticide product Willowood Ethofumesate Technical after determining that the product was misbranded. The SSURO prohibited the Respondent from selling, distributing, using or removing the shipment of pesticide product with the exception that the Respondent was allowed to move the pesticide product for the sole purpose of relabeling the product in compliance with FIFRA, at a nearby registered EPA Producer Establishment.

20. On October 20, 2016, the EPA terminated the SSURO after receiving documentation from Willowood verifying that the pesticide product Willowood Ethofumesate Technical had been properly relabeled in compliance with the SSURO.
21. By importing the mislabeled pesticide product as described above in paragraphs 15 through 18, the Respondent distributed a misbranded pesticide, in violation of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).
22. Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), on one occasion, and is therefore subject to the assessment of civil penalties under Section 14 of FIFRA, 7 U.S.C. § 136l.
23. 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.
24. 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).
25. 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 **FOUR THOUSAND TWO HUNDRED and FORTY-EIGHT DOLLARS (\$4,248)** against the Respondent for the above-described violation. Civil penalties under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), may be assessed by Administrative Order.

IV. Consent Agreement

26. 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.

27. 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.
28. 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.
29. Compliance with this CAFO shall resolve the allegation of the violation 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.
30. 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

31. Respondent is assessed a civil penalty of **FOUR THOUSAND TWO HUNDRED and FORTY-EIGHT DOLLARS (\$4,248)**. Payment shall be paid within thirty (30) days of the effective date of this CAFO.
32. Respondent shall remit payment of the penalty by either a cashier's or certified check made payable to the "Treasurer, United States of America". **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.

33. 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;

Kimberly Tomczak
Pesticides Section
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960.

34. 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.

35. 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.
36. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
37. This CAFO shall be binding upon the Respondent, its successors and assigns.
38. 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

39. 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: Willowood USA, LLC
Docket No.: FIFRA-04-2017-3006(b)

By: Amy Stewart (Signature) Date: 4/27/17
Name: AMY STEWART (Typed or Printed)
Title: PRODUCTION PLANNER (Typed or Printed)

Complainant: U. S. Environmental Protection Agency

By: Carol G. Kember for Date: 5/23/17
Beverly H. Banister, Director
Air, Pesticides and Toxics Management Division

APPROVED AND SO ORDERED this 23rd day of June 2017.

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 Willowood USA, LLC**. Docket Number: FIFRA-04-2017-3006(b), to the addressees listed below.

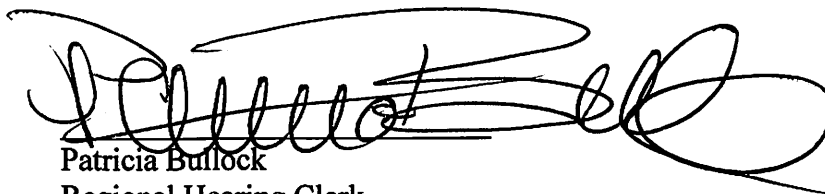
Ms. Amy Stewart (via Certified Mail, Return Receipt Requested)
Willowood USA, LLC
1600 NW Garden Valley Boulevard, Suite 120
Roseburg, Oregon 97471

Ms. Marlene Tucker (via EPA's internal mail)
Associate Regional Counsel
Office of Air, Pesticides, Toxics Legal Support
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

Mr. Robert Caplan (via EPA's internal mail)
Senior Attorney
Office of Air, Pesticides, Toxics Legal Support
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Atlanta, Georgia 30303

Ms. Pamela Moultrie (via EPA's internal mail)
Staff Assistant
Chemical Safety and Enforcement Branch
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

6-27-17
DATE


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