



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

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

OCT 13 2010

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Mr. Will King  
President  
Regal Chemical Company  
600 Branch Road  
Alpharetta, Georgia 30004

Re: Docket No: FIFRA-04-2010-3000(b)  
Regal Chemical Company

Dear Mr. King:

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.

As stated in Section V of the CAFO, the assessed penalty of \$32,800 is due within 30 days from the effective date. Please ensure that the face of your cashier's or certified check includes the name of the company and the Docket Number of this case.

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. Environmental Protection Agency's Cincinnati Accounting Operations address identified in the CAFO. Should you have any questions about this matter or your compliance status in the future, please call me at (404) 562-8979 or Ms. Dawn Johnson, Case Development Officer, at (404) 562- 9017.

Also enclosed is a copy of a document entitled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document

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

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

Jeaneane M. Gettle †  
Chief  
Pesticides and Toxic  
Substances Branch

Enclosures

cc: GA Department of Agriculture  
State File No. 021808173001

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
ATLANTA, GEORGIA

2010 OCT 13 PM 12:55  
HEARING CLERK  
EPA REGION 4

IN THE MATTER OF: )

Regal Chemical Company )

Respondent. )

Docket No.: FIFRA-04-2010-3000(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, Region 4 (EPA). Respondent is Regal Chemical Company.
2. 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.

Regal Chemical Company  
Docket No.: FIFRA-04-2010-3000(b)

## **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 to EPA Region 4 by EPA Delegation 5-14, dated May 11, 1994.
4. Pursuant to 40 C.F.R. § 22.5(c)(4) the following individual represents EPA in this matter and is authorized to receive service for EPA in this proceeding:

Dawn Johnson  
Pesticides Section  
U.S. EPA - Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960  
(404) 562-9017.

5. Respondent is Regal Chemical Company, a Georgia corporation, located at 600 Branch Road, Alpharetta, Georgia 30004 and is registered with EPA as a pesticide producing establishment, with the number 048234-GA-01.
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 by Section 2(w) of FIFRA, 7 U.S.C. § 136(w) and 40 C.F.R. § 167.3.

## **III. Specific Allegations**

8. On or about August 24, 2006, an authorized representative of the EPA conducted an inspection at Currituck Club, located at 530 Old Sandy Road, Corolla, North Carolina.
9. During the inspection, the inspector obtained information showing that Respondent distributed and sold the RegalCrown Biological Plant Growth Stimulator (RegalCrown product) to Currituck Club.

10. The inspector collected an Order/Picking List dated July 13, 2006, documenting the shipment of four gallons of the RegalCrown product to the Currituck Club.
11. On or about September 4, 2007 an authorized representative of EPA conducted an inspection at the Chowan Golf & Country Club, located at 1101 West Soundshore Drive, Edenton, North Carolina (Chowan Club).
12. During the inspection, the inspector obtained the following invoices and order/picking lists showing that Respondent distributed and sold the RegalCrown product to the Chowan Club:
  - a. Invoice number 0328329, dated February 15, 2006;
  - b. Order/Picking List number 0160344, dated January 31, 2007;
  - c. Invoice number 0344324, dated February 1, 2007;
  - d. Order/Picking List number 0160348, dated January 31, 2007;
  - e. Invoice number 0350858, dated June 1, 2007.
13. On or about February 18, 2008, an authorized representative of EPA conducted an inspection at Respondent's facility, located at 600 Branch Drive, Alpharetta, Georgia.
14. During the inspection, the inspector viewed containers of the RegalCrown product at the facility and obtained the following invoices and order/picking lists showing that Respondent distributed and sold the RegalCrown product:
  - a. Order/Picking List number 0172412, dated October 15, 2007;
  - b. Order/Picking List number 0172682, dated October 23, 2007;
  - c. Order/Picking List number 0172921, dated November 1, 2007;
  - d. Order/Picking List number 0172954, dated November 2, 2007;
  - e. Bill of Lading dated November 13, 2007.

15. Pursuant to Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), it is unlawful for any person to distribute or sell to any person any pesticide that is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), and is therefore subject to the assessment of civil penalties under Section 14 of FIFRA, 7 U.S.C. § 136l.
16. At the time of the inspections, the RegalCrown product was “misbranded” as the term is defined in Section 2(q) of FIFRA, 7 U.S.C. § 136(q), in that the labeling for the product did not include the following:
  - a. An EPA establishment number;
  - b. Percentage of each ingredient;
  - c. Storage and disposal statement.
17. Pursuant to Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136(a)(1)(E), it is a violation for any person in any state to distribute or sell to any person any pesticide which is misbranded. Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), and is therefore subject to the assessment of civil penalties under Section 14 of FIFRA, 7 U.S.C. § 136l.
18. 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.
19. Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), requires 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. 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 **THIRTY TWO**

**THOUSAND EIGHT HUNDRED DOLLARS (\$32,800)** 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 EPA and agrees to pay the civil penalty as set forth in this CAFO.
23. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of FIFRA.
24. 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.
25. 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**

26. Respondent is assessed a civil penalty of **THIRTY TWO THOUSAND EIGHT HUNDRED DOLLARS** (\$32,800). Payment is due within thirty (30) days of the effective date of this CAFO.
27. Respondent shall remit each penalty payment 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 on its face the name of the Respondent and Docket Number of this CAFO.**

28. 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  
Atlanta, Georgia 30303-8960;

Dawn Johnson  
Pesticides Section  
U.S. EPA - Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960; and

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

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. 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.
31. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
32. This CAFO shall be binding upon the Respondent, its successors and assigns.
33. 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.

**The remainder of this page is intentionally left blank**

**VI. Effective Date**

34. 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: REGAL CHEMICAL COMPANY**  
**Docket No.: FIFRA 04-2010-3000(b)**

By: Will King (Signature) Date: 8/20/2010  
Name: Will King (Typed or Printed)  
Title: President (Typed or Printed)

**Complainant: U.S. Environmental Protection Agency**

By: Carol L. Kemker Date: 9/29/10  
Carol L. Kemker, Acting Division Director  
Air, Pesticides and Toxics  
Management Division  
61 Forsyth Street  
Atlanta, Georgia 30303-8960

**APPROVED AND SO ORDERED** this 13<sup>th</sup> day of October 2010.

Susan B. Schub  
Susan B. Schub  
Regional Judicial Officer

By: \_\_\_\_\_ (Signature) Date: \_\_\_\_\_  
Name: \_\_\_\_\_ (Typed or Printed)  
Title: \_\_\_\_\_ (Typed or Printed)

**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 Regal Chemical Company, Docket Number: FIFRA-04-2010-3000(b), to the addressees listed below.

Will King  
Regal Chemical Company  
600 Branch Road  
Alpharetta, GA 30004

(via Certified Mail, Return Receipt Requested)

Dawn Johnson  
Pesticides Section  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, GA 30303

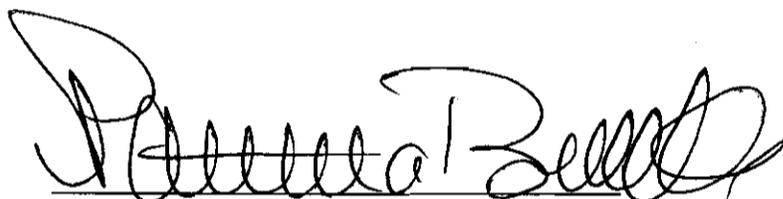
(via EPA's internal mail)

Valerie Nowell  
Associate Regional Counsel  
Office of Environmental Accountability  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, GA 30303

(via EPA's internal mail)

Date:

10-13-10



Patricia A. Bullock, Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 4  
Atlanta Federal Center  
61 Forsyth St., SW  
Atlanta, GA 30303  
(404) 562-9511