

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029**

IN RE:)	DOCKET NO. FIFRA-03-2017-0030
)	
CONOY AG.)	CONSENT AGREEMENT
2011 MAYTOWN ROAD)	NOTABLY LATE OR NON REPORTING
ELIZABETHTOWN, PA 17022)	
)	
Respondent)	

EXPEDITED CONSENT AGREEMENT

1. This Expedited Consent Agreement is entered into by the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency - Region III ("EPA" or "Complainant") and Conoy Ag. ("Respondent"), pursuant to Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA"), *as amended*, 7 U.S.C. § 136l(a), and Sections 22.13(b) and .18(b) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. § 22.13(b) and .18(b). This Consent Agreement ("CA") and the attached Final Order (hereinafter jointly referred to as the "CAFO") resolve Complainant's civil penalty claims against the Respondent under FIFRA arising from the violation of FIFRA alleged herein.

2. Section 7(c) of FIFRA, 7 U.S.C. § 136e(c), requires any producer operating a registered pesticides-producing establishment to inform EPA of the types and amounts of pesticides and, if applicable, active ingredients used in producing pesticides, which it is producing, which it has produced during the past year, and which it has sold or distributed during the past year. The information required by this paragraph shall be kept current and submitted to the Administrator annually as required by such regulations as the Administrator may prescribe. The regulation found at 40 C.F.R. § 167.85(d) requires such pesticides report to be filed annually on or before March 1, even if the producer has produced no pesticidal products for that reporting year.

3. The EPA is authorized to enter into this CAFO, pursuant to Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, *as amended*, 7 U.S.C. § 136l(a) ("FIFRA"), 40 C.F.R. § 167.85 and 40 C.F.R. § 22.13(b) and in accordance with the February 1, 2017 *FIFRA Section 7 Expedited Settlement Agreement Pilot Program*, which has been extended by the EPA until July 22, 2017.

4. EPA finds that Respondent is a "person," a "producer" and operates an "establishment", as those terms are defined in Sections 2(s), (w), and (dd) of FIFRA, 7 U.S.C. §§ 136(s), (w), and

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(dd), and 40 C.F.R. § 167.3, at 2011 Maytown Road, Elizabethtown, Pennsylvania 17022. This Establishment is registered with EPA under Establishment Number 80866-PA-001.

5. Respondent has failed to comply with Section 7(c) of FIFRA, 7 U.S.C. § 136e(c), and with the regulations found at 40 C.F.R. § 167.85(d) in that it did not file the 2015 annual pesticides report for the above facility by March 1, 2016, as required.

6. For purposes of this proceeding, Respondent admits the jurisdictional allegations set forth in this CAFO.

7. Except as provided in Paragraph 6 herein, for purposes of this proceeding, Respondent neither admits nor denies the factual allegations and legal conclusions set forth in this CAFO.

8. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this CA, the issuance of the attached Final Order, or the enforcement of this CAFO.

9. For purposes of this proceeding only, Respondent hereby expressly waives any right to contest any issue of law or fact set forth in this CA and any right to appeal the attached Final Order.

10. Respondent consents to the issuance of this CAFO and agrees to comply with its terms and conditions.

11. Each Party to this CAFO shall bear its own costs and attorney's fees.

12. By its signature below, Respondent certifies, subject to civil and criminal penalties for making a false statement to the United States Government, that to the best of Respondent's knowledge, it is presently in compliance with all requirements of FIFRA, 7. U.S. C. *et seq.*, and all regulations promulgated thereunder.

13. Under EPA's *Enforcement Response Policy for FIFRA Section 7(c) Establishment Reporting Requirements*, updated May 2010, EPA may reduce a civil penalty to zero when a producer who has failed to submit a timely production report under Section 7(c)(1) of FIFRA reports no pesticide production and requests termination of the establishment's registration number within 20 days after receiving written notification of the violation by EPA.

14. In correspondence begun within 20 days of receiving EPA's notice of the violation alleged herein, Respondent reported that it produced no pesticides at the establishment located at 2011 Maytown Road, Elizabethtown, Pennsylvania, in calendar year 2015, and requested that the establishment registration number EPA Est. No.: 80866-PA-001 be terminated.

15. The parties enter into this Consent Agreement in order to settle the civil violation(s) alleged above. Pursuant to the Consolidated Rules of Practice, and in consideration of the

statutory factors set forth in FIFRA Section 14(a)(4), 7 U.S.C. Section 1361(a)(4), EPA's *Enforcement Response Policy for FIFRA Section 7(c) Establishment Reporting Requirements* ("ERP"), updated May 2010, 40 C.F.R. Part 19, and the July 22, 2014 *FIFRA Section 7 Expedited Settlement Agreement Pilot Program*, extended until July 22, 2017, EPA has determined that an appropriate civil penalty to settle this action is **\$0**.

16. This CAFO settles EPA's civil penalty claims against Respondent for the violations specified above. EPA does not waive its right to take enforcement action against Respondent for any other past, present, or future violations of FIFRA or any other federal statute or regulation.

17. Nothing in this CAFO is intended to, nor shall be construed to operate in any way to resolve, any criminal liability of Respondent, and nothing in this CAFO shall be construed to limit EPA's authority to undertake any action against Respondent in response to conditions that may present an imminent and substantial endangerment.

18. This CAFO is binding on the parties signing below. Upon signature of the parties and approval by the Regional Judicial Officer, this CAFO shall be filed with the Regional Hearing Clerk. In accordance with 40 C.F.R. 22.31(b), this CAFO is effective upon filing with the Regional Hearing Clerk.

19. The undersigned representative certifies that he is fully authorized to execute this Consent Agreement and to legally bind Conoy Ag. to this CAFO.

APPROVED BY:

Name (Print): Leon Ray Zimmerman Leon Ray Zimmerman

Title (Print): manager

Signature: Leon Ray Zimmerman Date: 3-14-17

FOR COMPLAINANT:

Holly D Ragusa Date: 3/23/17
Holly Ragusa
Pesticides Enforcement Officer
U.S. EPA Region III

Accordingly, the Land and Chemicals Division, United States Environmental Protection Agency, Region III, recommends that the Regional Administrator, or his designee, issue the Final Order set forth below.

3/29/2017
Date

Catherine A. Libertz
Catherine A. Libertz, Acting Director
Land and Chemicals Division

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029**

In the Matter of:

**CONOY AG.
2011 MAYTOWN ROAD
ELIZABETHTOWN, PENNSYLVANIA
17022**

Respondent.

EPA Docket No. FIFRA-03-2017-0030

FINAL ORDER

**Proceeding under Section 14(a) of the
Federal Insecticide, Fungicide and
Rodenticide Act, 7 U.S.C. § 136l(a)**

FINAL ORDER

Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III, and Respondent, have executed a document entitled "Expedited Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22 (with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA's December 2009 *FIFRA Enforcement Response Policy Federal Insecticide, Fungicide, Rodenticide Act*, and the

In the Matter of Conoy Ag.

EPA Docket No. FIFRA-03-2017-0030

and the statutory factors set forth in Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4).

NOW, THEREFORE, PURSUANT TO Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136l(a), and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of **ZERO DOLLARS (\$0.00)**, in accordance with the payment provisions set forth in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

The effective date of the attached Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

March 30, 2017
Date



Joseph J. Lisa
Regional Judicial and Presiding Officer
U.S. EPA Region III

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

IN RE: :
: :
CONOY AG. : DOCKET NO. FIFRA-03-2017-0030
2011 MAYTOWN ROAD :
ELIZABETHTOWN, PA 17022 :
: :
Respondent :

CERTIFICATE OF SERVICE

I hereby certify that the original of the foregoing Expedited Consent Agreement and Final Order for the above-referenced matter were hand-delivered to the Regional Hearing Clerk, EPA Region III, and that true and correct copies were mailed via certified mail to the following person(s):

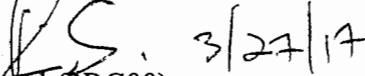
Leon Zimmerman, Manager
Conoy Ag.
2011 Maytown Road
Elizabethtown, PA 17022

3/31/17
Date

Holly S. Ragusa
Holly Ragusa
Enforcement Officer
U.S. Environmental Protection Agency, Region III

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

Subject: Federal Insecticide, Fungicide, and Rodenticide Act
Conoy Ag.
Docket No. FIFRA-03-2017-0030
Expedited Consent Agreement and Final Order

From:  Mary Coe 
Regional Counsel (3RC00)

Catherine A. Libertz, Acting Director
Land and Chemicals Division (3LC00) 

To: Joseph J. Lisa  3-30-2017
Regional Judicial Officer (3RC00)

The attached Expedited Consent Agreement has been negotiated pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, and the Revocation/Termination or Suspension of Permits ("Consolidated Rules"), 40 C.F.R. Part 22, with specific reference to 40 C.F.R. § 22.18(b)(2), in settlement of an alleged violation of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), 7 U.S.C. §§ 136 *et seq.*, by Conoy Ag.

The FIFRA Expedited Settlement Agreement program was extended for an additional six (6) months by email dated Wednesday, February 01, 2017 6:31 PM, from Greg Sullivan, Acting Director, Waste and Chemical Enforcement Division, U.S. EPA, OECA, OCE. The policy is in effect until July 22, 2017.

The terms of the settlement include a civil penalty of ZERO DOLLARS (\$0.00), calculated in accordance with the statutory factors of FIFRA Section 14(a), EPA's *Enforcement Response Policy for FIFRA Section 7(c) Establishment Reporting Requirements* ("ERP"), updated May 2010, and 40 C.F.R. Part 19.

We concur with the terms of the attached Expedited Consent Agreement and we recommend that you sign the Final Order, in accordance with the Consolidated Rules at 40 C.F.R. § 22.18(b)(3).

Respondent's contact information is as follows:

Name: Leon Zimmerman, Manager

Phone: (717) 989-4701

Fax: (717) 367-8526

Email: *Conoy Ag. does not utilize the internet and does not have an email address.*