

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

REGIONAL OFFICE
 EPA REGION III PHILADELPHIA, PA

2015 SEP 29 PM 3:03

RECEIVED

IN RE:)	DOCKET NO. FIFRA-03-2015-021
)	
MAIN POOL AND CHEMICAL)	CONSENT AGREEMENT
COMPANY, INC.)	
110 COMMERCE ROAD)	NOTABLY LATE OR NON REPORTING
PITTSTON, PA 18640)	
)	
Respondent)	

EXPEDITED SETTLEMENT 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 Main Pool and Chemical Company, Inc. ("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 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. 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 (dd), and 40 C.F.R. § 167.3, at 501 Main Street, Avoca, Pennsylvania. This Establishment is registered with EPA under Establishment Number 039019-PA-001.
4. 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 2013 and 2014

annual pesticides reports for the above facility by March 1 of 2014 and 2015, respectively, as required.

5. For purposes of this proceeding, Respondent admits the jurisdictional allegations set forth in this Expedited Consent Agreement and the attached Final Order, (hereinafter “this Agreement”).

6. Except as provided in Paragraph 5 of this Agreement, for purposes of this proceeding, Respondent neither admits nor denies the factual allegations and legal conclusions set forth in this Expedited Consent Agreement.

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

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

9. Respondent consents to the issuance of this Agreement and agrees to comply with its terms and conditions.

10. Each Party to this Agreement shall bear its own costs and attorney’s fees.

11. 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.

12. The parties enter into this Agreement in order to settle the civil violation(s) alleged above. Pursuant to Section 14(a)(4) of FIFRA, 7 sec. 136l(a)(4), the relevant *Enforcement Response Policy for FIFRA Section 7(c)*, and the Consolidated Rules of Practice, EPA has determined an appropriate civil penalty to settle this action is **\$1,200**.

13. Respondent agrees that within 30 days of the effective date of this Agreement (the date it is filed with the Regional Hearing Clerk), Respondent shall submit a check with the case name, address and docket number of this Agreement (FIFRA-03-2015-0211), for the amount specified above, payable to “**United States Treasury**,” U.S. Environmental Protection Agency, Fines and Penalties, Cincinnati Finance Center, P.O. Box 979077, St. Louis, MO 63197-9000. Copies of the check shall be sent simultaneously to:

Ms. Christine Convery, Enforcement Officer
U.S. Environmental Protection Agency
Region III (Mail Code 3LC62)
1650 Arch Street
Philadelphia, PA 19103

and

Ms. Lydia Guy, Regional Hearing Clerk
U.S. Environmental Protection Agency
Region III (Mail Code 3RC00)
1650 Arch Street
Philadelphia, PA 19103-2029.

14. This Agreement 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.

15. Nothing in this Agreement is intended to, nor shall be construed to operate in any way to resolve, any criminal liability of Respondent, and nothing in this Agreement 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.

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

17. The undersigned representative certifies that he is fully authorized to execute this Agreement and to legally bind Main Pool and Chemical Company, Inc. to this Agreement.

APPROVED BY:

Name (print): Sandy Tetincho

Title (Print): Office Manager

Signature: Sandy Tetincho Date: 8-31-15

FOR COMPLAINANT:

Christine Convery Date: 9/18/15

Christine Convery
Pesticides Enforcement Officer
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.

9.23.15
Date

John A. Armstead
John A. Armstead, Director
Land and Chemicals Division

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

IN RE:)	DOCKET NO. FIFRA-03-2015-0211
)	
MAIN POOL AND CHEMICAL)	CONSENT AGREEMENT
COMPANY, INC.)	
110 COMMERCE ROAD)	NOTABLY LATE OR NON REPORTING
PITTSTON, PA 18640)	
)	
Respondent)	

FINAL ORDER

Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency - Region III, and the above-captioned 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. The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated herein as if set forth at length.

NOW, THEREFORE, PURSUANT TO Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, *as amended*, 7 U.S.C. § 136l(a) ("FIFRA"), and the Consolidated Rules of Practice, and having determined based on the parties' representation in the Consent Agreement that the penalty agreed to in the Consent Agreement is based on a consideration of the factors set forth in Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), **IT IS**

HEREBY ORDERED that Respondent pay a penalty of one thousand two hundred dollars (\$1200), and comply with the terms and conditions of the Consent Agreement.

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

9-29-2015
Date



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

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

IN RE: :
: :
MAIN POOL AND CHEMICAL : DOCKET NO. FIFRA-03-2015-0211
COMPANY, INC. :
110 COMMERCE ROAD :
PITTSTON, PA 18640 :
: :
Respondent :

CERTIFICATE OF SERVICE

I hereby certify that the original of the foregoing Expedited Settlement 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):

Ms. Sandy Telincho, Office Manager
Main Pool and Chemical Company, Inc.
110 Commerce Road
Pittston, PA 18640

9/29/15
Date



Christine Convery
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
Main Pool and Chemical Company, Inc.
Docket No. FIFRA-03-2015-0211
Expedited Settlement Agreement and Final Order

From:

Mary Coe
Regional Counsel (3RC00)

John A. Armstead, Director
Land and Chemicals Division (3LC00)

Joseph J. Lisa
Regional Judicial Officer (3RC00)

The attached Expedited Settlement 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 Main Pool and Chemical Company, Inc.

The terms of the settlement include a civil penalty of one thousand two hundred dollars (\$1200.00), 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 Settlement 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: Sandy Telincho, Office Manager
Phone: (570) 655-7211
Email: sandy@mainpoolchemical.com

cc: Sandy Telincho, Office Manager
Main Pool and Chemical Company, Inc.