



**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
BEFORE THE ADMINISTRATOR**

**In re FIFRA Section 3(c)(2)(B) Notice of Intent )  
to Suspend Dimethyl Tetrachloroterephthalate )  
(DCPA) Technical Registration )**

**AMVAC Chemical Corporation; )  
Grower-Shipper Association of Central )  
California; Sunheaven Farms, LLC; J&D )  
Produce; Ratto Bros., Inc.; and Huntington )  
Farms, )  
Petitioners. )**

**Docket No. FIFRA-HQ-2022-0002**

**ORDER CONFORMING TRANSCRIPT AND EVIDENCE**

The evidentiary hearing in this matter was held in Washington, D.C. on January 24-25, 2023. The hearing was stenographically reported and transcribed, and electronic copies of an initial draft of the transcript were provided to the parties to review and propose corrections. *See* Order for Joint Mot. to Conform the Tr. (Feb. 6, 2023).

On February 17, 2023, the parties jointly moved to conform the transcript to the actual testimony presented at the hearing and transmitted their proposed corrections to this Tribunal. *See* Joint Mot. to Conform Tr. (“Joint Motion”).

**Transcript Revisions and Certification**

Upon consideration of the parties’ proposed corrections, the initial draft of the hearing transcript has been revised by the Court Reporter so as to conform to the actual testimony presented at hearing. Further, by this order I adopt the following additional revisions to the transcript:

Tr. 18:5 – “amounts” is changed to “amount”

Tr. 265:7 – “and” is changed to “the”

In their Joint Motion, the parties also request “that the Presiding Officer confirm with the Court Reporter whether there is any record of statements made” on page 204 of the transcript, between lines four and five. *See* Jt. Mot. at 2 (referring to lines three and four in the initial transcript draft). The Tribunal has consulted with the Court Reporter and can confirm that there is no record of statements made between those transcribed lines.

Accordingly, I certify pursuant to 40 C.F.R. § 164.82 that the transcript as revised is a true transcript of the testimony offered or received at the hearing, and, as set forth below, the exhibits identified in Exhibit A to the parties' Joint Status Report Concerning Expert Qualifications & Exhibits. (Jan. 31, 2023) ("Joint Status Report") are all the exhibits introduced at the hearing.

### **Admitted Exhibits**

In their Joint Motion, the parties also seek relief in connection with their Joint Status Report. Within the Joint Status Report, the parties asked that the following hearing exhibits be admitted into evidence:

- JX 93: DCPA Reregistration Eligibility Decision ("RED") (Nov. 1998)
- PAX 79: Data Evaluation Report on the Acute Toxicity of Dacthal Technical to Algae (Sept. 28, 2016)
- PAX 80: Risks of DCPA Use to Federally Threatened California Red-Legged Frog (Feb. 19, 2009)
- PAX 81: Fate, Transport, and Transformation Test Guidelines 835.4300 and 835.4400
- PAX 82: Fate, Transport, and Transformation Test Guidelines 835.4100 and 835.4200
- RX 15: EPA Best Practices for Internal/External Correspondence document (July 1, 2020)<sup>1</sup>
- RX 25: Verified Statement of Christina Wendel (June 17, 2022)
- RX 26: Verified Statement of Stephen Wente (June 17, 2022)

Also in the Joint Status Report, the parties requested the Tribunal designate the following documents as Court Exhibits (CE):

- Joint Stipulations and Respondent's Status Report (Dec. 23, 2022) (Dkt. 44), as CE 2
- Respondent's Status Report (Jan. 18, 2023) (Dkt. 53), as CE 3
- Joint Status Report Concerning Expert Qualifications & Exhibits (Jan. 31, 2023) (Dkt. 54), as CE 4

Further, the parties attached as Exhibit A to the Joint Status Report an index of all the exhibits they believe have and have not been admitted into evidence.

Now, in their Joint Motion, the parties "request that the Presiding Officer confirm that the record contains all JX, RX, PAX, and PGX Exhibits as identified in Exhibit A to the [Joint Status Report] and ensure that the documents comprising the final transcript pursuant to 40 C.F.R. § 164.82 reflect this." Jt. Mot. at 2. Accordingly, this Tribunal states as follows:

PAX 79-PAX 82 and RX 25-RX 26 were all admitted as exhibits during the hearing. *See*

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<sup>1</sup> The admission of these exhibits are all jointly requested by the parties, except that the Agency also objects to the relevance of RX 15.

Tr. 30, 35, 92.

Proposed JX 93 was referenced by witnesses during the hearing. *See, e.g.*, Tr. 293, 417, 434. It is also publicly viewable in EPA's Office of Pesticide Programs chemical database, available at [https://www3.epa.gov/pesticides/chem\\_search/reg\\_actions/reregistration/red\\_G-31\\_1-Sep-95.pdf](https://www3.epa.gov/pesticides/chem_search/reg_actions/reregistration/red_G-31_1-Sep-95.pdf). For ease of reference, in this instance I will admit it into evidence as JX 93.

Proposed RX 15 was not discussed at hearing, and the Agency objects to its relevance. However, it is the Agency's own proposed exhibit, and the subject of EPA communications practices with pesticide registrants is generally relevant to this matter. Regardless of the weight ultimately given to this document, I will for ease of reference admit it as RX 15.

As previously discussed during the hearing, I designate as Court Exhibits (CE 2-CE 4) the parties' stipulations and status reports cited above. *See* Tr. 454-55.

Consequently, I can confirm that the record contains all JX, RX, PAX, and PGX Exhibits as identified in Exhibit A to the Joint Status Report.<sup>2</sup>

**SO ORDERED.**



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Susan L. Biro  
Chief Administrative Law Judge

Dated: March 17, 2023  
Washington, D.C.

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<sup>2</sup> Before the hearing, AMVAC submitted two potential rebuttal exhibits—updates from EPA's website on the Agency's pesticide registration review schedule—that were marked as PAX 93 and PAX 94. Those exhibits were not introduced or admitted at hearing. Rather, the exhibits marked at hearing and actually admitted as PAX 93 and PAX 94 are, as reflected in the parties' Exhibit A to the Joint Status Report, the witness statements of Niamh McMahon and Dick Freedlander.

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Tetrachloroterephthalate (DCPA) Technical Registration***

AMVAC Chemical Corporation; Grower-Shipper Association of Central California; Sunheaven Farms, LLC; J&D Produce; Ratto Bros., Inc.; and Huntington Farms, Petitioners.  
Docket No. FIFRA-HQ-2022-0002

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing **Order Conforming Transcript and Evidence**, dated March 17, 2023, and issued by Chief Administrative Law Judge Susan L. Biro, was sent this day to the following parties in the manner indicated below.

  
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Dated: March 17, 2023  
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