



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

JUN 28 2016

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Karl Sherman, Esq.
Corporate Counsel
DuPont Legal
974 Centre Road
CRP 721/2118
Wilmington, Delaware 19805

Re: E. I. DuPont de Nemours and Company
Ratified Consent Agreement and Final Order
Docket No. FIFRA-04-2016-3005(b)

Dear Mr. Sherman:

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 E.I. Dupont de Nemours and Company on notice of its 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 "K. Bingham".

Kimberly L. Bingham
Acting Chief
Chemical Safety and Enforcement Branch

Enclosures

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
(404) 562-8987.

5. Respondent is incorporated in the State of Delaware. Respondent owns and operates a distribution warehouse facility in Valdosta, Georgia (Valdosta Distribution Facility).
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, EPA Form 3540-1-Notice of Arrival of Pesticides and Devices (NOA), 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 January 26, 2016, two NOAs were submitted to the EPA for the Respondent's Valdosta Distribution Facility by its licensed customs broker, BDP International for shipments of the pesticide product Methomyl Tech (EPA Registration Number 352-366).
16. The NOAs presented to the EPA and described above in paragraph 15, notified the EPA that the pesticide product Methomyl Tech was being presented for import into the United States at the Port of Savannah in Garden City, Georgia.
17. The two NOAs submitted to the EPA for shipments of the above-referenced pesticide bore the EPA Producer Establishment Number 84265-CHN-001, which the EPA determined to be an invalid and inactive EPA Producer Establishment Number.
18. On January 26, 2016, the EPA notified BDP International that the NOAs above-referenced in paragraph 15, listed an inactive EPA Producer Establishment number. In response to the EPA's request, on January 27, 2016, BDP International submitted a label for the pesticide product Methomyl Tech which bore the same inactive EPA Producer Establishment Number identified on the above-referenced NOAs.
19. On February 1, 2016, an authorized representative of the EPA conducted an inspection at the Port of Savannah, to determine if the Respondent's shipments of the pesticide product were in compliance with FIFRA. The inspection revealed that the bin labels for the two shipments of the pesticide Methomyl Tech bore the same inactive EPA Producer Establishment Number.
20. Based on the EPA's investigation, it was determined that the Respondent distributed a misbranded pesticide by importing two shipments of Methomyl Tech into the United

States with labeling that bore an invalid and inactive EPA Producer Establishment Number.

21. Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), by distributing a misbranded pesticide on two separate occasions and is therefore subject to the assessment of civil penalties under Section 14 of FIFRA, 7 U.S.C. § 136l.
22. 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. 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).
23. 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 **THIRTEEN THOUSAND DOLLARS (\$13,000)** 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

24. 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.
25. 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.
26. 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 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.

27. 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

28. Respondent is assessed a civil penalty of **THIRTEEN THOUSAND DOLLARS (\$13,000)**. Payment shall be paid within thirty (30) days of the effective date of this CAFO.
29. 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) 425-1818.

30. 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; and

Saundi J. Wilson
Office of Regional Counsel
U.S. EPA - Region 4
61 Forsyth Street S.W.
Atlanta, Georgia 30303-8960.

31. 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.

32. 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.
33. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
34. This CAFO shall be binding upon the Respondent, its successors and assigns.
35. 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

36. 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: E. I. DuPont de Nemours and Company

Docket No.: FIFRA-04-2016-3005(b)

By: Sheila L. Tiegs (Signature) Date: 6/9/16

Name: Sheila L. Tiegs (Typed or Printed)

Title: Operations Director (Typed or Printed)
DuPont Crop Protection

Complainant: U. S. Environmental Protection Agency

By: Carol Kemker for Date: 6/17/16
Carol Kemker, Acting Director
Air, Pesticides and Toxics Management Division

APPROVED AND SO ORDERED this 23rd day of June 2016.

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 E. I. DuPont de Nemours and Company. Docket Number: FIFRA-04-2016-3005(b), to the addressees listed below.

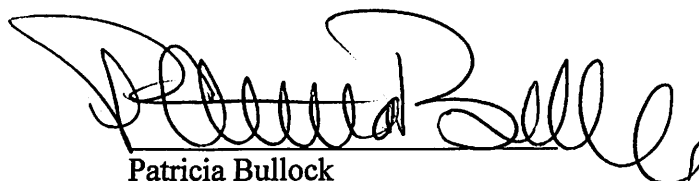
Karl Sherman, Esq. (via Certified Mail, Return Receipt Requested)
Corporate Counsel
DuPont Legal
974 Centre Road
CRP 721/2118
Wilmington, DE 19805

Ms. Marlene Tucker (via EPA's internal mail)
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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

6-28-16
DATE



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