



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, Ca. 94105

CERTIFIED MAIL

RETURN RECEIPT REQUESTED

RECEIPT NO:

Certified Mail

7012 1640 0001 2190 8462

Date: 5.11.15

Mr. Matthew Weller
Syngenta Crop Protection, LLC
410 S. Swing Rd
Greensboro, NC 27409

Re: Consent Agreement and Final Order – Syngenta Crop Protection, LLC
Docket No.: FIFRA-09-2015-0005

Dear Mr. Weller:

Enclosed please find a Consent Agreement and Final Order (CAFO) concerning an alleged violation of the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. Sections 136 et seq., by Syngenta Crop Protection, LLC. The terms of the CAFO require the payment of \$7,500 be received by EPA within 30 calendar days of the effective date (stamped filing date) of this CAFO.

If you have any questions, please contact Allison Watanabe of my staff at 213-244-1807.

Sincerely,

A handwritten signature in cursive script that reads "Claire Trombadore".

Claire Trombadore
Assistant Director
Enforcement Division

Enclosure

FILED

2015 MAY 11 PM 3:01

Sylvia Quast
Regional Counsel

David H. Kim
Assistant Regional Counsel (ORC-3)
United States Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105
(415) 972-3882

US EPA - REGION IX
HEARING CLERK

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
SAN FRANCISCO, CALIFORNIA

In the Matter of:)
)
Syngenta Crop Protection, LLC)
)
)
)
Respondent.)
_____)

Docket No: FIFRA-09-2015-0005
CONSENT AGREEMENT AND FINAL
ORDER PURSUANT TO
40 C.F.R. §§ 22.13 AND 22.18

I. CONSENT AGREEMENT

The United States Environmental Protection Agency, Region IX ("EPA"), and Syngenta Crop Protection, LLC ("Respondent") agree to settle this matter and consent to the entry of this Consent Agreement and Final Order ("CAFO"), which simultaneously commences and concludes this matter in accordance with 40 C.F.R. §§ 22.13 and 22.18.

A. AUTHORITY AND PARTIES

1. This is a civil administrative action instituted pursuant to Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA" or "the Act"), as amended, 7 U.S.C §136 et seq., for the assessment of a civil administrative penalty against Respondent for a violation of Section 12 of the Act.

2. Complainant is the Assistant Director of the Enforcement Division, EPA, Region IX, who has been duly delegated the authority to bring this action and to sign a consent agreement settling this action.

B. APPLICABLE STATUTORY AND REGULATORY SECTIONS

3. Section 17(c) of FIFRA and regulations promulgated at 19 C.F.R. Part 12 pursuant to Section 17(e) of FIFRA by the Secretary of the Treasury in consultation with the EPA Administrator govern the importation of pesticides into the United States.
4. 19 C.F.R. § 12.111 provides that “all imported pesticides are required to be registered under the provisions of section 3 of the Act.”
5. 19 C.F.R. § 12.112 provides that “an importer desiring to import pesticides into the United States shall submit to the Administrator a Notice of Arrival of Pesticides or Devices prior to the arrival of the shipment to the United States.”
6. Section 12(a)(1)(E) of FIFRA provides that it shall be unlawful for any person to distribute or sell to any person a pesticide which is adulterated or misbranded.
7. Section 2(q)(1)(F) of FIFRA states a pesticide is misbranded if its label does not contain directions for use which are necessary for effecting the purpose for which the product is intended and, if complied with, are adequate to protect health and the environment.

C. ALLEGATIONS

8. Respondent is a corporation and therefore, a "person" as defined in Section 2(s) of FIFRA, 7 U.S.C. § 136(s).
9. Shenyang Sciencreat Chemical Co., Ltd., manufactures “Pymetrozine Technical” at its facility in China for Respondent.
10. “Pymetrozine Technical” is used to control or kill insects.

11. Insects are “pests” as defined in Section 2(t) of FIFRA, 7 U.S.C. § 136(t).
12. “Pymetrozine Technical” is a “pesticide” as defined in Section 2(u) of FIFRA, 7 U.S.C. § 136(u).
13. On or about December 8, 1999, Respondent registered the pesticide “Pymetrozine Technical” with EPA pursuant to Section 3 of FIFRA, 7 U.S.C. § 136a, under EPA Registration Number 100-914.
14. On or about April 2, 2015, approximately 50 bags of “Pymetrozine Technical” that Respondent imported to the United States from China arrived at the Port of Los Angeles in California.
15. On or about April 2, 2015, the labeling on the 50 bags of “Pymetrozine Technical” that arrived at the Port of Los Angeles lacked the EPA-accepted label, including the accepted directions for use.
16. Therefore, the pesticide, “Pymetrozine Technical” that Respondent imported from China to the Port of Los Angeles on or about April 2, 2015 is a “misbranded” pesticide pursuant to FIFRA Section 2(q)(1)(F) and its shipment constitutes a violation of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

D. RESPONDENT’S ADMISSIONS

17. In accordance with 40 C.F.R. § 22.18(b)(2) and for the purpose of this proceeding, Respondent (i) admits that EPA has jurisdiction over the subject matter of this CAFO and over Respondent; (ii) neither admits nor denies the specific factual allegations contained in the CAFO; (iii) consents to any and all conditions specified in this CAFO and to the assessment of the civil administrative penalty under Section I.E of this CAFO;

(iv) waives any right to contest the allegations contained in Section I.C of the CAFO; and

(v) waives the right to appeal the proposed final order contained in this CAFO.

E. CIVIL ADMINISTRATIVE PENALTY

18. Respondent agrees to the assessment of a penalty in the amount of SEVEN THOUSAND AND FIVE HUNDRED DOLLARS (\$7,500) as final settlement of the civil claims against Respondent arising under the Act as alleged in Section I.C. of the CAFO.

19. Respondent shall pay the assessed penalty no later than thirty (30) days from the effective date of this CAFO. Payment shall be made by cashier's or certified check payable to the "Treasurer, United States of America," or be paid by one of the other methods listed below:

a. Regular or Certified Mail:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

b. Wire Transfers:

Wire transfers must be sent directly to the Federal Reserve Bank in New York

City with the following information:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read "D 68010727

Environmental Protection Agency."

c. Overnight Mail:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
ATTN Box 979077
St. Louis, MO 63101

d. ACH (also known as REX or remittance express):

Automated Clearinghouse (ACH) for receiving US currency
PNC Bank
808 17th Street, NW
Washington, DC 20074
ABA = 051036706
Transaction Code 22 — checking
Environmental Protection Agency
Account 31006
CTX Format

e. On Line Payment:

This payment option can be accessed from the information below:

www.pay.gov
Enter "sfo1.1" in the search field
Open form and complete required fields

If any clarification regarding a particular method of payment remittance is needed, Please contact the EPA Cincinnati Finance Center at 513-487-2091. The payment shall be accompanied by a transmittal letter identifying the case name, the case docket number, and this CAFO. Concurrent with delivery of the payment of the penalty, Respondent shall send a copy of the check or notification that the payment has been made by one of the other methods listed above, including proof of the date payment was made, and transmittal letter to the following addresses:

Regional Hearing Clerk
Office of Regional Counsel (ORC-1)
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105

Allison Watanabe
U.S. Environmental Protection Agency, Region IX
Southern California Field Office
600 Wilshire Blvd. Ste. 1460
Los Angeles, CA 90017

20. Payment of the above civil administrative penalty shall not be used by Respondent or any other person as a tax deduction from Respondent's federal, state, or local taxes.
21. If Respondent fails to pay the assessed civil administrative penalty as specified in Paragraph 19, then Respondent shall pay to EPA the stipulated penalty of NINE THOUSAND DOLLARS (\$9,000), which shall be immediately due and payable upon EPA's written request. In addition, failure to pay the civil administrative penalty by the deadline specified in Paragraph 19 may lead to any or all of the following actions:
 - a. The debt being referred to a credit reporting agency, a collection agency, or to the Department of Justice for filing of a collection action in the appropriate United States District Court. 40 C.F.R. §§ 13.13, 13.14, and 13.33. In any such collection action, the validity, amount, and appropriateness of the assessed penalty and of this CAFO shall not be subject to review.
 - b. The debt being collected by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to,

referral to the Internal Revenue Service for offset against income tax refunds. 40 C.F.R. Part 13, Subparts C and H.

- c. EPA may (i) suspend or revoke Respondent's licenses or other privileges; or (ii) suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds. 40 C.F.R. § 13.17.
- d. In accordance with the Debt Collection Act of 1982 and 40 C.F.R. Part 13 interest, penalties charges, and administrative costs will be assessed against the outstanding amount that Respondent owes to EPA for Respondent's failure to pay the civil administrative penalty by the deadline specified in Paragraph 19. Interest will be assessed at an annual rate that is equal to the rate of current value of funds to the United States Treasury (i.e., the Treasury tax and loan account rate) as prescribed and published by the Secretary of the Treasury in the Federal Register and the Treasury Fiscal Requirements Manual Bulletins. 40 C.F.R. § 13.11(a)(1). Penalty charges will be assessed monthly at a rate of 6% per annum. 40 C.F.R. § 13.11(c). Administrative costs for handling and collecting Respondent's overdue debt will be based on either actual or average cost incurred, and will include both direct and indirect costs. 40 C.F.R. § 13.11(b). In addition, if this matter is referred to another department or agency (e.g., the Department of Justice, the Internal Revenue Service), that department or agency may assess its own administrative costs, in addition to EPA's administrative costs, for handling and collecting Respondent's overdue debt.

F. RETENTION OF RIGHTS

22. In accordance with 40 C.F.R. § 22.18(c), this CAFO only resolves Respondent's liability for federal civil penalties for the violations and facts specifically alleged in Section I.C of the CAFO. Nothing in this CAFO is intended to or shall be construed to resolve (i) any civil liability for violations of any provision of any federal, state, or local law, statute, regulation, rule, ordinance, or permit not specifically alleged in Section I.C of the CAFO; or (ii) any criminal liability. EPA specifically reserves any and all authorities, rights, and remedies available to it (including, but not limited to, injunctive or other equitable relief or criminal sanctions) to address any violation of this CAFO or any violation not specifically alleged in Section I.C of the CAFO.
23. This CAFO does not exempt, relieve, modify, or affect in any way Respondent's duty to comply with all applicable federal, state, and local laws, regulations, rules, ordinances, and permits.

G. ATTORNEYS' FEES AND COSTS

24. Each party shall bear its own attorneys' fees, costs, and disbursements incurred in this proceeding.

H. EFFECTIVE DATE

25. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CAFO shall be effective on the date that the final order contained in this CAFO, having been approved and issued by either the Regional Judicial Officer or Regional Administrator, is filed.

I. BINDING EFFECT

26. The undersigned representative of Complainant and the undersigned representative of Respondent each certifies that he or she is fully authorized to enter into the terms and conditions of this CAFO and to bind the party he or she represents to this CAFO.
27. The provisions of this CAFO shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns.

FOR RESPONDENT, SYNGENTA CROP PROTECTION, LLC.

April 24, 2015
DATE

Brian Reeve / LR
NAME: Brian Reeve
TITLE: Senior Regulatory Counsel, Syngenta.

FOR COMPLAINANT, EPA REGION IX:

5/1/2015
DATE

Claire Trombadore
Claire Trombadore
Assistant Director
Enforcement Division

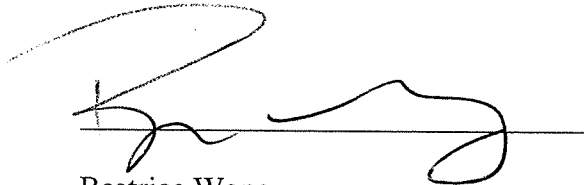
II. FINAL ORDER

Complainant and Respondent, Syngenta Crop Protection, LLC, having entered into the foregoing Consent Agreement,

IT IS HEREBY ORDERED that this CAFO (Docket No. FIFRA-09-0005) be entered, and that Respondent shall pay a civil administrative penalty in the amount of SEVEN THOUSAND AND FIVE HUNDRED DOLLARS (\$7,500) and comply with the terms and conditions set forth in the Consent Agreement.

May 11, 2015

DATE

A handwritten signature in black ink, appearing to read 'Beatrice Wong', is written over a horizontal line. The signature is stylized and cursive.

Beatrice Wong
Regional Judicial Officer
U.S. Environmental Protection Agency, Region IX

CERTIFICATE OF SERVICE

I certify that the original of the fully executed Consent Agreement and Final Order, (Docket No FIFRA-09-2015-0005) was filed with the Regional Hearing Clerk, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, and that a true and correct copy of the same was sent to the following parties:

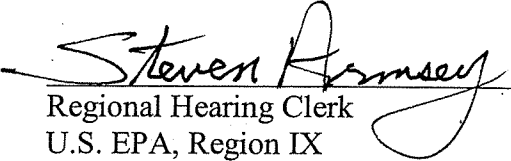
A copy was mailed via CERTIFIED MAIL to:

Mr. Matthew Weller
Syngenta Crop Protection, LLC
410 S. Swing Rd
Greensboro, NC 27409

CERTIFIED MAIL NUMBER:

An additional copy was hand-delivered to the following U.S. EPA case attorney:

David H. Kim
Assistant Regional Counsel (ORC-3)
U.S. EPA, Region IX
75 Hawthorne Street
San Francisco, CA 94105


Regional Hearing Clerk
U.S. EPA, Region IX

May 11, 2015
Date