



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2

290 BROADWAY

NEW YORK, NEW YORK 10007

MAY 24 2011

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Carlos B. Pagan, Esq.  
Certified Public Accountant  
Attorney at Law  
Sanson Agricultural Corp.  
472 Tito Castro Ave. Ste 203  
Ponce, Puerto Rico 00716-4702

Re: In the Matter of Sanson Agricultural Corporation  
Docket No. FIFRA-02-2010-5304

Dear Mr. Pagan:

Enclosed is a fully executed Consent Agreement and Final Order (CA/FO) that resolves the above referenced matter. Please note that payment of the civil penalty assessed shall be made in accordance with the schedule on page 5 of the CA/FO.

Thank you for your cooperation and assistance to bring this matter to a mutually satisfactory resolution.

Sincerely yours,

*Karen L. Taylor/By CHP*  
Karen L. Taylor, Esq.  
Assistant Regional Counsel  
Office of Regional Counsel  
Waste and Toxic Substance Branch

Enclosures

cc: Karen Maples, Regional Hearing Clerk  
Carmen Delia Alonso, PRDA

U.S. ENVIRONMENTAL  
PROTECTION AGENCY  
2011 MAY 24 P 2:25  
REGIONAL HEARING  
CLERK

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2**

-----X  
In the Matter of :  
 :  
Sanson Agricultural Corporation, : **CONSENT AGREEMENT**  
 : **AND FINAL ORDER**  
Respondent :  
 : Docket No. FIFRA-02-2010-5304  
 :  
Proceeding under the Federal :  
Insecticide, Fungicide, and :  
Rodenticide Act, as amended :  
-----X

U.S. ENVIRONMENTAL  
PROTECTION AGENCY  
2011 MAY 24 P 2:25  
HEARING  
CLERK

**PRELIMINARY STATEMENT**

This administrative proceeding for the assessment of a civil penalty was initiated pursuant to 7 U.S.C. § 136l(a) of the Federal Insecticide, Fungicide and Rodenticide Act, as amended, 7 U.S.C. § 136 et seq. (“FIFRA” or “the Act”). Complainant in this proceeding, Dore LaPosta, the Director of the Division of Enforcement and Compliance Assistance, United States Environmental Protection Agency (“EPA”), Region 2, issued a Complaint and Notice of Opportunity for Hearing (“Complaint”) to Respondent, Sanson Agricultural Corp., Edificio Marvesa, 472 Avenue Tito Castro, Suite 201, Ponce, Puerto Rico 00716-4702 (“Sanson farm”).

The Complaint alleged that Respondent committed: one (1) violation of 40 C.F.R. Section 170.122, involving the failure to provide workers with specific information on pesticide applications; one (1) violation of 40 C.F.R. Section 170.135, involving the failure to display pesticide safety and emergency information for workers; one (1) violation of 40 C.F.R. Section

170.150, involving the failure to provide decontamination supplies to workers; one (1) violation of 40 C.F.R. Section 170.222, involving the failure to provide the handler with specific information on pesticide applications; one (1) violation of 40 C.F.R. Section 170.235, involving the failure to display pesticide safety and emergency information for the handler; one (1) involving failure to follow pesticide label-specific requirements, which are uses of a registered pesticide in a manner inconsistent with its labeling in violation of Section 12(a)(2)(G) of FIFRA. Complainant and Respondent agree that settling this matter by entering into this Consent Agreement and Final Order (“CA/FO”), pursuant to Title 40 of the Code of Federal Regulations Sections 22.18(b)(2) and (3) of the revised Consolidated Rules of Practice, is an appropriate means of resolving this matter without further litigation.

**EPA’s FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. An application of Kocide 3000 (EPA Reg. Number 352-662) (“Kocide”) was made to “Edward” mangoes in the North area of the Sanson farm approximately three weeks before the May 13, 2010 inspection by the Puerto Rico Department of Agriculture (“PRDA”) and EPA.
2. Respondent failed to display specific information concerning the Kocide application to workers at the Sanson farm, which constitutes a violation of 40 C.F.R. Section 170.122.

3. Respondent failed to display pesticide safety information, including a safety poster and emergency medical care information, after the application of Kocide for workers at the Sanson farm, which constitutes a violation of 40 CFR Section 170.135.
4. Respondent failed to make decontamination supplies of a sufficient amount of water, soap, single-use towels and a clean change of clothing reasonably accessible to workers after the application of Kocide, which constitutes a violation CFR Section 170.150.
5. Respondent failed to display specific information concerning the application of the pesticide Kocide for the handler at the Sanson farm, which constitutes a violation of 40 C.F.R Section 170.222.
6. Respondent failed to display pesticide safety information after the application of Kocide, including a safety poster and emergency medical care information, for the handler at the Sanson Farm, which constitutes a violation of 40 CFR Section 170.235.
7. Respondent failed to provide its handler with appropriate PPE, which constitutes a violation of 40 C.F.R. Section 170.240.
8. Respondent allowed the handler to take home personal protective equipment after the application of Kocide at the Sanson farm, which constitutes a violation of 40 C.F.R. Section 170.240(f)(10).
9. Respondent failed to make decontamination supplies of a sufficient amount of water, soap, and single-use towels reasonably accessible to the handler during the application of Kocide at the Sanson farm, which constitutes a violation of 40 CFR Sections 170.250.

10. During the May 13, 2010 inspection, the PRDA and EPA inspectors observed an empty gallon container of Glyphos X-tra Herbicide (EPA Registration Number 4787-23) (“Glyphos”) on the ground. The Glyphos label requires empty containers to be triple rinsed promptly after emptying, then offered for recycling, or punctured and disposed of in a sanitary landfill. Respondent failed to properly dispose of the empty container in violation of the specific label requirements and thus a violation of FIFRA Section 12(a)(2)(G).

### **CONSENT AGREEMENT**

Based upon the foregoing, and pursuant to Section 22.18 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 C.F.R. § 22.18, it is hereby agreed, and accepted by Respondent that it shall hereafter the date of execution of this Consent Agreement comply with the following terms:

1. For purposes of this proceeding, Respondent: (a) admits the jurisdictional allegations of the Complaint; and (b) neither admits nor denies specific factual allegations in the Complaint; and (c) neither admits nor denies EPA’s Findings of Fact and Conclusions of Law in this Consent Agreement.

2. Respondent shall comply with the applicable requirements of FIFRA and the Worker Protection Standard at his agricultural establishment, and will provide the required WPS training to workers and handlers and provide specific pesticide application information to workers and handlers by posting the information in the central posting area.

3. Respondent shall pay, by cashier’s or certified check, a civil penalty in the amount of **One Thousand Dollars (\$1,000.00)**, payable to the **“Treasurer, United States of America.”**

The check shall be identified with a notation of the name and docket number of this case as follows:

In the Matter of Sanson Agricultural Corporation, Docket No. FIFRA-02-2010-5304

The check shall be mailed to:

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

Respondent shall also send copies of this payment to each of the following:

Karen L. Taylor, Esq.  
Assistant Regional Counsel  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 16<sup>th</sup> Floor  
New York, NY 10007-1866

and

Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 16<sup>th</sup> Floor  
New York, NY 10007-1866

The payment must be received at the above address on or before 45 calendar days after the date of signature of the Final Order, which is located at the end of this CA/FO (the date by which payment must be received shall hereafter be referred to as the “due date”).

- a. Failure to pay the penalty in full according to the above provisions will result in referral of this matter to the United States Department of Justice or the United States Department of the Treasury for collection.
- b. Furthermore, if payment is not received on or before its due date, interest will be assessed at the annual rate established by the Secretary of the Treasury pursuant to the

Debt Collection Act, 31 U.S.C. § 3717, on the overdue amount from the due date through the date of payment. In addition, a late payment handling charge of fifteen dollars (\$15.00) will be assessed for each thirty (30) day period (or any portion thereof) following the due date in which the balance remains unpaid.

- c. A 6% per annum penalty also will be applied on any principal amount not paid within 90 days of the due date.
- d. The effective date of this Consent Agreement and Final Order shall be the date of filing with the Regional Hearing Clerk, U.S. E.P.A. Region 2, New York, New York.
- e. The civil penalty constitutes a penalty within the meaning of 26 U.S.C. § 162(f).

4. This Consent Agreement and Final Order shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state, or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.

5. This Consent Agreement and Final Order is being voluntarily and knowingly entered into by the parties to resolve (conditional upon full payment of the civil penalty herein and upon the accuracy of Respondent's representations in this proceeding) the civil and administrative claims alleged in the Complaint in this matter. Nothing herein shall be read to preclude EPA or the United States, however, from pursuing appropriate injunctive or other equitable relief or criminal sanctions for any violation of law. Respondent has read the Consent Agreement, understands its terms, finds it to be reasonable and consents to its issuance and its terms. Respondent consents to the issuance of the accompanying Final Order. Respondent agrees that all terms of settlement are set forth herein.

6. Respondent explicitly and knowingly consents to the assessment of the civil penalty as set forth in this Consent Agreement, and agrees to pay the penalty in accordance with the terms of this Consent Agreement.

7. Respondent explicitly and knowingly waives its right to request or to seek any Hearing on the Complaint or on any of the allegations therein asserted, on the Findings of Fact and Conclusions of Law herein, or on the accompanying Final Order.

8. Each undersigned signatory to this Consent Agreement certifies that he or she is duly and fully authorized to enter into and ratify this Consent Agreement and all the terms and conditions set forth in this Consent Agreement.

9. The provisions of this CA/FO shall be binding upon Respondent, its agents, servants, authorized representatives and successors or assigns.

10. Respondent waives any right it may have pursuant to 40 C.F.R. Section 22.8 to be present during discussion with or to be served with and to reply to any memorandum or communication addressed to the Regional Judicial Officer where the purpose of such discussion, memorandum, or communication is to discuss a proposed settlement of this matter or to recommend that such official accept this Consent Agreement and issue the attached Final Order.

11. Each party hereto agrees to bear its own costs and fees in this matter.

12. Respondent consents to service upon Respondent by a copy of this Consent Agreement and Final Order by an EPA employee other than the Regional Hearing Clerk.





**In the Matter of Sanson Agricultural Corporation**  
**Docket No. FIFRA-02-2010-5304**

**CERTIFICATE OF SERVICE**

I certify that I have this day caused to be sent the foregoing fully executed CONSENT AGREEMENT and FINAL ORDER, bearing the above-referenced docket number, in the following manner to the respective addressees below:

Original and One Copy  
by Hand:

Office of the Regional Hearing Clerk  
U.S. Environmental Protection Agency - Region 2  
290 Broadway, 16<sup>th</sup> floor  
New York, NY 10007-1866

Certified Mail  
Return Receipt Requested

Carlos B. Pagan, Esq.  
Certified Public Accountant  
Attorney at Law  
Sanson Agricultural Corp.  
472 Tito Castro Ave. Ste 203  
Ponce, Puerto Rico 00716-4702

Dated: **MAY 24 2011**  
\_\_\_\_\_  
New York, NY

*Mildred N. Bag*  
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