



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

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

4APT-PTSB

SEP 12 2008

Certified Mail – Return Receipt Requested

Mr. Kenneth W. Weinstein, Esq.
Latham & Watkins LLP
555 Eleventh Street, N.W.
Suite 1000
Washington, DC 20004

SUBJ: Docket No. FIFRA-04-2008-3028(b)
Griffin L.L.C. Valdosta, Georgia, and
E.I. duPont de Nemours and Company

Dear Mr. Weinstein:

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.

As stated in Section VII of the CAFO, the total assessed penalty of \$877,500 is due within 30 days from the effective date. Please ensure that the face of the cashier's or certified check(s) include the company name(s) and the docket number of this case.

Penalty payment questions should be directed to Ms. Lori Weidner either by telephone at (513) 487-2125 or by written correspondence to her attention at U.S. Environmental Protection Agency (EPA), Cincinnati Accounting Operations address identified in the CAFO. Should you have any questions about this matter or your compliance status in the future, please call me at (404) 562-8979 or Mr. Mark Bloeth at (404) 562-9013.

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 you on notice of your potential duty to disclose to the Securities and Exchange Commission (SEC) any environmental enforcement actions taken by EPA.

Sincerely,

Jeannette M. Gettle
Chief
Pesticides and Toxic
Substances Branch

Enclosures

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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
ATLANTA, GEORGIA

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In the Matter of:)
)
Griffin L.L.C.Valdosta, Georgia) Docket No. FIFRA-04-2008-3028(b)
)
and)
)
E.I. duPont de Nemours and Company,)
)
)
Respondents.)
_____)

CONSENT AGREEMENT AND FINAL ORDER

I. Nature of the Action

1. This is a civil penalty proceeding pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, 7 U.S.C. 136 *et seq.* (hereinafter "FIFRA"), and pursuant to the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), 40 CFR Part 22. Complainant is the Director of the Air, Pesticides and Toxics Management Division, United States Environmental Protection Agency, Region 4 (EPA). Respondents are Griffin LLC Valdosta, Georgia (Griffin LLC), and E.I. duPont de Nemours and Company (DuPont). Griffin LLC and DuPont hereinafter may collectively be referred to at times as "Respondents").
2. Complainant and Respondents have conferred for the purpose of settlement pursuant to

40 CFR § 22.18 and a 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 CFR § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

II. Preliminary Statements

3. The authority to take action under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), is vested in the Administrator of EPA. The Administrator of EPA has delegated this authority under FIFRA to EPA Region 4 by EPA Delegation 5-14 dated May 11, 1994.
4. Pursuant to 40 CFR § 22.5(c)(4) the following individuals are authorized to receive service in this proceeding:

For Complainant:

Mr. Robert Caplan
Ms. Elisa Roberts,
U.S. EPA - Region 4
Atlanta Federal Center – 13th Fl.
61 Forsyth Street
Atlanta, Georgia 30303-8960.

For Respondents:

Kenneth W. Weinstein, Esq.
Latham & Watkins LLP
555 Eleventh St., N.W.
Suite 1000
Washington, DC 20004

5. Respondents own pesticide manufacturing facilities located at 2509 Rocky Ford Road, Valdosta, Georgia 31601, and 1560 Old Clyattsville Road, Valdosta, Georgia 31603.

DuPont and Griffin LLC are hereinafter at times, collectively referred to as "Respondents."

6. Respondents' relevant producer establishment locations include, 2509 Rocky Ford Road, Valdosta, GA 31603 {EPA Est. No. 1812-GA-001 (inactive), 1812-GA-003 (inactive) and 352-GA-002 (active)} and 1560 Old Clyattsville Road, Valdosta, GA 31603 {EPA Est. No. 352-GA-003 (active)}.

III. EPA Findings of Fact and Allegations

7. In 1996, Griffin Corporation submitted to EPA's Office of Pesticides Programs an application for the registration of a pesticide product called GX-465, consisting of the technical grade active ingredient (TGAI) ethephon. Griffin Corporation's application included a Confidential Statement of Formula (CSF) and studies that listed the ingredients of the GX-465 and the upper and lower certified limit and nominal concentration of the ethephon and the upper certified limits of impurities contained in the product.
8. Griffin Corporation's registration application included a Certification that no ingredient would be present in the GX-465 product in an amount greater than the upper certified limit specified for that ingredient in a currently approved Statement of Formula.
9. Griffin Corporation's registration application stated that the GX-465 product would be produced by a manufacturing facility in Brazil.
10. On August 9, 1996, EPA approved the registration of GX-465 based in part on Griffin Corporation's CSF, Certification and its identification of the manufacturing source. EPA assigned GX-465 an EPA product registration number of 1812-393.

11. Upon approval of the application, the certified limits in the CSF became legally binding limits pursuant to 40 C.F.R. §158.175. Griffin Corporation's EPA approved label for GX-465 indicated that the nominal (average) percentage of ethephon contained in the GX-465 was 71.3%.
12. Griffin Corporation used GX-465 to formulate two end-use pesticide products, Griffin Super Boll – Plant Regulator (EPA Reg. No. 1812-361, EPA Est. No. 1812-GA-3) (hereinafter "Super Boll") and Griffin CottonQuik (EPA Reg. No. 68891-7-1812, EPA Est. No. 1812-GA-3, hereinafter "CottonQuik").
13. At all times relevant to this action, GX-465 from Brazil was the only approved Ethephon product for use in the end-use products.
14. On August 21, 1996, without first notifying EPA or amending the registration for GX-465 to list an additional or new source, Griffin Corporation began importing GX-465 from an unapproved manufacturing source in China identified as Changshu Yuxiang, Mocheng Town, Changshu, Jiangsu, China 21556 (EPA Est. No. 70027-CHN-001).
15. Between August 21, 1996 and December 4, 1997, Griffin Corporation imported GX-465 from the approved source in Brazil and imported GX-465 from the unapproved source in China. After December 4, 1997, Griffin Corporation ceased importing GX-465 from Brazil, and imported GX-465 solely from the unapproved source in China.
16. At no time relevant to this action, between August 14, 2002 and July 1, 2005, did Respondents' CSFs for GX-465, Super Boll, or CottonQuik list a Chinese source for GX-465.
17. At no time relevant to this action was Changshu Yuxiang (EPA Est. No. 70027-CHN-001)

an EPA approved source for GX-465.

18. On February 23, 1998, DuPont and Griffin Corporation formed the limited liability company, Griffin LLC. DuPont owned 51% of Griffin LLC and Griffin Corporation owned 49% of Griffin LLC. DuPont asserts that Griffin Corporation maintained operational control over Griffin LLC until 2003 when DuPont acquired 100 % ownership of Griffin LLC.
19. Beginning in 1998, Griffin LLC continued Griffin Corporation's practice of importing GX-465 from the unapproved manufacturing facility in China and using it to formulate the end-use pesticide products Super Boll and CottonQuik at the facility in Valdosta. DuPont asserts that it had no knowledge that Griffin Corporation, and subsequently Griffin LLC, had not obtained EPA's prior approval of the manufacturing facility in China as a source for GX-465, until after EPA notified DuPont in May 2005 about its concern with imports of GX-465 from China.
20. On November 4, 2003, DuPont acquired Griffin Corporation's 49% ownership share in Griffin LLC and became the sole owner of Griffin LLC and its manufacturing facilities. Griffin LLC became a wholly owned subsidiary of DuPont.
21. On sixteen (16) separate occasions between August 14, 2002 and September 13, 2004, Griffin LLC imported GX-465 from the unapproved source in China. For each importation, Griffin LLC filed a separate Notice of Arrival - EPA Form 3540-1 (hereinafter "NOA").
22. On December 17, 2004, DuPont submitted an application to revise the CSF for GX-465

to change the nominal concentration of ethephon from 71.3% to 75%. On January 14, 2005, DuPont requested EPA to transfer the Griffin LLC establishment number (EPA Est. No. 1812-GA-001) for the Valdosta facility to DuPont's name. On March 23, 2005, EPA notified DuPont that the establishment number for the Valdosta facility had been transferred from Griffin LLC to DuPont (EPA Est. No. 352-GA-002).

23. On fourteen (14) separate occasions between April 14, 2005 and July 7, 2005, DuPont imported GX-465 from the unapproved source in China, and for each importation DuPont filed a separate NOA with EPA.
24. In June 2005, DuPont submitted an application to amend the registration of GX-465 to change the source of GX-465 to China and to revise the CSF. DuPont represented in its amended application that the ingredients listed in the revised CSF were identical to the ingredients in the GX-465 that Respondents had imported from the unapproved source in China during the years 1998-2005.
25. A comparison of the revised CSF for GX-465 and the original CSF for GX-465 showed that the ingredients in these two products were different. Therefore, the composition of the GX-465 from the unapproved source in China differed from the composition of the GX-465 from the approved source.
26. The GX-465 from the unapproved source in China contained an impurity of toxicological significance known as 1,2 Dichloroethane (1,2 DCA) that was not listed as an ingredient in the CSF for the GX-465 from Brazil. As a result, the composition of the end-use products containing GX-465 differed from the composition set out in their respective CSFs.

DuPont asserts that 1,2 DCA was described as an impurity in the product chemistry submitted as part of the initial registration for the GX-465 from Brazil. Respondents do not agree that the composition of the end-use products differed from the composition set out in their respective CSFs.

27. On two hundred and fifty-three (253) separate occasions between June 20, 2003 and September 30, 2004, Griffin LLC distributed the end-use products Super Boll and CottonQuik from the Valdosta facility formulated with GX-465 imported from the unapproved source in China.
28. On sixty-six (66) separate occasions between October 1, 2004 and June 17, 2005, DuPont distributed the end-use products Super Boll and CottonQuik from the Valdosta facility formulated with GX-465 imported from the unapproved source in China. DuPont asserts that when it discovered that the Chinese source had not been registered, DuPont ceased further shipment of product containing China-sourced ethephon.
29. On 30 separate occasions between approximately August 14, 2002 and July 7, 2005, Respondents collectively imported and further distributed GX-465 received from the unapproved source in China.
30. At the time of each distribution of the GX-465, the product labels on the packaging stated that the percentage of active ingredient (ethephon) contained in the product was 71.3 percent.
31. At the time of each distribution of the GX-465, the Notices of Arrival filed by Respondents indicated that the percentage of active ingredient (ethephon) was 75 percent.

32. In DuPont's 2005 application to amend the registration of GX-465, DuPont indicated that during the years 1996-2005 the nominal concentration of the ethephon in the GX-465 from China was 75 percent.
33. On August 2, 2005, EPA inspected DuPont's pesticide producing establishments located at 2509 Rocky Ford Road and 1560 Old Clyattsville Road in Valdosta, Georgia. EPA's inspector collected physical samples of the end-use products, Super Boll and CottonQuik. DuPont also retained duplicate physical samples of the end-use products.
34. EPA and DuPont separately analyzed their respective samples in 2008. Analytical sampling results showed that the percentages of ethephon in both end-use products was above the upper certified limits established in the EPA-approved registrations for these products. As a result, the composition of the end-use products sampled differed from the composition set out in their respective CSFs.
35. In 2008, DuPont added an additional brand name (FirstPick) to the registration of CottonQuik and in July 2008 sold its ethephon registrations for CottonQuik and FirstPick to NuFarm Americas. As of the date of this CAFO, the registrations have not been formally transferred by EPA. DuPont has advised EPA that once the registrations have been transferred, Respondents will no longer produce these products for sale under their own registration, and any production that does occur by Respondents will be on a contract manufacture basis only. Respondents plan to continue to import GX-465 from China and formulate it into FirstPick (the new name for CottonQuik) as a contract manufacturer for NuFarm until the registrations have been transferred, and not after 2008.

36. As of the date of this CAFO, DuPont has sold some of the inventory of Super Boll and CottonQuik / FirstPick to NuFarm. Once all remaining inventory of Super Boll is sold, Respondents will no longer produce or sell Super Boll. DuPont also has advised EPA that prior to the sale of these end-use products from inventory, DuPont took steps to ensure that the products were within the certified limits set forth in their respective CSFs. The procedures used by DuPont for ensuring compliance prior to distribution to NuFarm is set forth in further detail in Section VI of this CAFO.

IV. EPA's Conclusions of Law

37. Respondents are "persons" as defined by Section 2(s) of FIFRA, 7 U.S.C. §136(s), and as such are subject to FIFRA and the regulations promulgated thereunder.
38. Respondents are "producers" as defined by FIFRA Section 2(w) and the facilities owned and operated by the Respondents are "establishments" as defined by FIFRA Section 2(dd).
39. GX-465, Super Boll, and CottonQuik are pesticides as defined in Section 2(u) of FIFRA, 7 U.S.C. §136(u), in that they are substances or mixtures of substances intended for preventing, destroying, repelling, or mitigating a pest.
40. 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).
41. Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg) defines the term "distribute or sell" to

include: distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, release for shipment, or receive and (having so received) deliver or offer to deliver.

42. Respondents “distribute or sell” pesticides including GX-465, a technical grade active ingredient pesticide, and Cotton Quik (now FirstPick) and Super Boll, end-use pesticide products formulated from GX-465.
43. According to FIFRA Section 12(a)(1)(C), 7 U.S.C. §136j(a)(1)(C), it shall be unlawful for any person in any State to distribute or sell to any person any registered pesticide the composition of which differs at the time of its distribution or sale from its composition as described in the statement required in connection with its registration under Section 3 of FIFRA, 7 U.S.C. §136a.
44. Respondents violated Section 12(a)(1)(C) of FIFRA, 7 U.S.C. §136j(a)(1)(C), by offering for distribution or sale GX-465, Super Boll and CottonQuik, registered pesticides, the composition of which differed at the time of their distribution from their composition described in the Statements of Formula required in connection with their registration under Section 3 of FIFRA, 7 U.S.C. §136a.
45. According to FIFRA Section 12(a)(1)(E), 7 U.S.C. §136j(a)(1)(E), it shall be unlawful for any person in any State to distribute or sell any pesticide which is misbranded.
46. FIFRA Section 2(q)(1)(A), 7 U.S.C. §136(q)(1)(A), states, “A pesticide is misbranded if its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular.”

47. Respondents violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), by distributing imported GX-465 from China which was misbranded with the incorrect nominal concentration of ethephon.
48. As a result of the violations specified above, Respondents are therefore subject to the assessment of civil penalties under Section 14 of FIFRA, 7 U.S.C. § 136l.
49. Section 14 of FIFRA, 7 U.S.C. § 136l, in conjunction with the Civil Monetary Inflation Adjustment Rule, 40 CFR Part 19, authorizes EPA to assess a civil penalty of not more than \$6,500 for each offense that occurs on or after March 15, 2004.
50. Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), requires EPA to consider the appropriateness of the assessed penalty to the size of business of the Respondents, the effect on Respondents' ability to continue in business, and the gravity of the violation. EPA proposes to assess a total civil penalty of EIGHT HUNDRED SEVENTY-SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$877,500) for Respondents' alleged violations, which amount Respondents have allocated among themselves as follows: Griffin LLC shall pay \$768,690; and DuPont shall pay \$108,810). Civil penalties under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), may be assessed by Administrative Order.

V. Consent Agreement

51. For the purposes of this CAFO, Respondents admit the jurisdictional allegations set forth above and neither admit nor deny the factual allegations.
52. Respondents waive their right to a hearing on the allegations contained herein and their right to appeal the proposed Final Order accompanying this Consent Agreement.

53. Respondent DuPont asserts that it had no knowledge of the violations committed by Griffin Corporation or Respondent Griffin LLC, and further contends that it did not realize that it was in violation of FIFRA as alleged herein until EPA notified DuPont in April 2005 about its concern with Dupont's imports from China.
54. EPA acknowledges that Griffin Corporation was responsible for the original violation that began in 1996 consisting of the importation of GX-465 whose composition differed from the composition set forth in the CSF. EPA acknowledges that DuPont took steps to correct that violation after EPA notified DuPont on May 20, 2005 that EPA would be inspecting shipments of GX-465 in DuPont's facility and, as asserted by DuPont, after DuPont conducted an investigation and confirmed that the Chinese source had not been registered by Griffin Corporation.
55. Respondents consent to the assessment of the penalty proposed by EPA and agree to pay the civil penalty as set forth in Section VII of this CAFO. Respondents also agree to continue to implement the procedures set forth in Section VI of this CAFO to ensure that any end-use products remaining in inventory, or produced in the future, will not be shipped, distributed, or sold unless and until Respondents have determined that the products are in compliance with their respective CSFs and the certified limits stated therein.
56. This CAFO is a settlement of all claims of FIFRA violations alleged herein or which could have been alleged based on the Findings of Fact set forth herein. This CAFO shall not otherwise affect any liabilities of the Respondents to the United States. Other than as

expressed herein, Complainant EPA does not waive any right to bring an enforcement action against Respondents 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.

57. Complainant and Respondents 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.

VI. Agreed Compliance Procedures

58. Respondents agree to continue to use the procedures set forth herein to ensure that no existing inventory of CottonQuik / FirstPick or Super Boll, or any newly formulated FirstPick has been or will be sold or distributed unless and until Respondents have first determined that the products meet the product formulation and certified limits specified in the respective CSFs for those products.
59. **Super Boll:** Since May 2008, Respondents have been using a titration method to verify that each batch of product remaining in inventory is within the certified limits prior to release of the product for shipment. The certified limits for ethephon are [CBI Deleted]. The titration method has a variability of 0.2% and Respondents have established internal specifications for release of the remaining inventory of Super Boll at [CBI Deleted] which would be within the certified limits.
60. As of May 15, 2008, the Super Boll inventory was 835 gallons. All this inventory was re-analyzed by Respondents using the titration method because it was not previously

analyzed using the titration method, but rather using an ion chromatograph method.

According to Respondents, all of the material has been shown to be within the revised specifications.

61. 800 gallons of the inventory of Super Boll have been sold to NuFarm. Respondents have advised NuFarm of the release specifications that Respondents are using. As of July 16, 2008, there were 5 gallons remaining in inventory. Once this inventory is sold, Respondents will no longer produce or sell Super Boll.
62. **FirstPick/CottonQuik**: Respondents have been using and will continue to use an ion chromatography (IC) method to re-analyze the existing inventories of CottonQuik and FirstPick. The certified limits set forth in the CSF for CottonQuik are [CBI Deleted]. Respondents have established internal specifications for release of FirstPick / CottonQuik at [CBI Deleted], which are within the certified limits. For product in inventory, any product that was not previously analyzed using the IC method will be re-analyzed. Any product that is not within the release specification range identified above will be reworked and re-analyzed to ensure it meets the release specification range and certified limits prior to releasing for shipment. As of July 10, 2008, out of 144 batches in inventory, DuPont had identified a total of 125 batches that needed to be re-analyzed, and completed the re-analysis on 109 batches. Of that total, 57 batches were within DuPont's internal release specification, and 52 batches were set aside to be re-worked because they were not within the release specification.
63. **CottonQuik**: As of the date of this CAFO, Respondents have 20,410 gallons of

CottonQuik in saleable inventory. 2,605 gallons have been analyzed by the IC method and found to meet Respondents' release specifications. 1,920 gallons are awaiting sampling and analysis. The remaining 15,885 gallons need to be reworked because they were not within DuPont's release specification. Material not meeting the release specifications will be reworked and re-analyzed to ensure that it meets the release specification range and certified limits prior to being released for shipment.

64. **FirstPick**: As of the date of this CAFO, Respondents have 139,570 gallons of FirstPick in saleable inventory. Of this amount, 78,665 gallons have been tested and determined to meet the release specifications. 14,170 gallons are awaiting sampling and analysis. The remaining 46,735 gallons need to be reworked because they were not within DuPont's release specification. Material that does not meet the release specification or certified limits will be reworked and re-analyzed to ensure that it meets the release specification range and certified limits prior to being released for shipment.
65. **Reporting Requirements**. Within thirty (30) calendar days after the effective date of this CAFO, Respondents shall submit its first report documenting all steps taken in accordance with this CAFO to ensure that all end-use products released for shipment were in compliance with the certified limits, and including the results of all analytical sampling. Respondents shall submit additional reports every 60 days thereafter until such time as all remaining inventory has been sold, distributed, or destroyed, and until Respondents discontinue producing FirstQuik for NuFarm on a contract basis.
66. Reports should be submitted to:

Mark Bloeth
U.S. EPA - Region 4
PCB & Chemical Products
Management Section
61 Forsyth Street
Atlanta, GA 30303.

67. If Respondents fail to comply with the procedures set forth in this Section of the CAFO that are designed to ensure that end-use products released for shipment meet certified limits, Respondents shall be jointly liable for, and shall collectively pay a stipulated penalty of \$6,500 for each shipment of product in violation of the procedures set forth herein.

VII. Final Order

68. EPA assesses a total civil penalty of EIGHT HUNDRED SEVENTY-SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$877,500), which amount Respondents have allocated among themselves as follows: Griffin LLC shall pay \$768,690, and DuPont shall pay \$108,810.
69. Each Respondent shall pay its respective share of the assessed penalty within thirty (30) days of the effective date of this CAFO.
70. Respondents shall pay their shares of the penalty by forwarding a cashier's or certified check, payable to the "Treasurer, United States of America," to the following address:

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000.

Each check shall reference on its face the name and the Docket Number of the CAFO “Griffin LLC & E.I. duPont de Nemours and Company., FIFRA-04-2008-3028(b).”

71. At the time of payment, Respondents shall send a separate copy of their checks, and a written statement that their 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
Sam Nunn Atlanta Federal Center
61 Forsyth Street
Atlanta, Georgia 30303-8960

Mr. Mark Bloeth
U.S. EPA - Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street
Atlanta, Georgia 30303-8960

and

Saundi Wilson
Office of Environmental Accountability
U.S. EPA - Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street
Atlanta, Georgia 30303-8960.

72. Pursuant to 26 U.S.C. § 162(f), the penalties paid pursuant to this CAFO are not tax deductible.
73. Pursuant to 31 U.S.C. § 3717, 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. Interest will therefore begin to accrue on the civil penalty from the date

of entry of this CAFO, if the penalty is not paid by the date required. 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 principle amount not paid within 90 days of the due date.

- 74. Complainant and Respondents shall bear their own costs and attorney fees in this matter.
- 75. This CAFO shall be binding upon the Respondents, their successors and assigns.
- 76. The undersigned representatives of the parties to this CAFO certify that he or she is fully authorized by the party represented to enter into this CAFO and legally binds that party to this CAFO.

VIII. Stipulated Penalties for Failure to Comply With Section VII of CAFO

- 77. If Respondents fail to comply with the provisions of Section VII of this CAFO regarding payment of the civil penalty, Respondents shall be jointly liable for, and shall collectively pay stipulated penalties as indicated below for each violation for each day during which the violation occurs:

| Period of Failure to Comply | Penalty Per Calendar Day Per Violation |
|---|--|
| 1 st through 6 th day | \$1,000 |
| 7 th through 30 th day | \$2,500 |
| 31 st through 60 th day | \$3,500 |
| 61 st day and beyond | \$6,500 |

All stipulated penalties begin to accrue on the day that payment is due, and shall continue to accrue through the final day of payment. Nothing herein shall prevent the simultaneous accrual of separate stipulated penalties for separate violations of this CAFO. Issuance and receipt of a notice of noncompliance is not a condition precedent to the

accrual of stipulated penalties.

78. Stipulated penalties shall become due and payable thirty (30) days after demand by EPA for their payment. The stipulated penalty demanded by EPA shall be paid by check payable to "Treasurer, United States of America." The facility name and docket number shall be referenced on the face of the check. Payment tendered by U.S. Postal Service shall be mailed to:

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

79. For payment submitted by an overnight mail service (UPS, DHL, Fed Ex):

U.S. Bank
1005 Convention Plaza
Mail Station SI-MO-C2GL
St. Louis, MO 63101.

At the time of payment, Respondents shall send a separate copy of the check and a written statement that the payment has been made in accordance with this CAFO, to each of the following persons at the following addresses:

Regional Hearing Clerk
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, GA 30303-8960

Mark Bloeth
U.S. EPA - Region 4
PCB & Chemical Products
Management Section
61 Forsyth Street
Atlanta, GA 30303-8960

and

Saundi Wilson
Office of Environmental Accountability
U.S. EPA – Region 4
61 Forsyth Street, S.W.
Atlanta, GA 30303-8960.

80. If payment is not received within thirty (30) calendar days of being due, interest, handling charges and late payment penalties will begin to accrue in the same manner as set forth at 31 U.S.C. § 3717 and 40 C.F.R. §§ 13.111(b) and (c).
81. The stipulated penalties set forth in this section do not preclude EPA from pursuing any other remedies or sanctions which may be available to EPA by reason of Respondents' failure to comply with any of the terms and conditions of this CAFO.
82. No payments under this section shall be tax deductible for federal tax purposes.

IX. Termination of CAFO

81. This CAFO shall terminate after payment has been made as required by Section VI, and after EPA has notified Respondents in writing that Respondents' reports satisfactorily demonstrate that all existing inventory of the end-use products has been sold to NuFarms or other parties in compliance with the specified range set forth herein, and the certified limits set forth in the CSFs.


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X. Effective Date

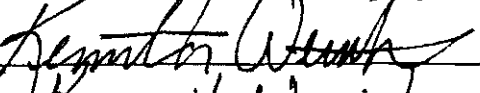
82. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:


Griffin LLC Valdosta, Georgia

By:  Date: 9/10/08
Name: Kenneth Weinstein (Typed or Printed)
Title: Counsel (Typed or Printed)


E.I. du Pont de Nemours and Company

By:  Date: 9/10/08
Name: Kenneth Weinstein (Typed or Printed)
Title: Counsel (Typed or Printed)

U.S. Environmental Protection Agency

By:  Date: 9/10/08
Beverly H. Banister, Director
Air, Pesticides and Toxics
Management Division
61 Forsyth Street
Atlanta, Georgia 30303

APPROVED AND SO ORDERED this 11th day of Sept. 2008.


Susan B. Schub
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing Consent Agreement and Final Order, in the Matter of: **Griffin L.L.C. Valdosta, Georgia, and E.I. duPont de Nemours and Company, FIFRA Docket No. 04-2008-3028(b)**, on the parties listed below in the manner indicated.

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(via Certified Mail - Return Receipt Requested)

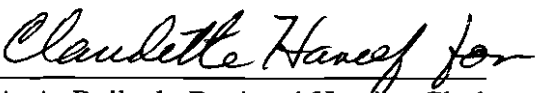
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Date: 9/12/08


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