

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2**

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In the Matter of :

AGFA Corporation :

Respondent :

Proceeding under the Federal :
Insecticide, Fungicide, and :
Rodenticide Act, as amended :

**CONSENT AGREEMENT
AND FINAL ORDER**

Docket No. FIFRA-02-2010-5101

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REGION 2
2010 JUL -9 AM 11:10
REGIONAL HEARING
CLERK

PRELIMINARY STATEMENT

This administrative proceeding for the assessment of a civil penalty was initiated pursuant to 7 U.S.C. § 136 l(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, 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 to Respondent, AGFA Corporation, located at 100 Challenger Road, Ridgefield Park, New Jersey 07660.

The Complainant charged Respondent with two (2) violations of 7 U.S.C. § 136e(c)(1) and 40 C.F.R. § 167.85, the requirements under FIFRA governing the submission of annual Pesticide

Reports for Pesticide-Producing Establishments ("Pesticide Report"). Said violations are unlawful under FIFRA §12(a)(2)(L), 7 U.S.C. § 136j (a)(2)(L).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Parties to this Consent Agreement agree that the title to this proceeding should properly read "In the Matter of AGFA Corporation".

2. This Consent Agreement is being entered by Respondent on behalf of AGFA Corporation, and the Respondent is authorized for purposes of this Consent Agreement to bind AGFA Corporation.

3. Respondent's establishment is registered under Section 7 of FIFRA, 7 U.S.C. § 136e. Its assigned EPA Establishment Number is 072613-NJ-001.

4. Pursuant to Section 7(c) of FIFRA and 40 C.F.R. § 167.20(f), any producer operating an establishment registered under Section 7 shall submit annually to the EPA the types and amounts of pesticides and, if applicable, active ingredients used in producing pesticides, which the producer is currently producing, has produced during the past year, and has sold or distributed during the past year.

5. Title 40 C.F.R. § 167.85 provides that a producer operating an establishment must submit the annual pesticide production report (the "Report") on or before March 1st of each year, even if the producer has produced no pesticidal product for that reporting year.

6. Respondent failed to submit annual pesticide production reports for 2007 and 2008.

7. Therefore, Respondent violated Section 7(c)(1) of FIFRA, Section 12(a)(2)(L) of FIFRA, and 40 C.F.R. § 167.85.

8. Respondent requested inactivation of the establishment on January 20, 2010. The facility has not performed pesticide related activities since 2007.

CONSENT AGREEMENT

Based on the foregoing, and in accordance with federal laws and regulations, it is agreed that:

1. Respondent admits the jurisdictional allegations of the Complaint.
2. Respondent agrees to waive any jurisdictional objections regarding proper service of the complaint and/or any other questions concerning acquisition of personal jurisdiction of AGFA Corporation.
3. Respondent shall comply at all times with the requirements of Section 7 of FIFRA, 7 U.S.C. § 136e and the applicable regulations.
4. Respondent admits the specific factual allegations set forth in the Findings of Fact and the Conclusions of Law in this Consent
5. Complainant agrees to waive all penalties assessed in the Complaint due to Respondent's termination of its establishment registration and submission of a zero pesticide production reports for 2007 and 2008. Such waiver is consistent with the provisions of the FIFRA Enforcement Response Policy (ERP).
6. Respondent's establishment registration has been terminated. If AGFA Corporation re-registers the establishment during the five year statute of limitation time period, any subsequent non-reporting violations are subject to a civil penalty.
7. Nothing in this Consent Agreement and Final Order shall relieve Respondent of the duty to comply with all applicable provisions of FIFRA and other environmental laws.
8. Nothing in this Consent Agreement and Final Order shall preclude Complainant from further enforcement action, including the assessment of civil penalties, arising from the violation of any

environmental laws.

9. This Consent Agreement is being entered into by the parties in full settlement of all civil liabilities. Respondent has read the Consent Agreement and Final Order, finds it reasonable, and consents to its issuance and its terms.

10. Respondent explicitly waives its right to request a hearing on the Complaint, this Agreement, or the attached Final Order.

11. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.08 to be present during discussions with or to be served with and to reply to any memorandum or communication addressed to the Regional Administrator or the Deputy Regional Administrator where the purpose of such discussion, memorandum, or communication is to recommend that such official accept this Consent Agreement and issue the attached Final Order.

12. This Consent Agreement shall be binding on both parties to this action, their officers, directors, employees, successors, and assigns.

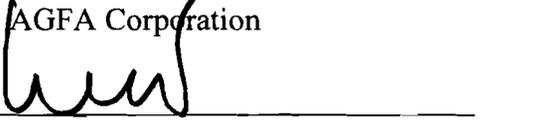
13. The undersigned representative of each party to this Consent Agreement certifies that he or she is duly authorized by the party whom he or she represents to enter into the terms and conditions of this Agreement and bind that party to it.

14. Each party shall bear its own costs and attorneys' fees in the action resolved by this Consent Agreement.

15. 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.

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RESPONDENT: AGFA Corporation

BY: 

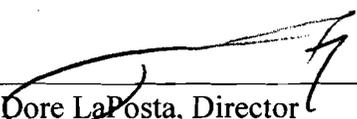
Authorizing Signature

NAME: Christopher M. Santomassimo
(PLEASE PRINT)

TITLE: General Counsel & Secretary

DATE: June 22, 2010

COMPLAINANT:



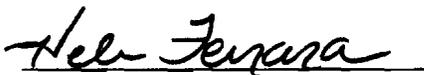
Core LaPosta, Director
Division of Enforcement and Compliance Assistance
U.S. Environmental Protection Agency, Region 2
290 Broadway
New York, NY 10007

DATE: JUNE 30, 2010

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FINAL ORDER

The Regional Administrator of the U.S. Environmental Protection Agency, Region 2, ratifies the foregoing Consent Agreement. The Consent Agreement, entered into by the parties to this matter, is hereby approved, incorporated herein, and issued as an Order. The effective date of this Order shall be the date of filing with the Regional Hearing Clerk, U.S. EPA, Region 2, New York, New York.



Helen Ferrara
Regional Judicial Officer
U.S. Environmental Protection Agency, Region 2
290 Broadway
New York, NY 10007

DATE: July 1, 2010

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CERTIFICATE OF SERVICE

I certify that I have this day caused to be sent the foregoing Notice of Opportunity and Consent Agreement the above-referenced docket number, in the following manner to the respective addressees below:

Original and One Copy
by Interoffice Mail:

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

USPS First Class Mail

AGFA Corporation
100 Challenger Road
Ridgefield Park, NJ 07660

Dated: July 2, 2010
Edison, NJ

A handwritten signature in black ink, appearing to be a stylized name, located to the right of the date.