



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

DEC 08 2009

4APT-PTSB

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Vincent Alventosa
Senior Corporate and Regulatory Counsel
Syngenta Crop Protection, Inc.
410 South Swing Road
Greensboro, North Carolina 27409-2080

SUBJ: Docket No. FIFRA-04-2009-9129(b)
Syngenta Crop Protection, Inc. (Self-Disclosure)

Dear Mr. Alventosa:

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 CFR Part 22.

As stated in Section V of the CAFO, the assessed penalty of \$6,500 is due within 30 days from the effective date. Please ensure that the face of your cashier's or certified check includes the name of the company and 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 the U.S. Environmental Protection Agency (EPA), Cincinnati Accounting Operations address identified in the CAFO. Should you have any questions about your compliance status in the future, please call me at (404) 562-9085 or Ms. Cheryn Jones at (404) 562-9006.

Also enclosed is a copy of a document entitled "Notice of Securities and Exchange Commission's Environmental Duty to Disclose Environmental Proceedings." This document

Internet Address (URL) • <http://www.epa.gov>

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

Sincerely,



Jeaneanne M. Gettle
Chief
Pesticides and Toxic
Substances Branch

Enclosures (2)

cc: Steven A. Herman, Esq.
Beveridge & Diamond

Ms. Shannon Joyner
North Carolina Department
of Agriculture and Consumer Services

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
ATLANTA, GEORGIA

HEAVY METALS
2009 DEC -8 PM 3:03
EPA, ATLANTA

In the Matter of:)
)
Syngenta Crop Protection, Inc.) Docket No. FIFRA-04-2009-9129(b)
)
Respondent.)
_____)

CONSENT AGREEMENT AND FINAL ORDER

I. Nature of the Action

1. This is a civil penalty proceeding pursuant to Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, 7 U.S.C. § 136l(a) (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). Respondent is Syngenta Crop Protection, Inc.
2. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 CFR § 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 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 individual represents EPA in this matter and is authorized to receive service for EPA in this proceeding:

Cheryn L. Jones
Pesticides Section
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960
(404) 562-9006.

III. Specific Allegations

5. Respondent is Syngenta Crop Protection, Inc., incorporated in the State of Delaware, and doing business in North Carolina, and Respondent is located at 410 S. Swing Road, Greensboro, NC 27409.
6. Respondent is a "person" as defined by Section 2(s) of FIFRA, 7 U.S.C. § 136(s), in that it is a corporation, and as such is subject to FIFRA and the regulations promulgated thereunder.
7. Respondent is a "registrant" as defined by Section 2(y) of FIFRA, 7 U.S.C. § 136(y), in that it is a person who has registered pesticides pursuant to the provisions of FIFRA. Respondent is a "producer" as defined by Section 2(w) of FIFRA, 7 U.S.C. § 136(w), in that it is a person who manufactures, prepares, compounds, propagates, or processes any pesticide.

8. "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. Respondent produces pesticides "to distribute or sell" as that term is defined by Section 2(gg) of FIFRA, 7 U.S.C. §136(gg), in that the pesticides are held for distribution, held for sale, held for shipment, shipped, delivered for shipment, released for shipment, or received and (having so received) delivered or offered to deliver.
10. On March 21, 2008, Respondent voluntarily disclosed to EPA by telephone the violations of failure to file four Notices of Arrival of Pesticides and Devices, EPA Form 3540-1, and provided written notification to EPA in correspondence dated March 28, 2009.
11. Section 12(a)(2)(N) of FIFRA, 7 U.S.C. § 136j(a)(2)(N), states that it is unlawful for a registrant, wholesaler, dealer, retailer, or other distributor to fail to file required reports.
12. The Notice of Arrival of Pesticides and Devices is a report required by FIFRA that must be filed with the Administrator of EPA prior to the arrival of each pesticide shipped into the United States.
13. Respondent imported into the United States one shipment of *Bacillus firmus* as an unregistered active ingredient in 2007, and three other separate importations of sugar beet seed treated with Abamectin Technical, EPA Reg. No. 100-895, and *Bacillus firmus* in 2007 without the submission of Notice of Arrival forms to EPA.
14. Respondent violated Section 12(a)(2)(N) of FIFRA, 7 U.S.C. § 136j(a)(2)(N), on at least four occasions, and is therefore subject to the assessment of civil penalties under Section 14 of FIFRA, 7 U.S.C. § 136l.

15. 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.
16. EPA's Audit Policy, "Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations," allows reduction of the gravity-based civil penalty.
17. After consideration of the factors set forth in Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), and EPA's Audit Policy, EPA proposes to assess a total civil penalty of SIX THOUSAND FIVE HUNDRED DOLLARS and ZERO CENTS (\$6,500.00) 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

18. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the factual allegations.
19. 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.
20. Respondent consents to the assessment of the penalty proposed by EPA, and agrees to pay the civil penalty as set forth in this CAFO.
21. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of FIFRA.
22. 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 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.

23. 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

24. Respondent is assessed a civil penalty of SIX THOUSAND FIVE HUNDRED DOLLARS and ZERO CENTS (\$6,500.00) which shall be paid within 30 days from the effective date of this CAFO.
25. Respondent shall remit the penalty by either a cashier's or certified check made payable to the "Treasurer, United States of America," and shall send the check via U.S. mail to the following address:

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

The check shall reference on its face the name of the Respondent and the Docket Number of the CAFO.

26. 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;

Cheryn L. Jones
Pesticides Section
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960; and

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

27. 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.
28. 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 principal amount not paid within 90 days of the due date.
29. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
30. This CAFO shall be binding upon the Respondent, its successors and assigns.
31. The undersigned representative of the party to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally binds that party to this CAFO.

VI. Effective Date

32. 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: Syngenta Crop Protection, Inc.
Docket No.: FIFRA-04-2009-9129

By: Vincent Alvarosa (Signature)

Date: 11/19/09

Name: Vincent Alvarosa (Typed or Printed)

Title: Senior Corporate Regulatory Counsel (Typed or Printed)

U.S. Environmental Protection Agency

By: Kenneth R. Lapiere

Date: 12/3/09

Kenneth R. Lapiere
Acting Director
Air, Pesticides and Toxics
Management Division
61 Forsyth Street
Atlanta, Georgia 30303-8960

APPROVED AND SO ORDERED this 8th day of December 2009.

Susan B. Schub
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: Syngenta Crop Protection, Inc., FIFRA Docket No. FIFRA-04-2009-9129(b), on the parties listed below in the manner indicated.

Cheryn L. Jones
4APT-PTSB
Pesticides Management Section
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, GA 30303-8960
(404) 562-9006

(Via EPA's internal mail)

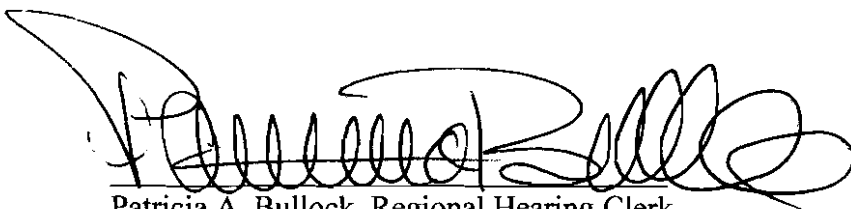
Michiko Kono
Office of Environmental Accountability
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, GA 30303-8960
(404) 562-9558

(Via EPA's internal mail)

Vincent Alventosa, Senior Corporate
and Regulatory Counsel
Syngenta Crop Protection, Inc.
410 South Swing Road
Greensboro, NC 27409-2080

(Via Certified Mail - Return Receipt
Requested)

Date: 12-8-09



Patricia A. Bullock, Regional Hearing Clerk
United States Environmental
Protection Agency, Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street
Atlanta, GA 30303-8960
(404) 562-9511

EPA ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

TO BE COMPLETED BY THE ORIGINATING OFFICE:

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Saundi Wilson on 12/4/09
(Name) (Date)

in the Region 4, ORC, OEA at (404) 562-9504
(Office) (Telephone Number)

- | | |
|--|--|
| <input type="checkbox"/> Non-SF Judicial Order/Consent Decree
USAO COLLECTS | <input checked="" type="checkbox"/> Administrative Order/Consent Agreement
FMO COLLECTS PAYMENT |
| <input type="checkbox"/> SF Judicial Order/Consent Decree
DOJ COLLECTS | <input type="checkbox"/> Oversight Billing - Cost Package required:
Sent with bill |
| <input type="checkbox"/> Other Receivable | <input type="checkbox"/> Not sent with bill |
| <input type="checkbox"/> This is an original debt | <input type="checkbox"/> Oversight Billing - Cost Package not required |
| | <input type="checkbox"/> This is a modification |

PAYEE: Syngenta Crop Protection Inc
(Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 6500-
(If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: FIFRA 04 2009 9129(b)

The Site Specific Superfund Account Number: _____

The Designated Regional/Headquarters Program Office: _____

The IFMS Accounts Receivable Control Number is: _____ Date _____

If you have any questions, please call: _____ of the Financial Management Section at: _____

DISTRIBUTION:

A. **JUDICIAL ORDERS:** Copies of this form with an attached copy of the front page of the FINAL JUDICIAL ORDER should be mailed to:

- | | |
|--|---|
| 1. Debt Tracking Officer
Environmental Enforcement Section
Department of Justice RM 1647
P.O. Box 7611, Benjamin Franklin Station
Washington, D.C. 20044 | 2. Originating Office (EAD)
3. Designated Program Office |
|--|---|

B. **ADMINISTRATIVE ORDERS:** Copies of this form with an attached copy of the front page of the Administrative Order should be to:

- | | |
|---------------------------|------------------------------|
| 1. Originating Office | 3. Designated Program Office |
| 2. Regional Hearing Clerk | 4. Regional Counsel (EAD) |