



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590
January 16, 2015

REPLY TO THE ATTENTION OF:
LC- 8J

CERTIFIED MAIL

Receipt No.7009 1680 0000 7674 4089

Mr. Nate Richardson
Coeus Technologies, LLC
3619 W. 73rd Street
Anderson, Indiana 46011

Consent Agreement and Final Order In the Matter of
Coeus Technology, LLC. Docket No. FIFRA-05-2015-0019

Dear Mr. Richardson:

Enclosed please find a copy of a fully executed Consent Agreement and Final Order, in resolution of the above case. This document was filed on January 16, 2015, with the Regional Hearing Clerk.

The civil penalty in the amount of \$10,000 is to be paid in the manner described in paragraph 67. Please be certain that the docket number is written on both the transmittal letters and on the checks. For payment due dates, see payment schedule in paragraph 67, found on page 10 of this CAFO.

Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Terence Bonace".

for Terence Bonace
Pesticides and Toxics Compliance Section

Enclosures

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:

Coeus Technology, LLC
Anderson, Indiana,

Respondent.



Docket No. FIFRA-05-2015-0019

Proceeding to Assess a Civil Penalty
Under Section 14(a) of the Federal
Insecticide, Fungicide, and Rodenticide
Act, 7 U.S.C. § 136l(a)

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 136l(a), and Sections 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules) as codified at 40 C.F.R. Part 22.

2. The Complainant is the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region 5.

3. Respondent is Coeus Technology, LLC, a limited liability company doing business in the State of Indiana.

4. Where the parties agree to settle one or more causes of action before the filing of a Complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a Consent Agreement and Final Order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a Complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO, and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and its right to appeal this CAFO.

9. Respondent certifies that it is complying with FIFRA, 7 U.S.C. §§ 136-136y.

Statutory and Regulatory Background

10. Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), states that it is unlawful for any person in any State to distribute or sell to any person any pesticide that is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

11. Section 12(a)(2)(I) of FIFRA, 7 U.S.C. § 136j(a)(2)(I), states that it shall be unlawful for any person to violate any order issued under Section 13 of FIFRA.

12. Section 13(A) of FIFRA, 7 U.S.C. § 136k(a), states that whenever there is reason to believe on the basis of inspection or tests that a pesticide is in violation of any provision of FIFRA, the EPA may issue a written or printed “stop sale, use, or removal” order to any person who owns, controls, or has custody of such pesticide, and after receipt of such an order no person shall sell, use, or remove the pesticide described in the order except in accordance with the provisions of the order.

13. The term “distribute or sell” means “to 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.” 7 U.S.C. § 136(gg).

14. A “pesticide” is, among other things, any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest. 7 U.S.C. § 136(u).

15. A “pest” is 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 which the Administrator of EPA declares to be a pest under Section 25(c)(1) of FIFRA. 7 U.S.C. § 136(t).

16. A substance is considered to be intended for a pesticidal purpose, and thus to be a pesticide requiring registration, if the person who distributes or sells the substance claims, states, or implies (by labeling or otherwise) that the substance can or should be used as a pesticide. 40 C.F.R. § 152.15(a)(1).

17. The Administrator of EPA may assess a civil penalty against any wholesaler, dealer, retailer, or other distributor who violates any provision of FIFRA of up to \$7,500 for each offense that occurred after January 12, 2009, pursuant to Section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1), and 40 C.F.R. Part 19.

Factual Allegations and Alleged Violations

18. Respondent is a “person” as defined at Section 2(s) of FIFRA, 7 U.S.C. § 136(s).

19. Respondent owned or operated a place of business located at 3619 West 73rd Street, Anderson, Indiana, during the calendar year 2013.

20. On June 12, 2013, an inspector employed by the Office of the Indiana State Chemist and authorized to conduct inspections under FIFRA conducted an inspection at Respondent’s place of business in Anderson, Indiana.

21. During the June 12, 2013 inspection, the inspector collected labeling or samples and distribution records for *Monofoil* (32 ounce and 1 gallon containers), *Monofoil Antimicrobial*

Treatment for Laundry and Uniforms, Monofoil Premium Cleaning Pads, Ultra 7 XT Mold Block Plus (Professional Strength), and Ultra 7 Mold Block Plus.

22. On August 19, 2013, Respondent was served with a Stop Sale, Use or Removal Order, as provided for under Section 13 of FIFRA for the distribution or sale of the unregistered pesticide products, *Monofoil Antimicrobial Treatment for Laundry and Uniforms, Monofoil Antibacterial Spray, Monofoil Antimicrobial, Monofoil D for Daily Use, Ultra 7 XT Mold Block Plus (Professional Strength), Monofoil 1.3%, Monofoil Premium Cleaning Pads and Ultra 7 Mold Block Plus.*

23. On October 16, 2013, an inspector employed by the Office of the Indiana State Chemist and authorized to conduct inspections under FIFRA conducted an inspection at Phocatox Technologies, LLC, 10681 Woodmont Lane, Fishers, Indiana.

24. During the October 16, 2013 inspection, the inspector collected an invoice documenting the sale or distribution by Respondent of *Monofoil Antimicrobial* to Phocatox Technologies, LLC in Houston, Texas on September 16, 2013.

25. On October 16, 2013, an inspector employed by the Office of the Indiana State Chemist and authorized to conduct inspections under FIFRA conducted an inspection at Texon II, Inc., 1718 Pleasant Street, Noblesville, Indiana.

26. During the October 16, 2013 inspection, the inspector collected an invoice documenting the sale or distribution by Respondent of *Monofoil 1.3%* to Texon II, Inc. in Noblesville, Indiana on September 12, 2013.

27. The labels for *Monofoil*, both 32 ounce and 1 gallon, state, "Monofoil® Technology imparts durable biostatic activity to the surface of a wide variety of substrates. Increased efficiency- through proper application, durable bacterostatic, fungistatic and algistatic surfaces

can be attained with a minimum amount of Monofoil®. Provides freshness and combats deterioration and discoloration caused by odor causing bacteria, fungi and algae.”

28. *Monofoil* is a “pesticide” as defined at Section 2(u) of FIFRA, 7 U.S.C. § 136(u).

29. The label of *Monofoil® Premium Cleaning Pads* states, “Durable, Long-Lasting Antimicrobial Product Protection,” “Monofoil® Premium Cleaning Pads are formulated specifically for antimicrobial product protection. This product will clean and apply antimicrobial protection to cabinets, chairs, computers...,” and “MONOFOIL PREMIUM ANTIMIROBIAL CLEANING PADS ARE THE NEXT GENERATION IN ANTIMICROBIAL TECHNOLOGY: Provide long-lasting durable protection. Inhibit growth of virus, bacteria, fungi, and algae.”

30. *Monofoil Premium Cleaning Pads* is a “pesticide” as defined at Section 2(u) of FIFRA, 7 U.S.C. § 136(u).

31. The label of *Monofoil® Antimicrobial Treatment for Laundry and Uniforms* states, “MONOFOIL® Antimicrobial imparts durable biostatic activity to the surface of a wide variety of substrates. MONOFOIL Antimicrobial is effective against mold & mildew, as a static agent,” Increased efficiency- thorough proper application, durable bacterostatic & fungistatic surfaces can be attained with a minimum amount of MONOFOIL® Antimicrobial. Provides freshness and combats deterioration & discoloration caused by odor causing bacteria & fungi. MONOFOIL Antimicrobial is effective against odor causing bacteria, bacteria which cause staining and discoloration, fungi (mold and mildew) as a static agent. MONOFOIL Antimicrobial can be used as a final bacteriostatic finish on the following surfaces to impart bacteriostatic/fungistatic (mold and mildew) activity: Carpet, Synthetic Turf...”

32. *Monofoil Antimicrobial Treatment for Laundry and Uniforms* is a “pesticide” as defined at Section 2(u) of FIFRA, 7 U.S.C. § 136(u).

33. The label of *Ultra 7 XT Mold Block Plus Professional Strength* states, “Provides a long lasting biostatic barrier to prevent the growth of mold, mildew, fungus and algae,” “Ultra 7™ is the most efficient and long lasting mold prevention product on the market. Formulated using state of the art “GREEN” technology, Ultra 7 utilizes MonoFoil Antimicrobial which is an exceedingly durable molecule that lays in wait to prevent mold, mildew, fungus and algae from forming by making a durable long lasting biostatic barrier.”

34. *Ultra 7 XT mold Block Plus Professional Strength* is a “pesticide” as defined at Section 2(u) of FIFRA, 7 U.S.C. § 136(u).

35. The label of *Ultra 7 Mold Block Plus* states, “Provides a long lasting biostatic barrier to prevent the growth of mold, mildew, fungus and algae,” “Ultra 7™ is the most efficient and long lasting mold prevention product on the market. Formulated using state of the art “GREEN” technology, Ultra 7 utilizes MonoFoil Antimicrobial which is an exceedingly durable molecule that lays in wait to prevent mold, mildew, fungus and algae from forming by making a durable long lasting biostatic barrier.”

36. *Ultra 7 Mold Block Plus* is a “pesticide” as defined at Section 2(u) of FIFRA, 7 U.S.C. § 136(u).

Count I

37. Complainant incorporates by reference the allegations contained in paragraphs 1 through 36 of this Complaint.

38. Respondent distributed or sold *Monofoil 1.3%* on January 18, 2013 to Charles Beasley of Indianapolis, Indiana. *Monofoil 1.3%* is not registered as a pesticide with EPA under Section 3 of FIFRA, 7 U.S.C. § 136a.

39. Respondent's distribution or sale of the unregistered pesticide *Monofoil* constitutes an unlawful act pursuant to Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

Count II

40. Complainant incorporates by reference the allegations contained in paragraphs 1 through 36 of this Complaint.

41. Respondent distributed or sold *Monofoil Premium Cleaning Pads* on January 16, 2013 to 30 Day Enterprises, Inc. of Los Angeles, California.

42. *Monofoil Premium Cleaning Pads* is not registered as a pesticide with EPA under Section 3 of FIFRA, 7 U.S.C. § 136a.

43. Respondent's distribution or sale of the unregistered pesticide *Monofoil Premium Cleaning Pads* constitutes an unlawful act pursuant to Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

Count III

44. Complainant incorporates by reference the allegations contained in paragraphs 1 through 36 of this Complaint.

45. Respondent distributed or sold *Monofoil Antimicrobial Treatment for Laundry and Uniforms* on January 16, 2013 to Scott Fraught of Woodbridge, Virginia.

46. *Monofoil Antimicrobial Treatment for Laundry and Uniforms* is not registered as a pesticide with EPA under Section 3 of FIFRA, 7 U.S.C. § 136a.

47. Respondent's distribution or sale of the unregistered pesticide *Monofoil Antimicrobial Treatment for Laundry and Uniforms* constitutes an unlawful act pursuant to Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

Count IV

48. Complainant incorporates by reference the allegations contained in paragraphs 1 through 36 of this Complaint.

49. Respondent distributed or sold *Ultra 7 Mold Block Plus* on January 24, 2013 to Denny Williamson at Madison County Government Center in Anderson, Indiana.

50. *Ultra 7 Mold Block Plus* is not registered as a pesticide with EPA under Section 3 of FIFRA, 7 U.S.C. § 136a.

51. Respondent's distribution or sale of the unregistered pesticide *Ultra 7 Mold Block Plus* constitutes an unlawful act pursuant to Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

Count V

52. Complainant incorporates by reference the allegations contained in paragraphs 1 through 36 of this Complaint.

53. Respondent distributed or sold *Ultra 7 XT Mold Block Plus* on January 16, 2013 to Xpedx of Cincinnati, Ohio.

54. *Ultra 7 XT Mold Block Plus* is not registered as a pesticide with EPA under Section 3 of FIFRA, 7 U.S.C. § 136a.

55. Respondent's distribution or sale of the unregistered pesticide *Ultra 7 XT Mold Block Plus* constitutes an unlawful act pursuant to Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

Count VI

56. Complainant incorporates by reference the allegations contained in paragraphs 1 through 36 of this Complaint.

57. Respondent distributed or sold *Monofoil 1.3%* on September 12, 2013 to Texon II, Inc. of Noblesville, Indiana.

58. *Monofoil 1.3%* is not registered as a pesticide with EPA under Section 3 of FIFRA, 7 U.S.C. § 136a.

59. *Monofoil 1.3%* was subject to the SSURO served to Respondent on August 19, 2003.

60. Respondent's distribution or sale of the unregistered pesticide *Monofoil 1.3%* constitutes an unlawful act pursuant to Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A) and Section 12(a)(2)(I) of FIFRA, 7 U.S.C. § 136j(a)(2)(I).

Count VII

61. Complainant incorporates by reference the allegations contained in paragraphs 1 through 36 of this Complaint.

62. Respondent distributed or sold *Monofoil Antimicrobial* on September 16, 2013 to Phocatox Technologies, LLC, Houston, Texas.

63. *Monofoil Antimicrobial* is not registered as a pesticide with EPA under Section 3 of FIFRA, 7 U.S.C. § 136a.

64. *Monofoil Antimicrobial* was subject to the SSURO served to Respondent on August 19, 2003.

65. Respondent's distribution or sale of the unregistered pesticide *Monofoil Antimicrobial* constitutes an unlawful act pursuant to Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A) and Section 12(a)(2)(I) of FIFRA, 7 U.S.C. § 136j(a)(2)(I).

Civil Penalty

66. Pursuant to Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), Complainant determined that an appropriate civil penalty to settle this action is \$10,000. In determining the penalty amount, Complainant considered the appropriateness of the penalty to the size of Respondent's business, the effect on Respondent's ability to continue in business, and the gravity of the violation. Complainant also considered EPA's FIFRA Enforcement Response Policy, dated December 2009.

67. Within 30 days after the effective date of this CAFO, Respondent must pay a \$10,000 civil penalty in four installments with interest as follows:

<u>Installment</u>	<u>Due By</u>	<u>Payment</u>	<u>Principal</u>	<u>Interest</u>
Payment #1	Within 30 days of effective date of CAFO	\$2,508.33	\$2,500	\$8.33
Payment #2	Within 240 days of effective date of CAFO	\$2,543.75	\$2,500	\$43.75
Payment #3	Within 420 days of the effective date of CAFO	\$2,525.00	\$2,500	\$25.00
Payment #4	Within 600 days of the effective date of CAFO	\$2,512.50	\$2,500	\$12.50

Respondent must pay the installments sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
Post Office Box 979077
St. Louis, Missouri 63197-9000

The check must note Coeus Technology, LLC and the docket number of this CAFO. Respondent must send a notice of payment that states Respondent's name, complete address and the case docket number to EPA at the following addresses when it pays the penalty:

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Terence Bonace (LC-8J)
Pesticides and Toxics Compliance Section
U.S. EPA, Region 5
77 West Jackson Boulevard.
Chicago, Illinois 60604

Cathleen Martwick (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

68. This civil penalty is not deductible for federal tax purposes.

69. If Respondent does not pay any installment payment as set forth in paragraph 18, above, the entire balance of the civil penalty and any amount required by paragraph 22, below, shall become due and owing upon written notice by EPA to Respondent of the delinquency. EPA may refer the delinquency to the Attorney General to recover any unpaid penalty with interest by action in the appropriate United States district court under Section 14(a)(5) of FIFRA, 7 U.S.C. § 136l(a)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

70. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date payment was due at a rate established by the Secretary of the Treasury. Respondent must pay a \$15

handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

71. This CAFO resolves only Respondent’s liability for federal civil penalties for the violations and facts alleged in the CAFO.

72. This CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

73. This CAFO does not affect Respondent’s responsibility to comply with FIFRA and other applicable federal, state and local laws.

74. This CAFO is a “final order” for purposes of EPA’s FIFRA Enforcement Response Policy.

75. The terms of this CAFO bind Respondent, its successors and assigns.

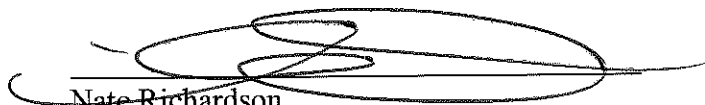
76. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

77. Each party agrees to bear its own costs and attorneys’ fees, in this action.

78. This CAFO constitutes the entire agreement between the parties.


Coeus Technology, LLC, Respondent

2 Dec. 2014
Date


Nate Richardson
Chief Executive Officer
Coeus Technology, LLC

United States Environmental Protection Agency, Complainant

1/7/2015
Date


Margaret M. Guerriero
Director
Land and Chemicals Division

In the Matter of:
Coeus Technology, LLC
Docket No. FIFRA-05-2015-0019

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

1/12/2015

Date



Susan Hedman
Regional Administrator
United States Environmental Protection Agency
Region 5

CERTIFICATE OF SERVICE

I hereby certify that the original signed copy of the Consent Agreement and Final Order in resolution of the civil administrative action involving Coeus Technologies, LLC, was filed on January 16, 2015, with the Regional Hearing Clerk (E-19J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604, and that I mailed by Certified Mail, Receipt No. 7009 1680 0000 7674 4089, a copy of the original to the Respondent:

Mr. Nate Richardson
Coeus Technologies, LLC
3619 W. 73rd Street
Anderson, Indiana 46011

and forwarded copies (intra-Agency) to:

Ann Coyle, Regional Judicial Officer, ORC/C-14J
Cathleen Martwick, Assistant Judicial Officer, ORC/C-14J
Eric Volck, Cincinnati Finance/MWD



Frederick Brown
Pesticides and Toxics Compliance Section
U.S. EPA - Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Docket No. **FIFRA-05-2015-0019**