

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029**

IN RE:	)	DOCKET NO. FIFRA-03-2016-0179
	)	
TERRAGROUP CORPORATION	)	CONSENT AGREEMENT
635 SOUTH 10 <sup>TH</sup> STREET	)	
UNITS 300-750	)	
ALLENTOWN, PA 18103	)	NOTABLY LATE OR NON REPORTING
	)	
Respondent	)	

**EXPEDITED SETTLEMENT AGREEMENT**

1. This Expedited Consent Agreement is entered into by the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency - Region III (“EPA” or “Complainant”) and TerraGroup Corporation. (“Respondent”), pursuant to Section 14(a) of the Federal Insecticide, Fungicide and Rodenticide Act (“FIFRA”), *as amended*, 7 U.S.C. § 136l(a), and Sections 22.13(b) and .18(b) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 C.F.R. § 22.13(b) and .18(b). This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the “CAFO”) resolve Complainant's civil penalty claims against the Respondent under FIFRA arising from the violation of FIFRA alleged herein.

2. Section 7(c) of FIFRA, 7 U.S.C. § 136e(c), requires any producer operating a registered pesticides-producing establishment to inform EPA of the types and amounts of pesticides and, if applicable, active ingredients used in producing pesticides, which it is producing, which it has produced during the past year, and which it has sold or distributed during the past year. The information required by this paragraph shall be kept current and submitted to the Administrator annually as required by such regulations as the Administrator may prescribe. The regulation found at 40 C.F.R § 167.85(d) requires such pesticides report to be filed annually on or before March 1, even if the producer has produced no pesticidal products for that reporting year.

3. The EPA is authorized to enter into this Expedited Settlement Agreement and Final Order (the ‘Agreement’), pursuant to Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, *as amended*, 7 U.S.C. § 136l(a) (“FIFRA”), 40 C.F.R. § 167.85 and 40 C.F.R. § 22.13(b) and in accordance with the July 22, 2014 FIFRA Section 7 Expedited Settlement Agreement Pilot Program, which has been extended by the EPA until January 22, 2017.

4. EPA finds that Respondent is a “person,” a “producer” and operates an “establishment”,

RECEIVED  
 2016 SEP 27 PM 3:17  
 REGION III  
 ENVIRONMENTAL PROTECTION AGENCY

as those terms are defined in Sections 2(s), (w), and (dd) of FIFRA, 7 U.S.C. §§ 136(s), (w), and (dd), and 40 C.F.R. § 167.3, at 635 South 10<sup>th</sup> Street, Units 300-750, Allentown, PA 18103. This Establishment is registered with EPA under Establishment Number 64419-PA-001.

5. Respondent has failed to comply with Section 7(c) of FIFRA, 7 U.S.C. § 136e(c), and with the regulations found at 40 C.F.R. § 167.85(d) in that it did not file the 2015 annual pesticides report for the above facility by March 1, 2016, as required.

6. For purposes of this proceeding, Respondent admits the jurisdictional allegations set forth in this Expedited Consent Agreement and the attached Final Order.

7. Except as provided in Paragraph 6 of this Agreement, for purposes of this proceeding, Respondent neither admits nor denies the factual allegations and legal conclusions set forth in this Expedited Consent Agreement.

8. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Agreement, the issuance of the attached Final Order, or the enforcement of this Agreement.

9. For purposes of this proceeding only, Respondent hereby expressly waives any right to contest any issue of law or fact set forth in this Agreement and any right to appeal the attached Final Order.

10. Respondent consents to the issuance of this Agreement and agrees to comply with its terms and conditions.

11. Each Party to this Agreement shall bear its own costs and attorney's fees.

12. By its signature below, Respondent certifies, subject to civil and criminal penalties for making a false statement to the United States Government, that to the best of Respondent's knowledge, it is presently in compliance with all requirements of FIFRA, 7. U.S. C. *et seq.*, and all regulations promulgated thereunder.

13. Under EPA's *Enforcement Response Policy for FIFRA Section 7(c) Establishment Reporting Requirements*, updated May 2010, EPA may reduce a civil penalty to zero when a producer who has failed to submit a timely production report under Section 7(c)(1) of FIFRA reports no pesticide production and requests termination of the establishment's registration number within 20 days after receiving written notification of the violation by EPA.

14. In correspondence provided within 20 days of receiving EPA's notice of the violation alleged herein, Respondent reported that it produced no pesticides at the establishment located at 635 South 10<sup>th</sup> Street, 300-750, Allentown, Pennsylvania in calendar year 2015, and requested that the establishment registration number EPA Est. No.: 64419-PA-001 be terminated.

15. The parties enter into this Consent Agreement in order to settle the civil violation(s) alleged above. Pursuant to the Consolidated Rules of Practice, and in consideration of the statutory factors set forth in FIFRA Section 14(a)(4), 7 U.S.C. Section 1361(a)(4), EPA's *Enforcement Response Policy for FIFRA Section 7(c) Establishment Reporting Requirements* ("ERP"), updated May 2010, 40 C.F.R. Part 19, and the July 22, 2014 *FIFRA Section 7 Expedited Settlement Agreement Pilot Program*, extended until January 22, 2017, EPA has determined an appropriate civil penalty to settle this action is **\$0**.

16. This Agreement settles EPA's civil penalty claims against Respondent for the violations specified above. EPA does not waive its right to take enforcement action against Respondent for any other past, present, or future violations of FIFRA or any other federal statute or regulation.

17. Nothing in this Agreement is intended to, nor shall be construed to operate in any way to resolve, any criminal liability of Respondent, and nothing in this Agreement shall be construed to limit EPA's authority to undertake any action against Respondent in response to conditions that may present an imminent and substantial endangerment.

18. This Agreement is binding on the parties signing below. Upon signature of the parties and approval by the Regional Judicial Officer, this Agreement shall be filed with the Regional Hearing Clerk. In accordance with 40 C.F.R. 22.31(b), this Agreement is effective upon filing with the Regional Hearing Clerk.

19. The undersigned representative certifies that he is fully authorized to execute this Agreement and to legally bind TerraGroup Corporation to this Agreement.

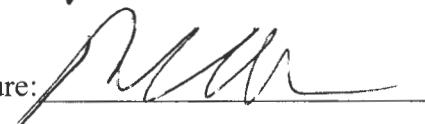
In the Matter of TerraGroup Corporation

EPA Docket No. FIFRA-03-2016-0179

**APPROVED BY:**


Name (print): Primo L. ACERNESE

Title (Print): PRESIDENT/CEO

Signature: 

Date: 2 Aug 2016

**FOR COMPLAINANT:**

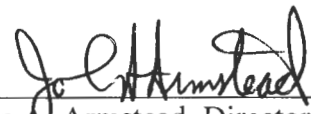


Holly Ragusa  
Pesticides Enforcement Officer  
EPA Region III

Date: 8/31/2016

Accordingly, the Land and Chemicals Division, United States Environmental Protection Agency, Region III, recommends that the Regional Administrator, or his designee, issue the Final Order set forth below.

9.22.16  
Date

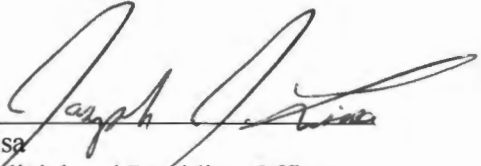
  
John A. Armstead, Director  
Land and Chemicals Division

*FIFRA Enforcement Response Policy Federal Insecticide, Fungicide, Rodenticide Act*, and the and the statutory factors set forth in Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4).

**NOW, THEREFORE, PURSUANT TO** Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136l(a), and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of **ZERO DOLLARS (\$0.00)**, and comply with the terms and conditions of the Consent Agreement.

The effective date of the attached Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

Sept. 27, 2016  
Date

  
\_\_\_\_\_  
Joseph J. Lisa  
Regional Judicial and Presiding Officer  
U.S. EPA Region III

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029**

**In the Matter of:**

**TERRAGROUP CORPORATION  
635 SOUTH 10<sup>th</sup> STREET,  
UNITS 300-750  
ALLENTOWN, PA 18103**

**Respondent.**

**EPA Docket No. FIFRA-03-2016-0179**

**FINAL ORDER**

**Proceeding under Section 14(a) of the  
Federal Insecticide, Fungicide and  
Rodenticide Act, 7 U.S.C. § 136l(a)**

**FINAL ORDER**

Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III, and Respondent, have executed a document entitled “Expedited Consent Agreement,” which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 C.F.R. Part 22 (with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA’s December 2009

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
Region III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

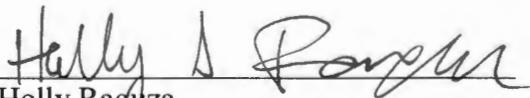
IN RE: :  
: :  
TERRAGROUP CORPORATION : DOCKET NO. FIFRA-03-2016-0179  
635 SOUTH 10<sup>TH</sup> STREET :  
UNITS 300-750 :  
ALLENTOWN, PA 18103 :  
: :  
**Respondent** :

**CERTIFICATE OF SERVICE**

I hereby certify that the original of the foregoing Expedited Settlement Agreement and Final Order for the above-referenced matter were hand-delivered to the Regional Hearing Clerk, EPA Region III, and that true and correct copies were mailed via certified mail to the following person(s):

Primo Acernese, President  
TerraGroup Corporation  
635 South 10<sup>th</sup> Street, Units 300-750  
Allentown, PA 18103

9/27/2016  
Date

  
Holly Ragusa  
Enforcement Officer  
U.S. Environmental Protection Agency, Region III