



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

APR - 2 2013

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. James Blome
President and CEO
Bayer CropScience LP
c/o Corporation Service Company
2711 Centerville Road, Suite 400
Wilmington, DE 19808

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2013 APR 10 P 10:23
REGIONAL HEARING
CLERK

Re: In the Matter of Bayer CropScience, LP
Docket No. FIFRA-02-2013-5305

Dear Mr. Blome:

Enclosed please is the Complain and Notice of Opportunity for Hearing and supporting documents in the above-referenced proceeding. This Complaint alleges violations of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), 7 U.S.C. 136 et seq.

Enclosed is the Complaint and Notice of Opportunity for Hearing and supporting documents, in the above-referenced proceeding. This Complaint alleges violations of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

You have the right to a formal hearing to contest any of the allegations in the Complaint and/or to contest the penalty proposed in the Complaint.

If you wish to contest the allegations or the penalty proposed in the Complaint, you must file an Answer, within *thirty (30) days* of your receipt of the enclosed Complaint, to the United States Environmental Protection Agency (EPA) Regional Hearing Clerk at the following address:

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

If you do not file an Answer within thirty (30) days of receipt of this Complaint and have not obtained a formal extension for filing an Answer from the Regional Judicial Officer, a default order may be entered against you, and the entire proposed penalty may be assessed without further proceedings.

Whether or not you request a formal hearing, you may request an informal conference with EPA to discuss any issues relating to the alleged violations and the amount of the proposed penalty. EPA encourages all parties against whom it files a Complaint to pursue the possibility of a settlement by participating in an informal conference with EPA. However, a request for an informal conference *does not* substitute for a written Answer, affect what you may choose to say in a written Answer, or extend the thirty (30) days by which you must file an Answer to request a hearing.

Enclosed are copies of the Consolidated Rules of Practice, which govern this proceeding. For your general information and use, I also have enclosed both an Information Sheet for U.S. EPA Small Business Resources and a Notice of Security and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings, which may or may not apply to you.

The EPA encourages the use of Supplemental Environmental Projects (SEPs), where appropriate, as part of any settlement. I am enclosing a brochure on EPA's SEP Policy. Please note that SEPs are only available as part of a negotiated settlement and will not be available if this case is resolved by formal adjudication.

If you have any questions or wish to schedule an informal settlement conference, please contact the attorney whose name is listed in the Complaint.

Sincerely yours,



Dore LaPosta, Director
Division of Enforcement and Compliance Assistance

Enclosures

cc: Peg Cherny
Vice-President of Communications and Government Affairs
Bayer CropScience LP
2 T.W. Alexander Drive
Research Triangle Park, North Carolina 27709

Alberto Rodriguez
Station Manager
Bayer CropScience LP
HC 09 Box 4737
Sabana Grande, PR00637

Karen Maples, Regional Hearing Clerk (w/o enclosures)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

U.S. ENVIRONMENTAL
PROTECTION AGENCY REGION 2
2013 APR 10 P 10: 23
REGIONAL HEARING
CLERK

-----X
In the Matter of :
:
Bayer CropScience, LP :
:
Respondent :
:
Proceeding under the Federal :
Insecticide, Fungicide, and :
Rodenticide Act, as amended :
-----X

**COMPLAINT AND NOTICE OF
OPPORTUNITY FOR HEARING**

Docket No. FIFRA-02-2013-5305

COMPLAINT

Complainant, as and for her Complaint against Respondent, hereby alleges:

1. This is a civil administrative proceeding instituted pursuant to Section 14 (a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA or the Act), 7 U.S.C. 136 et seq.
2. The Complainant, Dore LaPosta, Director of the Division of Enforcement and Compliance Assistance, Region 2, United States Environmental Protection Agency (AEPAC), has been duly delegated the authority to institute this action.
3. Respondent is Bayer CropScience, LP.
4. Respondent is a corporation organized pursuant to the laws of the State of Delaware.
5. Respondent is an agricultural business that *inter alia* develops seeds, fungicides, herbicides, insecticides, and crop management strategies.
6. Respondent is the registrant, pursuant to Section 3 of FIFRA, 7 U.S.C. § 136a, of more than 300 active pesticide registrations with EPA.

7. Respondent operates, and at all times pertinent to this Complaint operated, a nursery and research farm located at Road No. 121, Km 5.9, Sabana Grande, Puerto Rico (“SG Farm” or “Respondent’s farm”).

8. Respondent grows plants at the SG Farm for commercial and research purposes.

9. The SG Farm is, and at all times pertinent to this Complaint has been, an “agricultural establishment” as that term is defined by 40 CFR § 170.3.

10. Respondent hires, and at all times pertinent to this Complaint has hired, persons to perform activities related to the production of agricultural plants on the SG Farm.

11. Respondent is, and at all times pertinent to this Complaint has been, an “agricultural employer” as that term is defined by 40 CFR § 170.3.

12. Respondent has, and at all times pertinent to this Complaint has had, “workers” as that term is defined by 40 CFR § 170.3.

13. Pursuant to Section 25(a) of FIFRA, 7 U.S.C. § 136w(a), EPA promulgated the Worker Protection Standards (“WPS”), found at 40 CFR Part 170, “to reduce or eliminate exposure to pesticides” for agricultural workers and pesticide handlers.

14. The WPS apply whenever pesticide products are used or handled on the SG Farm.

15. The labels of EPA registered agricultural pesticide products display the requirement to comply with the WPS.

16. A failure to comply with the WPS in the application of a pesticide is a use of a registered pesticide in a manner inconsistent with its labeling in violation of FIFRA § 12(a)(2)(G), 7 U.S.C. § 136j(a)(2)(G).

17. On or about on April 11, 2012, duly authorized Puerto Rico Department of Agriculture (“PRDA”) and EPA Pesticides Inspectors visited the SG Farm to inspect it for compliance with FIFRA and its implementing regulations, including the WPS (the “Inspection”).

18. During the Inspection, “workers,” within the meaning of 40 CFR § 170.3, were present at the farm.

19. During the Inspection, the inspectors reviewed Respondent’s pesticide application records for the previous 30 days.

20. During the Inspection, the inspectors interviewed agricultural workers and observed them at work.

**COUNTS 1 - 7:
FAILURE TO NOTIFY WORKERS OF PESTICIDE APPLICATIONS**

21. Paragraphs 1- 20 are incorporated herein by reference.

22. When registered pesticides are to be applied on an agricultural establishment, 40 CFR § 170.122 and 40 CFR § 170.135(d)(1) require agricultural employers to post in an accessible and central location the following information for each application: (a) the location and description of the treated area; (b) the product name, EPA registration number, and active ingredient(s) of the pesticide; (c) the time and date the pesticide is to be applied; and (d) the restricted-entry interval (“REI”) for the pesticide applied.

23. Pursuant to 40 CFR § 170.122(b), the information specified in Paragraph 22, above, is to be posted before the application takes place and displayed for at least 30 days after the application or, if applicable, the REI.

24. During the Inspection, the inspectors reviewed the central posting area at Respondent’s farm.

25. During the Inspection, the inspectors compared Respondent’s pesticide application records, kept in log books in the SG Farm office, with the application notices hanging in the central posting area for workers.

26. At the time of the Inspection, pesticide application dates in Respondent’s log book spanned the period January 11, 2012 through April 5, 2012.

27. At the time of the Inspection, information on the January 2012 pesticide applications was posted in the central posting area.

28. At the time of the Inspection, no notice of any applications subsequent to January 31, 2012 was posted in the central posting area.

29. At the time of the Inspection, the following applications of pesticides noted in Respondent’s application records were not posted in the central posting area:

Application #	Date of Application	Field ID	Pesticide Name and EPA Reg No.
1	February 24, 2012	1	Asana XL, EPA Reg. No. 352-515
2	February 24, 2012	1	MGK Evergreen, EPA Reg. No.1021-1770
3	February 24, 2012	1	Kocide 3000, EPA Reg. No.352-662

4	February 24, 2012	14	Kocide 3000, EPA Reg. No.352-662
5	March 1, 2012	1	Pix Plus, EPA Reg. No.7969-52
6	March 2, 2012	17	Kocide 3000, EPA Reg. No.352-662
7	April 5, 2012	Alicante	Round Up, EPA Reg. No. 524-475

30. Each of the pesticides identified in Paragraph 29, above, is a registered pesticide.

31. Each of the pesticides identified in Paragraph 29, above, bears a label approved by EPA as part of its registration pursuant to Section 3 of FIFRA, 7 U.S.C. § 136a, that was in effect at all times relevant to this Complaint and that requires compliance with the WPS.

32. Respondent was required to post application information for each of the pesticide applications identified in Paragraph 29, above.

33. Respondent failed to post the required information for the applications listed in Paragraph 29, above, before the applications took place or to display the required information for the period specified in the WPS.

34. Each failure by Respondent to post and display required information of a pesticide application described in Paragraphs 29 and 33, above, constitutes a violation of the WPS.

35. Each failure by Respondent to post and display required information of a pesticide application described in Paragraphs 29 and 34, above, constitutes a use of a registered pesticide in a manner inconsistent with its labeling and a separate violation of FIFRA § 12(a)(2)(G).

**COUNT 8:
FAILURE TO REMOVE SIGN**

36. Paragraphs 1- 35 are incorporated herein by reference.

37. 40 CFR § 170.120(b) requires that agricultural employers shall post notify workers of any pesticide applications on the farm by posting warning signs in the treated area.

38. 40 CFR § 170.120(c) specifies the size, design, and wording of the warning signs to be posted in a treated area.

39. 40 CFR § 170.120(c)(6)(iii) requires that posted warning signs be removed within 3 days after the end of the application and any REI and before agricultural-worker entry is permitted.

40. On April 5, 2012, Respondent applied the registered pesticide Round Up, EPA Reg. No. 524-475, to the Alicante field at the farm.

41. The REI specified on the label for Round Up, EPA Reg. No. 524-475, label is 4 hours.

42. At the time of the Inspection, the warning sign required by 40 CFR § 170.120(c), reading “DANGER PELIGRO PESTICIDES PESTICIDAS KEEP OUT NO ENTRE” was posted in the Alicante field.

43. At the time of the Inspection, seven (7) workers were working in the Alicante field.

44. According to the application records reviewed by inspectors at the Inspection, the April 5 Round Up, EPA Reg. No. 524-475, application was the last pesticide application to the Alicante field prior to the Inspection.

45. Respondent failed to remove the posted warning sign within the interval required by CFR § 170.120(c)(6)(iii).

46. Respondent’s failure to remove the posted warning sign within 3 days after the end of the REI for the April 5 application of Round Up, EPA Reg. No. 524-475, described in Paragraphs 40-45, above constitutes a violation of the WPS.

47. Respondent’s failure to remove the posted warning sign within 3 days after the end of the REI for the April 5 application of Round Up, EPA Reg. No. 524-475, described in Paragraphs 40-46, above constitutes a use of a registered pesticide in a manner inconsistent with its labeling and a violation of FIFRA § 12(a)(2)(G).

**COUNT 9:
FAILURE TO PROVIDE DECONTAMINATION SUPPLIES**

48. Paragraphs 1- 47 are incorporated herein by reference.

49. When workers are in an area of an agricultural establishment to which a pesticide with an REI of 4 hours or less has been applied within the last 7 days, 40 CFR § 170.50(a)(2) requires that an agricultural employer provide certain decontamination supplies specified in 40 CFR § 170.50(b).

50. 40 CFR § 170.150(b)(3) specifies that the decontamination supplies an agricultural employer must make available under the conditions identified in Paragraph 42, above, must include “soap and single-use towels in quantities sufficient to meet worker’s needs.”

51. 40 CFR § 170.150(c) further specifies that the required decontamination supplies be “reasonably accessible to and not more than ¼ mile from where the workers are working.”

52. At the time of the Inspection, workers in the Alicante field had reasonable access to water for drinking and for washing up.

53. At the time of the Inspection, there was neither soap nor single-use towels reasonably accessible to the workers in the Alicante field.

54. At the time of the Inspection, Respondent failed to provide required decontamination supplies to the workers in the Alicante field.

55. Respondent's failure to provide required decontamination supplies to workers in a treated area as described in Paragraphs 40-41, 43, and 53-54, above constitutes a violation of the WPS.

56. Respondent's failure to provide required decontamination supplies to workers in a treated area as described in Paragraphs 40-41, 43, and 53-55, above constitutes use of a registered pesticide in a manner inconsistent with its labeling in violation of FIFRA § 12(a)(2)(G).

**COUNT 10:
FAILURE TO DISPLAY SAFETY POSTER**

57. Paragraphs 1-56 are incorporated herein by reference.

58. When workers are on an agricultural establishment and, within the last 30 days, a restricted entry interval has been in effect, 40 CFR § 170.135 requires that an agricultural employer display pesticide safety information in a central location.

59. The pesticide safety information required by 40 CFR § 170.135 must be displayed as a poster containing certain minimum safety information specified in the subsection.

60. At the time of the Inspection, no safety poster was displayed in the central posting area established by Respondent.

61. At the time of the Inspection, Respondent failed to display required safety information in a central area at the SG Farm.

62. Respondent's failure to display required safety information in a central location of the farm as described in Paragraphs 40-41, 43, and 60-61, above constitutes a violation of the WPS.

63. Respondent's failure to display required safety information in a central location of the farm as described in Paragraphs 40-41, 43, and 60-62, above constitutes a use of a registered pesticide in a manner inconsistent with its labeling and a violation of FIFRA § 12(a)(2)(G).

PROPOSED CIVIL PENALTY

The proposed civil penalty has been determined in accordance with Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), as amended, which authorizes the assessment of a civil penalty of up to \$5,000 for each violation of “any provision of” subchapter II of FIFRA, 7 U.S.C. §§ 136 - 136y. The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, requires EPA to adjust its penalties for inflation on a periodic basis. EPA has issued the Civil Monetary Penalty Inflation Adjustment Rule under which violations that occur on January 12, 2009, or later, are subject to a new statutory maximum civil penalty. The maximum civil penalty under Section 14(a) of FIFRA for such violations is \$7,500 per offense. (40 CFR Part 19)

For purposes of determining the amount of any penalty to be assessed, Section 14 of FIFRA requires that EPA “shall consider the appropriateness of such penalty to the size of the business of the person charged, the effect on the person’s ability to continue in business, and the gravity of the violation.” Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4).

To develop the proposed penalty in this Complaint, Complainant has taken into account the particular facts and circumstances of this case, to the extent known at the time of its filing, with specific reference to EPA’s “FIFRA Enforcement Response Policy [for] The Federal Insecticide, Fungicide and Rodenticide Act,” dated December 2009 (hereinafter referred to as the “ERP”). A copy of the ERP is available upon request or may be obtained from the Internet at this address: <http://www.epa.gov/enforcement/waste/documents/policies/fifra-erp1209.pdf>. This guidance policy provides rational, consistent and equitable calculation methodologies for applying the statutory penalty criteria enumerated above to particular cases.

Complainant proposes, subject to receipt and evaluation of further relevant information, including but not limited to the size of Respondent’s business, that Respondent be assessed the following civil penalties for the violations alleged in this Complaint:

Counts 1-7:	Failure to Notify Workers of Pesticide Applications	\$52,500
Count 8:	Failure to Remove Application Sign	\$ 7,500
Count 9:	Failure to Provide Decontamination Supplies	\$ 7,500
Count 10:	Failure to Display Safety Poster	<u>\$ 7,500</u>
TOTAL PROPOSED ASSESSMENT		\$75,000

PROCEDURES GOVERNING THIS ADMINISTRATIVE LITIGATION

The rules of procedure governing this civil administrative litigation were set forth in 64 Fed. Reg. 40138 (July 23, 1999), entitled, “CONSOLIDATED RULES OF PRACTICE GOVERNING THE ADMINISTRATIVE ASSESSMENTS OF CIVIL PENALTIES, ISSUANCE OF COMPLIANCE OR CORRECTIVE ACTION ORDERS, AND THE

REVOCATION, TERMINATION OR SUSPENSION OF PERMITS”, and are now codified at 40 CFR Part 22. A copy of these rules accompanies this “Complaint and Notice of Opportunity for Hearing” (hereinafter referred to as the “Complaint”).

A. Answering the Complaint

Where Respondent intends to contest any material fact upon which the Complaint is based, to contend that the proposed penalty is inappropriate or to contend that Respondent is entitled to judgment as a matter of law, Respondent must file with the Regional Hearing Clerk of EPA, Region 2, both an original and one copy of a written Answer to the Complaint. (40 CFR 22.15(a)) An Answer must be filed within 30 days after service of a Complaint at the following address: The address of the Regional Hearing Clerk of EPA, Region 2, is:

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

(Note that any documents filed after an Answer has been filed should be filed as specified in “D”, below.)

Respondent shall also then serve one copy of the Answer to the Complaint upon Complainant and any other party to the action. (40 CFR § 22.15(a)).

Respondent’s Answer to the Complaint must clearly and directly admit, deny, or explain each of the factual allegations that are contained in the Complaint and with regard to which Respondent has any knowledge (40 CFR § 22.15(b)). Where Respondent lacks knowledge of a particular factual allegation and so states in its Answer, the allegation is deemed denied. (40 CFR § 22.15(b)) The Answer shall also set forth: (1) the circumstances or arguments that are alleged to constitute the grounds of defense, (2) the facts that Respondent disputes (and thus intends to place at issue in the proceeding), and (3) whether Respondent requests a hearing (40 CFR § 22.15(b)).

Respondent’s failure affirmatively to raise in the Answer facts that constitute or that might constitute the grounds of its defense may preclude Respondent, at a subsequent stage in this proceeding, from raising such facts and/or from having such facts admitted into evidence at a hearing.

B. Opportunity to Request a Hearing

If requested by Respondent in its Answer, a hearing upon the issues raised by the Complaint and Answer may be held (40 CFR § 22.15(c)). If, however, Respondent does not request a hearing, the Presiding Officer (as defined in 40 CFR § 22.3) may hold a hearing if the Answer raises issues appropriate for adjudication. (40 CFR § 22.15(c))

Any hearing in this proceeding will be held at a location determined in accordance with 40 CFR § 22.35(b). A hearing of this matter will be conducted in accordance with the applicable provisions of the Administrative Procedure Act, 5 U.S.C. §§ 551-59, and the procedures set forth in Subpart D of 40 CFR Part 22.

C. Failure to Answer

If Respondent fails in its Answer to admit, deny, or explain any material factual allegation contained in the Complaint, such failure constitutes an admission of the allegation (40 CFR § 22.15(d)). If Respondent fails to file a timely (i.e., in accordance with the 30-day period set forth in 40 CFR § 22.15(a)) Answer to the Complaint, Respondent may be found in default upon motion (40 CFR § 22.17). Default by Respondent constitutes, for purposes of the pending proceeding only, an admission of all facts alleged in the Complaint (40 CFR § 22.17(a)). Following a default by Respondent for a failure to timely file an Answer to the Complaint, any order issued therefore shall be issued pursuant to 40 CFR § 22.17(c).

Any penalty assessed in the default order shall become due and payable by Respondent without further proceedings 30 days after the default order becomes final pursuant to 40 CFR § 22.27(c) (40 CFR § 22.17(d)). If necessary, EPA may then seek to enforce such final order of default against Respondent, and to collect the assessed penalty amount, in Federal court.

D. Filing of Documents Filed After the Answer

Unless otherwise ordered by the Presiding Officer for this proceeding, all documents filed after Respondent has filed an Answer should be filed with the Headquarters Hearing Clerk, acting on behalf of the Regional Hearing Clerk, at one of the following addresses:

If by USPS:

Sybil Anderson
Headquarters Hearing Clerk
Office of Administrative Law Judges
U.S Environmental Protection Agency
Mail Code 1900R
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

If by UPS, FedEx, DHL, other courier or personal delivery:

Sybil Anderson
Headquarters Hearing Clerk
Office of Administrative Law Judges
U.S Environmental Protection Agency
Ronald Reagan Building, Room M1200
1300 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

E. Exhaustion of Administrative Remedies

Where Respondent fails to appeal an adverse initial decision to the Environmental Appeals Board pursuant to 40 CFR § 22.30, and that initial decision thereby becomes a final order pursuant to the terms of 40 CFR § 22.27(c), Respondent waives its right to judicial review (40 CFR § 22.27(d)).

In order to appeal an initial decision to the Agency's Environmental Appeals Board [EAB; see 40 CFR § 1.25(e)], Respondent must do so within 30 days after the initial decision is served (40 CFR § 22.30(a)). Pursuant to 40 CFR § 22.7(c), where service is effected by mail, five days shall be added to the time allowed by these [rules] for the filing of a responsive document. Note that the 45-day period provided for in 40 CFR § 22.27(c) (discussing when an initial decision becomes a final order) does not pertain to or extend the time period prescribed in 40 CFR § 22.30(a) for a party to file an appeal to the EAB of an adverse initial decision.

INFORMAL SETTLEMENT CONFERENCE

Whether or not Respondent requests a formal hearing, EPA encourages settlement of this proceeding consistent with the provisions of the Act and its applicable regulations (40 CFR § 22.18(b)). At an informal conference with representative(s) of Complainant, Respondent may comment on the charges made in this Complaint, and Respondent may also provide whatever additional information that it believes is relevant to the disposition of this matter, including: (1) actions Respondent has taken to correct any or all of the violations herein alleged, (2) any information relevant to Complainant's calculation of the proposed penalty, (3) the effect the proposed penalty would have on Respondent's ability to continue in business, and (4) any other special facts or circumstances Respondent wishes to raise.

Complainant has the authority to modify the amount of the proposed penalty, where appropriate, to reflect any settlement agreement reached with Respondent, to reflect any relevant information previously not known to Complainant or to dismiss any or all of the charges, if Respondent can demonstrate that the relevant allegations are without merit and that no cause of action as herein alleged exists. Respondent is referred to 40 CFR § 22.18.

Any request for an informal conference or any questions that Respondent may have regarding this complaint should be directed to:

Naomi P. Shapiro
Assistant Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th floor
New York, NY 10007-1866
212-637-3221
shapiro.naomi@epa.gov

The parties may engage in settlement discussions irrespective of whether Respondent has requested a hearing (40 CFR § 22.18(b)(1)). Respondent's requesting a formal hearing does not prevent it from also requesting an informal settlement conference; the informal conference procedure may be pursued simultaneously with the formal adjudicatory hearing procedure. A request for an informal settlement conference constitutes neither an admission nor a denial of any of the matters alleged in the Complaint. Complainant does not deem a request for an informal settlement conference as a request for a hearing as specified in 40 CFR § 22.15(c).

A request for an informal settlement conference does not affect Respondent's obligation to file a timely Answer to the Complaint pursuant to 40 CFR § 22.15. No penalty reduction, however, will be made simply because an informal settlement conference is held.

Any settlement that may be reached as a result of an informal settlement conference shall be embodied in a written consent agreement (40 CFR § 22.18(b)(2)). In accepting the Consent Agreement, Respondent waives its right to contest the allegations in the Complaint and waives its right to appeal the Final Order that is to accompany the Consent Agreement (40 CFR § 22.18(b)(2)). In order to conclude the proceeding, a Final Order ratifying the parties agreement to settle will be executed (40 CFR § 22.18(b)(3)).

Respondent's entering into a settlement through the signing of such Consent Agreement terminates this administrative litigation and civil proceedings arising out of the allegations made in the Complaint. Respondent's entering into a settlement does not extinguish, waive, satisfy or otherwise affect its obligation and responsibility to comply with all applicable statutory and regulatory requirements, and to maintain such compliance.

RESOLUTION OF THIS PROCEEDING WITHOUT HEARING OR CONFERENCE

Instead of filing an Answer, Respondent may choose to pay the total amount of the reduced penalty within 30 days after receipt of the Complaint, provided that Respondent files with the Regional Hearing Clerk, Region 2 (at the New York address noted above), a copy of the check or other instrument of payment (40 CFR § 22.18(a)). Such payment shall be made by cashier's or certified check or by electronic fund transfer (EFT).

If the payment is made by check, then the check shall be made payable to the ATreasurer, United States of America,@ and shall be mailed to

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

The check shall be identified with a notation listing the name of the matter (**In the Matter of Bayer CropScience LP**) and the Docket Number (FIFRA-02-2013-5305).

If Respondent chooses to make the payment by EFT, then Respondent shall provide the following information to its remitter bank:

- 1) Amount of Payment
- 2) SWIFT address: FRNYUS33, 33 Liberty Street, New York, NY 10045
- 3) Account Code for Federal Reserve Bank of New York receiving payment: 68010727
- 4) Federal Reserve Bank of New York ABA routing number: 021030004
- 5) Field Tag 4200 of the Fedwire message should read "D 68010727
Environmental Protection Agency"
- 6) Name of Respondent: Bayer CropScience, LP
- 7) Case Number: FIFRA-02-2013-5305

Whether the payment is made by check or by EFT, the Respondent shall promptly thereafter furnish reasonable proof that such payment has been made, to both:

Naomi P. Shapiro
Assistant Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th floor
New York, NY 10007-1866
212-637-3221

and

Karen Maples, Regional Hearing Clerk
Environmental Protection Agency, Region 2
290 Broadway, 16th floor
New York, NY 10007-1866

Pursuant to 40 CFR Section § 22.18(a)(3), if Respondent elects to pay the full amount of the penalty proposed in the Complaint within 30 days of receiving the Complaint, then, upon EPA's receipt of such payment, the Regional Administrator of EPA, Region 2 (or, if designated, the Regional Judicial Officer), shall issue a Final Order. Issuance of this Final Order terminates this administrative litigation and the civil proceedings arising out of the allegations made in the Complaint. Further, pursuant to 40 CFR Section § 22.18(a)(3), the making of such payment by Respondent shall constitute a waiver of Respondent's right both to contest the allegations made in the Complaint and to appeal said Final Order to federal court. Such payment does not extinguish, waive, satisfy or otherwise affect Respondent's obligation and responsibility to comply with all applicable regulations and requirements, and to maintain such compliance.

Dated: April 2, 2013
New York, New York

COMPLAINANT:



Dore LaPosta, Director
Division of Enforcement and
Compliance Assistance
U.S. EPA, Region 2

To: Mr. James Blome
President and CEO
Bayer CropScience LP
c/o Corporation Service Company
2711 Centerville Road, Suite 400
Wilmington, DE 19808

CERTIFICATE OF SERVICE

This is to certify that I have this day caused to be mailed a copy of the foregoing Complaint, bearing docket number FIFRA-02-2013-5305, and a copy of the Consolidated Rules of Practice, 40 CFR Part 22 (2005), by certified mail, return receipt requested, to:

James Blome, President and CEO
Bayer CropScience LP
c/o Corporation Service Company
2711 Centerville Road, Suite 400
Wilmington, DE 19808

I forwarded the foregoing Complaint to the office of the Regional Hearing Clerk, United States Environmental Protection Agency, Region 2.

Dated: April 10, 2013
New York, New York

Sheldene A. Bay