

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

-----X
In the Matter of :
 :
Walco Linck Company :
 :
Respondent :
 :
Proceeding under the Federal Insecticide, :
Fungicide, and Rodenticide Act, as amended :
-----X

**CONSENT AGREEMENT
AND FINAL ORDER**

Docket No. FIFRA-02-2011-502

REGIONAL HEARING
CLERK
2012 MAR 15 P 2:03

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II

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 (“FIFRA”), as amended, 7 U.S.C. § 136 *et seq.* 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, Walco Linck Company, located at 18 Ford Products Road, Valley Cottage, New York 10989.

The Complainant charged Respondent with one violation 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 Reports”). 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 Walco Linck Company.”

2. This Consent Agreement is being entered into by Respondent, Walco Linck Company, and this Consent Agreement is binding on Walco Linck Company.

3. Respondent’s establishment is registered under Section 7 of FIFRA, 7 U.S.C. § 136e. Its assigned EPA Establishment Number is 0506-NY-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 an annual pesticide production report (the “Report”) on or before March 1 of each year, even if the producer has produced no pesticides for that reporting year.

6. The Respondent provided evidence that it requested inactivation of its establishment in a cover letter sent along with the 2008 pesticides production report which was received by the EPA on February 26, 2009.

7. Respondent failed to submit an annual pesticide production report for the calendar year 2009 on or before March 1, 2010.

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

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 the personal jurisdiction of Walco Linck Company.
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 Conclusions of Law in this Consent Agreement.
5. The penalty for non-submission of the 2009 pesticides production report is reduced to zero by EPA.
6. 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.
7. 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.
8. This Consent Agreement is being entered into by the parties in full settlement of civil liabilities associated with pesticide production establishment reporting requirements under 7 U.S.C. § 136(e) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, 7 U.S.C. § 136 *et seq.* Respondent has read the Consent Agreement and Final Order, finds it reasonable, and consents to its issuance and its terms.

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

10. 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.

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

12. 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.

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

14. 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.

In the Matter of Walco Linck Company
Docket Number: FIFRA-02-2011-5202

RESPONDENT: Walco Linck Company

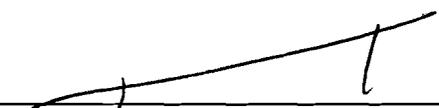
BY: 
Authorizing Signature

NAME: Eric Clifford
(PLEASE PRINT)

TITLE: Regulatory Compliance Manager

DATE: 1/9/2012

COMPLAINANT:



Dore LaPosta, Director
Division of Enforcement and Compliance Assistance
United States Environmental Protection Agency, Region 2
290 Broadway
New York, NY 10007

DATE: March 1, 2012

In the Matter of Walco Linck Company
Docket Number: FIFRA-02-2011-5202

FINAL ORDER

The Regional Judicial Officer of the United States 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, United States Environmental Protection Agency, Region 2, New York, New York.

Helen Ferrara

Helen Ferrara
Regional Judicial Officer
United States Environmental Protection Agency, Region 2
290 Broadway
New York, NY 10007

DATE: March 6, 2012

In the Matter of Walco Linck Company
Docket Number: FIFRA-02-2011-5202

CERTIFICATE OF SERVICE

I certify that I have this day caused to be sent the foregoing Consent Agreement and Final Order for 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
United States Environmental Protection Agency, Region 2
290 Broadway, 16th floor
New York, NY 10007-1866

USPS First Class Mail

Mr. Eric Clifford
Regulatory Compliance Manager
Walco Linck Company
8015 Pleasant Valley Road
Independence, OH 44131

Dated: March 14, 2012
Edison, New Jersey

