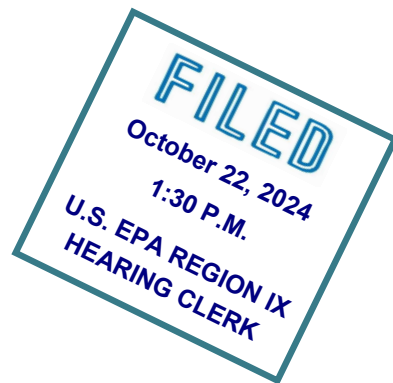


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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
SAN FRANCISCO, CALIFORNIA

In the Matter of:)	
)	
Valent U.S.A. LLC,)	Docket No. FIFRA-09-2025-0009
)	
)	CONSENT AGREEMENT AND FINAL
)	ORDER PURSUANT TO
)	40 C.F.R. §§ 22.13 AND 22.18
_____ Respondent.)	

I. CONSENT AGREEMENT

The United States Environmental Protection Agency, Region IX (“EPA”), and Valent U.S.A. LLC (“Respondent”) agree to settle this matter and consent to the entry of this Consent Agreement and Final Order (“CAFO”), which simultaneously commences and concludes this matter in accordance with 40 C.F.R. §§ 22.13 and 22.18.

A. AUTHORITY AND PARTIES

1. This is a civil administrative action instituted pursuant to Section 14(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (“FIFRA” or “the Act”), as amended, 7 U.S.C §136/(a)(1), for the assessment of a civil administrative penalty against Respondent for violation of Section 12 of the Act.

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2. Complainant is the Manager of the Toxics Section of the Enforcement and Compliance Assurance Division, EPA Region IX, who has been duly delegated the authority to bring this action and to sign a consent agreement settling this action.
3. Respondent is a Delaware limited liability company that imported a pesticidal product into the United States through the State of California.

B. APPLICABLE STATUTORY AND REGULATORY SECTIONS

4. Section 17(c) of FIFRA and regulations promulgated at 19 C.F.R. Part 12 pursuant to Section 17(e) of FIFRA by the Secretary of the Treasury in consultation with the EPA Administrator govern the importation of pesticides into the United States.
5. 19 C.F.R. § 12.111 provides that “[c]ertain imported pesticides are required to be registered under the provisions of section 3 of the Act . . . before being permitted entry into the United States. . . .”
6. Section 2(s) of FIFRA, 7 U.S.C. § 136(s), defines a “person” as any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.
7. Section 2(t) of FIFRA, 7 U.S.C. § 136(t), defines a “pest” as “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 (except viruses, bacteria, or other living micro-organisms on or in living man or other living animals) which the Administrator declares to be a pest under Section 25(c)(1) of FIFRA, 7 U.S.C. § 136 w(c)(1).”
8. Section 2(u) of FIFRA, 7 U.S.C. § 136(u), defines a “pesticide,” in part, as “any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.”

9. Section 2(p)(1) of FIFRA, 7 U.S.C. § 136(p)(1), defines the term “label” as “the written, printed, or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers.” Section 2(p)(2)(A) of FIFRA, 7 U.S.C. § 136(p)(2)(A), defines the term “labeling” as “all labels and all other written, printed, or graphic matter...accompanying the pesticide or device at any time..”
10. Section 2(q)(1) of FIFRA, 7 U.S.C. § 136(q)(1), provides that a pesticide is “misbranded” if “(E) any word, statement, or other information required by or under authority of this subchapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.”
11. Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), defines the term “distribute or sell” to mean “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.”
12. Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), provides that it shall be unlawful for any person to distribute or sell to any person any pesticide which is adulterated or misbranded.
13. The Administrator of EPA may assess a civil penalty of up to \$24,255 against any registrant, commercial applicator, wholesaler, dealer, retailer, or other distributor who violates any provision of FIFRA for each offense that occurred after November 2, 2015 and is assessed on or after December 27, 2023. *See* Section 14(a)(1) of FIFRA, 7 U.S.C.

§ 136l(a)(1); 40 C.F.R. Part 19; and the Civil Monetary Penalty Inflation Adjustment Rule at 88 Fed. Reg. 89,309 (December 27, 2023).

C. ALLEGATIONS

14. At all times relevant to this CAFO, Respondent was a limited liability company and therefore a "person" as defined in Section 2(s) of FIFRA, 7 U.S.C. § 136(s).
15. On or about July 9, 2024, Respondent imported one (1) shipment containing 160 drums of the pesticide, Ethaboxam Technical (EPA Registration No. 59639-185), Entry Number 113-32674215, into the United States at the Port of Los Angeles, California from Japan.
16. As the importer of the shipment referenced above and by doing business in the United States, Respondent is subject to the requirements of FIFRA and its implementing regulations.
17. Respondent's shipment of the pesticide, Ethaboxam Technical, into the United States through the Port of Los Angeles, California on or about July 9, 2024 constitutes a "distribution or sale" of the pesticide pursuant to Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg).
18. At all times relevant to this CAFO, the label for the pesticide, Ethaboxam Technical, that Respondent shipped into the United States did not match the current EPA-approved label for the pesticide, accepted January 12, 2023. Specifically, in the section of the label that provides that the pesticide, Ethaboxam Technical, is "[o]nly for formulation into fungicide products for the following uses," the label for the pesticide, Ethaboxam Technical, that Respondent shipped into the United States did not include "terrestrial non-food seed treatment use for the individual crop, alfalfa."

19. Based on failure of the label to include language about “terrestrial non-food seed treatment use for the individual crop, alfalfa,” the pesticide, Ethaboxam Technical, that Respondent shipped into the United States on or about July 9, 2024 is “misbranded” pursuant to Section 2(q)(1)(E) of FIFRA, 7 U.S.C. § 136(q)(1)(E).
20. Consequently, Respondent’s importation of the shipment of the pesticide, Ethaboxam Technical, into the United States through the Port of Los Angeles, California on or about July 9, 2024 constitutes one (1) violation of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), which provides that it is unlawful for any person to distribute or sell to any person a pesticide which is adulterated or misbranded.

D. RESPONDENT’S ADMISSIONS

21. In accordance with 40 C.F.R. § 22.18(b)(2) and for the purpose of this proceeding, Respondent (i) admits that EPA has jurisdiction over the subject matter of this CAFO and over Respondent; (ii) neither admits nor denies the specific factual allegations contained in the CAFO; (iii) consents to any and all conditions specified in this CAFO and to the assessment of the civil administrative penalty under Section I.E of this CAFO; (iv) waives any right to contest the allegations contained in Section I.C of the CAFO; and (v) waives the right to appeal the final order contained in this CAFO.

E. CIVIL ADMINISTRATIVE PENALTY

22. Respondent agrees to the assessment of a penalty in the amount of EIGHT THOUSAND AND SEVENTY DOLLARS (\$8,070) as final settlement of the civil claims against Respondent arising under the Act as alleged in Section I.C of the CAFO.
23. Respondent shall pay the assessed penalty no later than thirty (30) days from the effective date of this CAFO. Payment shall be made by cashier's or certified check payable to the

"Treasurer, United States of America," or be paid by one of the other methods listed below:

- a. Respondent may pay online through the Department of the Treasury website at www.pay.gov. In the Search Public Form field, enter SFO 1.1, click EPA Miscellaneous Payments - Cincinnati Finance Center, and complete the SFO Form Number 1.1.
- b. Respondent may also pay using any method or combination of methods provided on the following website:

<https://www.epa.gov/financial/additional-instructions-making-payments-epa>

If any clarification regarding a particular method of payment remittance is needed, please contact the EPA Cincinnati Finance Center at 513-487-2091.

Concurrent with payment of the penalty, Respondent shall send a PDF copy of the notification that the payment has been made by one of the methods listed above, including proof of the date payment was made, to the following email addresses:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region IX
r9HearingClerk@epa.gov

Rieko Nishimura
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region IX
nishimura.rieko@epa.gov

24. Payment of the above civil administrative penalty shall not be used by Respondent or any other person as a tax deduction from Respondent's federal, state, or local taxes.
25. If Respondent fails to pay the assessed civil administrative penalty specified in Paragraph 22, then Respondent shall pay to EPA the stipulated penalty of ONE HUNDRED AND FIFTY DOLLARS (\$150) for each day the default continues, in addition to the assessed

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penalty upon written demand by EPA. In addition, failure to pay the civil administrative penalty by the deadline specified in Paragraph 23 may lead to any or all of the following actions:

- a. The debt being referred to a credit reporting agency, a collection agency, or to the Department of Justice for filing of a collection action in the appropriate United States District Court. 40 C.F.R. §§ 13.13, 13.14, and 13.33. In any such collection action, the validity, amount, and appropriateness of the assessed penalty and of this CAFO shall not be subject to review.
- b. The debt being collected by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds. 40 C.F.R. Part 13, Subparts C and H.
- c. EPA may (i) suspend or revoke Respondent's licenses or other privileges; or (ii) suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds. 40 C.F.R. § 13.17.
- d. In accordance with the Debt Collection Act of 1982 and 40 C.F.R. Part 13 interest, penalties charges, and administrative costs will be assessed against the outstanding amount that Respondent owes to EPA for Respondent's failure to pay the civil administrative penalty by the deadline specified in Paragraph 23. Interest will be assessed at an annual rate that is equal to the rate of current value of funds to the United States Treasury (i.e., the Treasury tax and loan account rate) as prescribed and published by the Secretary of the Treasury in the Federal Register

and the Treasury Fiscal Requirements Manual Bulletins. 40 C.F.R. § 13.11(a)(1). Penalty charges will be assessed monthly at a rate of 6% per annum. 40 C.F.R. § 13.11(c). Administrative costs for handling and collecting Respondent's overdue debt will be based on either actual or average cost incurred and will include both direct and indirect costs. 40 C.F.R. § 13.11(b). In addition, if this matter is referred to another department or agency (e.g., the Department of Justice, the Internal Revenue Service), that department or agency may assess its own administrative costs, in addition to EPA's administrative costs, for handling and collecting Respondent's overdue debt.

F. CERTIFICATION OF COMPLIANCE

26. In executing this CAFO, Respondent certifies that, to the best of its knowledge, it is currently in compliance with any and all FIFRA requirements that apply to its ongoing operations.

G. RETENTION OF RIGHTS

27. In accordance with 40 C.F.R. § 22.18(c), this CAFO only resolves Respondent's liability for federal civil penalties for the violations and facts specifically alleged in Section I.C of the CAFO. Nothing in this CAFO is intended to or shall be construed to resolve (i) any civil liability for violations of any provision of any federal, state, or local law, statute, regulation, rule, ordinance, or permit not specifically alleged in Section I.C of the CAFO; or (ii) any criminal liability. EPA specifically reserves any and all authorities, rights, and remedies available to it (including, but not limited to, injunctive or other equitable relief or criminal sanctions) to address any violation of this CAFO or any violation not specifically alleged in Section I.C of the CAFO.

28. This CAFO does not exempt, relieve, modify, or affect in any way Respondent's duty to comply with all applicable federal, state, and local laws, regulations, rules, ordinances, and permits.

H. ATTORNEY'S FEES AND COSTS

29. Each party shall bear its own attorneys' fees, costs, and disbursements incurred in this proceeding.

I. EFFECTIVE DATE

30. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CAFO shall be effective on the date that the final order contained in this CAFO, having been approved and issued by either the Regional Judicial Officer or Regional Administrator, is filed.

J. BINDING EFFECT

31. The undersigned representative of Complainant and the undersigned representative of Respondent each certifies that he or she is fully authorized to enter into the terms and conditions of this CAFO and to bind the party he or she represents to this CAFO.
32. The provisions of this CAFO shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns.

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FOR RESPONDENT, VALENT U.S.A. LLC

October 3, 2024
DATE




Edmund Baumgartner
Vice President/General Counsel
Valent U.S.A. LLC

FOR COMPLAINANT, EPA REGION IX:

10/21/2024
DATE

MATTHEW
SALAZAR

Matt Salazar, P.E.
Manager
Toxics Section
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region IX

 Digitally signed by MATTHEW
SALAZAR
Date: 2024.10.21 09:22:37 -07'00'

II. FINAL ORDER

Complainant and Respondent, Valent U.S.A. LLC, having entered into the foregoing Consent Agreement,

IT IS HEREBY ORDERED that this CAFO (Docket No. FIFRA-09-2025-0009) be entered and that Respondent shall pay a civil administrative penalty in the amount of EIGHT THOUSAND AND SEVENTY DOLLARS (\$8,070) and comply with the terms and conditions set forth in the Consent Agreement.

DATE

Beatrice Wong
Regional Judicial Officer
U.S. Environmental Protection Agency, Region IX

CERTIFICATE OF SERVICE

I hereby certify the attached Consent Agreement and Final Order in the matter of Valent U.S.A. LLC (Docket No. FIFRA-09-2025-0009) has been filed by Regional Hearing Clerk, and that a true and correct copy was served on the parties, via electronic mail, as indicated below:

RESPONDENT:

Eric Tamichi
Senior Director
Valent U.S.A. LLC
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San Ramon, CA 94538
Eric.Tamichi@valent.com

Edmund Baumgartner
Vice President/General Counsel
Valent U.S.A. LLC
4600 Norris Canyon Road
San Ramon, CA 94538
Ted.Baumgartner@valent.com

Amy Symonds, Esq.
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1001 Pennsylvania Avenue
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ASymonds@crowell.com

COMPLAINANT:

Carol Bussey
Assistant Regional Counsel
U.S. EPA – Region IX
Air & Toxics Section II (ORC-2-2)
75 Hawthorne Street
San Francisco, CA 94105

Ponly Tu
Regional Hearing Clerk
U.S. EPA – Region IX