



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

4APT-PTSB

DEC 23 2008

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Chris Howard, Corporate Counsel  
Syngenta Crop Protection, Inc.  
410 South Swing Road  
Greensboro, NC 27409-2080

SUBJ: Docket No. FIFRA-04-2008-9203(b)  
Syngenta Crop Protection, Inc. (Self-Disclosure)

Dear Mr. Howard:

Enclosed is a copy of the ratified Consent Agreement and Final Order (CAFO) in the above-referenced matter. The original CAFO has been filed with the Regional Hearing Clerk and served on the parties as directed in Section 22.6 of the Consolidated Rules of Practice, 40 CFR Part 22.

As stated in Section IV of the CAFO, the assessed penalty of \$27,300 is due within 30 days from the effective date. Please ensure that the face of your cashier's or certified check includes the name of the company name and docket number of this case.

Penalty payment questions should be directed to Ms. Lori Weidner either by telephone at (513) 487-2125 or by written correspondence to her attention at the U.S. Environmental Protection Agency (EPA), Cincinnati Accounting Operations address identified in the CAFO. Should you have any questions about your compliance status in the future, please call me at (404) 562-8979 or Ms. Cheryn Jones at (404) 562-9006.

Also enclosed is a copy of a document entitled "Notice of Securities and Exchange Commission's Environmental Duty to Disclose Environmental Proceedings." This document puts you on notice of your potential duty to disclose to the Securities and Exchange Commission (SEC) any environmental enforcement actions taken by the EPA.

Sincerely,

Jeaneanne M. Gettle  
Chief  
Pesticides and Toxic  
Substances Branch

Enclosures (2)

cc: Ms. Shannon Joyner, NC-DACS

Internet Address (URL) • <http://www.epa.gov>

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UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
ATLANTA, GEORGIA

RECEIVED  
EPA REGION 4  
2008 DEC 23 PM 1:43  
HEATHER CLARK

In the Matter of: )  
)  
Syngenta Crop Protection, Inc. )  
)  
Respondent. )  
\_\_\_\_\_ )

Docket No. FIFRA-04-2008-9203(b)

CONSENT AGREEMENT AND FINAL ORDER

I. Nature of the Action

1. This is a civil penalty proceeding pursuant to Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, 7 U.S.C. § 136l(a) (hereinafter "FIFRA"), and pursuant to the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), 40 CFR Part 22. Complainant is the Director of the Air, Pesticides, and Toxics Management Division, United States Environmental Protection Agency, Region 4 (EPA). Respondent is Syngenta Crop Protection, Inc.
2. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 CFR § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 CFR § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

## II. Preliminary Statements

3. The authority to take action under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), is vested in the Administrator of EPA. The Administrator of EPA has delegated this authority under FIFRA to EPA Region 4 by EPA Delegation 5-14 dated May 11, 1994.
4. Pursuant to 40 CFR § 22.5(c)(4) the following individual represents EPA in this matter and is authorized to receive service for EPA in this proceeding:

Cheryn L. Jones  
Pesticides Management Section  
U.S. EPA - Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960  
(404) 562-9006.
5. Respondent is Syngenta Crop Protection, Inc., incorporated in the State of Delaware, and doing business in North Carolina, and Respondent is located at 410 S. Swing Road, Greensboro, NC 27409.
6. Respondent has a facility that produces pesticides located at 4111 Gibson Road, Omaha, NE 68107.
7. Respondent is a "person" as defined by Section 2(s) of FIFRA, 7 U.S.C. § 136(s), in that it is a corporation, and as such is subject to FIFRA and the regulations promulgated thereunder.
8. Respondent is a "registrant" as defined by Section 2(y) of FIFRA, 7 U.S.C. § 136(y) in that it is a person who has registered pesticides pursuant to the provisions of FIFRA.
9. Respondent is a "producer" as defined by Section 2(w) of FIFRA, 7 U.S.C. § 136(w), in that it is a person who manufactures, prepares, compounds, propagates, or processes any pesticide.

10. "Pesticide" is defined by Section 2(u) of FIFRA, 7 U.S.C. § 136(u), to mean any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.
11. Respondent produces pesticides "to distribute or sell" as that term is defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), in that the pesticides are held for distribution, held for sale, held for shipment, shipped, delivered for shipment, released for shipment or received and (having so received) delivered or offered to deliver.
12. On or about June 4, 2008, Respondent discovered violations of Section 12(a)(1)(C) of FIFRA, 7 U.S.C. § 136j(a)(1)(C), at its Omaha, NE facility, and disclosed these violations to EPA Region 8, located in Denver, CO, by telephone on or about June 6, 2008. Respondent voluntarily disclosed the violations in writing to EPA Region 4 by letter dated June 26, 2008.
13. The self-disclosed violations consisted of seven shipments of Reflex Herbicide, EPA Reg. No. 100-993, which were contaminated with up to 600 ppm of the herbicide "s-metolachlor" during the manufacturing process.
14. Under Section 12(a)(1)(C) of FIFRA, 7 U.S.C. § 136j(a)(1)(C), it is unlawful for any person in any State to distribute or sell to any person any registered pesticide the composition of which differs at the time of its distribution or sale from its composition as described in the statement required in connection with its registration under Section 3 of FIFRA, 7 U.S.C. § 136a.
15. Respondent violated Section 12(a)(1)(C) of FIFRA, 7 U.S.C. § 136j(a)(1)(C), on at least seven separate occasions and is therefore subject to the assessment of civil penalties under Section 14 of FIFRA, 7 U.S.C. § 136l.

16. After consideration of the factors set forth in Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), EPA proposes to assess a total civil penalty of TWENTY-SEVEN THOUSAND THREE HUNDRED DOLLARS (\$27,300) against the Respondent for the above-described violations. Civil penalties under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), may be assessed by Administrative Order.

### III. Consent Agreement

17. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the factual allegations.
18. Respondent waives its right to a hearing on the allegations contained herein and its right to appeal the proposed final order accompanying the consent agreement.
19. Respondent consents to the assessment of the penalty proposed by EPA and agrees to pay the civil penalty as set forth in this CAFO.
20. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of FIFRA.
21. Compliance with this CAFO shall resolve the allegations of the violations contained herein. This CAFO shall not otherwise affect any liability of Respondent to the United States. Other than as expressed herein, neither EPA nor Complainant waives any right to bring an enforcement action against Respondent for violation of any federal or state statute, regulation or permit, to initiate an action for imminent and substantial endangerment, or to pursue criminal enforcement.
22. Complainant and Respondent agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of FIFRA.

IV. Final Order

23. Respondent is assessed a civil penalty of TWENTY-SEVEN THOUSAND THREE HUNDRED DOLLARS (\$27,300) which shall be paid within 30 days from the effective date of this CAFO.
24. Respondent shall remit the penalty by either a cashier's or certified check made payable to the "Treasurer, United States of America," and shall send the check via U.S. mail to the following address:

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

**The check shall reference the name and the Docket Number of the CAFO**

**["Syngenta Crop Protection, Inc., FIFRA-04-2008-9203(b)"].**

25. At the time of payment, Respondent shall send a separate copy of the check and a written statement that the payment is being made in accordance with this CAFO, to the following persons at the following addresses:

Regional Hearing Clerk  
U.S. EPA - Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960;

Cheryn L. Jones  
Pesticides Management Section  
U.S. EPA - Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960; and

Saundi Wilson  
Office of Environmental  
U.S. EPA - Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960.

26. For the purposes of state and federal income taxation, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for any civil penalty payment made pursuant to this CAFO. Any attempt by Respondent to deduct any such payments shall constitute a violation of this CAFO.
27. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty from the date of entry of this CAFO, if the penalty is not paid by the date required. A charge will also be assessed to cover the administrative costs, both direct and indirect, of overdue debts. In addition, a late payment penalty charge shall be applied on any principal amount not paid within 90 days of the due date.
28. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
29. This CAFO shall be binding upon the Respondent, its successors and assigns.
30. The undersigned representative of the party to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally binds that party to this CAFO.

V. Effective Date

31. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

**AGREED AND CONSENTED TO:**

**Syngenta Crop Protection, Inc.**

By:  (Signature)

Date: 12-1-2008

Name: CHRIS HOWARD (Typed or Printed)

Title: CORPORATE COUNSEL (Typed or Printed)

**U.S. Environmental Protection Agency**

By: 

Date: 12-15-2008

Beverly H. Banister  
Director  
Air, Pesticides and Toxics  
Management Division  
61 Forsyth Street  
Atlanta, Georgia 30303-8960

APPROVED AND SO ORDERED this 23<sup>rd</sup> day of December 2008.



Susan B. Schub  
Regional Judicial Officer



CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing Consent Agreement and Final Order, in the Matter of: Syngenta Crop Protection, Inc., FIFRA Docket No. FIFRA-04-2008-9203(b), on the parties listed below in the manner indicated.

Cheryn L. Jones  
4APT-PTSB  
Pesticides Management Section  
U.S. EPA - Region 4  
61 Forsyth Street  
Atlanta, GA 30303-8960  
(404) 562-9006

(Via EPA's internal mail)

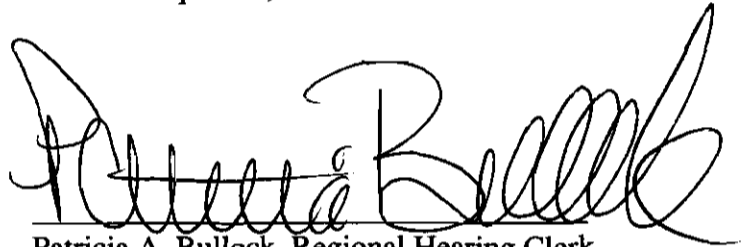
Michiko Kono  
Office of Environmental Accountability  
U.S. EPA - Region 4  
61 Forsyth Street  
Atlanta, GA 30303-8960  
(404) 562-9558

(Via EPA's internal mail)

Chris Howard  
Corporate Counsel  
Syngenta Crop Protection, Inc.  
410 South Swing Road  
Greensboro, NC 27409-2080

(Via Certified Mail - Return Receipt Requested)

Date: 12-23-08



Patricia A. Bullock, Regional Hearing Clerk  
United States Environmental  
Protection Agency, Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street  
Atlanta, GA 30303-8960  
(404) 562-9511

**EPA ACCOUNTS RECEIVABLE CONTROL NUMBER FORM**

**TO BE COMPLETED BY THE ORIGINATING OFFICE:**

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Saundi Wilson on 12/19/08  
(Name) (Date)

in the Region 4, ORC, OEA at (404) 562-9504  
(Office) (Telephone Number)

- |  |  |
|--|--|
| <input type="checkbox"/> Non-SF Judicial Order/Consent Decree<br>USAO COLLECTS | <input checked="" type="checkbox"/> Administrative Order/Consent Agreement<br>FMO COLLECTS PAYMENT |
| <input type="checkbox"/> SF Judicial Order/Consent Decree<br>DOJ COLLECTS      | <input type="checkbox"/> Oversight Billing - Cost Package required:<br>Sent with bill              |
| <input type="checkbox"/> Other Receivable                                      | <input type="checkbox"/> Not sent with bill  |
| <input type="checkbox"/> This is an original debt                              | <input type="checkbox"/> Oversight Billing - Cost Package not required                             |
|  | <input type="checkbox"/> This is a modification  |

PAYEE: Syngenta Crop Protection  
(Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 27,300  
(If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: FIFRA 04 2008-9203(b)

The Site Specific Superfund Account Number: \_\_\_\_\_

The Designated Regional/Headquarters Program Office: \_\_\_\_\_

The IFMS Accounts Receivable Control Number is: \_\_\_\_\_ Date \_\_\_\_\_

If you have any questions, please call: \_\_\_\_\_ of the Financial Management Section at: \_\_\_\_\_

**DISTRIBUTION:**

A. **JUDICIAL ORDERS:** Copies of this form with an attached copy of the front page of the **FINAL JUDICIAL ORDER** should be mailed to:

- |  |   |
|--|---|
| 1. Debt Tracking Officer<br>Environmental Enforcement Section<br>Department of Justice RM 1647<br>P.O. Box 7611, Benjamin Franklin Station<br>Washington, D.C. 20044 | 2. Originating Office (EAD)<br>3. Designated Program Office |
|--|---|

B. **ADMINISTRATIVE ORDERS:** Copies of this form with an attached copy of the front page of the Administrative Order should be to:

- |  |   |
|--|---|
| 1. Originating Office<br>2. Regional Hearing Clerk | 3. Designated Program Office<br>4. Regional Counsel (EAD) |
|--|---|