

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY**

**BEFORE THE ADMINISTRATOR**

**In re FIFRA Section 3(c)(2)(B) Notice of Intent  
to Suspend Dimethyl Tetrachloroterephthalate  
(DCPA) Technical Registration**

**AMVAC Chemical Corporation;  
Grower-Shipper Association of Central  
California; Sunheaven Farms, LLC; J&D  
Produce; Ratto Bros., Inc.; and Huntington  
Farms,  
Petitioners.**

**Docket No. FIFRA-HQ-2022-0002**

**JOINT STIPULATIONS AND  
RESPONDENT'S STATUS REPORT**

**I. STIPULATIONS AS TO AUTHENTICITY AND ADMISSIBILITY OF DOCUMENTS**

Consistent with the Presiding Officer's October 18, 2022, Order on Respondent's Motion to Amend Hearing and Scheduling Order ("Scheduling Order"), Petitioner AMVAC Chemical Corporation ("AMVAC"), the Grower-Shipper Association of Central California; J&D Produce; Ratto Bros., Inc.; and Huntington Farms (the "Grower Petitioners," together with AMVAC, "Petitioners"), and Respondent Office of Pesticide Programs ("OPP") (collectively, the "Parties") hereby submit the following stipulations.

The Parties are continuing to exchange and review additional factual stipulations to focus the hearing on matters that can only be resolved after an evidentiary hearing. The Parties will use their best efforts to finalize and submit these stipulations by December 30, 2022.

Stipulations as to authenticity below indicate that the party or parties stipulating agree that the exhibit is a genuine un-altered copy, that it was written by the individual(s) indicated thereon, if applicable, and that it was signed by the individual(s) indicated thereon, if applicable.

Stipulations as to admissibility below indicate that the party or parties stipulating will not assert at the hearing that the exhibit should not be received into evidence. A stipulation as to admissibility shall not preclude the stipulating party or parties from asserting that an exhibit is of little or no probative value on one or more issues or supports a conclusion other than the one urged by the party referring to the exhibit at hearing or in briefing.

Joint Exhibits

1. The Parties stipulate to the authenticity and admissibility of the documents previously submitted as Joint Exhibits (“JX”) 1-48 and 50-86.

Respondent OPP’s Exhibits

2. The Parties stipulate to the authenticity of Respondent’s Exhibits (“RX”) 1-18.

3. The Parties stipulate to the admissibility of RX 1-12 and 17-18.

Petitioner AMVAC’s Exhibits

4. The Parties stipulate as to the authenticity and admissibility of the documents previously submitted as Petitioner AMVAC’s Exhibits (“PAX”) 1-43.

5. The Parties stipulate as to the authenticity and admissibility of Petitioner AMVAC’s Exhibit PAX 45, which is submitted as an attachment to this filing.

6. The Parties stipulate as to the authenticity of PAX 44 and 46, the latter of which is submitted as an attachment to this filing.

Grower Petitioners’ Exhibits

7. The Parties stipulate to the authenticity of PGX 1-3.

Official Notice of DCPA Docket Materials

8. Petitioners object to OPP’s request that the Presiding Officer take official notice of documents contained in the registration review docket for DCPA, “DCPA (dacthal), PC Code

078701; Registration Review,” Regulations.gov Docket ID EPA-HQ-OPP-2011-0374 (the “DCPA Reg. Review Docket”), and the DCPA Reregistration Eligibility Decision (the “RED”), U.S. EPA (Nov. 1998), as the term “official notice” is used in 40 C.F.R. § 164.81(e), to the extent that such notice involves a finding that any statement in a document concerns a fact “within the specialized knowledge and experience of the Agency.”

9. Petitioners are willing to stipulate to the authenticity and admissibility of the documents in the DCPA Reg. Review Docket and the RED, consistent with the other stipulations as to authenticity and admissibility herein, and further to stipulate that documents in the DCPA Reg. Review Docket were placed in the docket on the date they are indicated as having been “Posted” by the Regulations.gov web page.

## **II. STATUS OF OUTSTANDING DATA REQUIREMENTS**

Respondent, the United States Environmental Protection Agency, Office of Chemical Safety and Pollution Prevention, Office of Pesticide Programs (“OPP”), hereby provides the following status report.

Since OPP’s April 28, 2022 issuance of the Notice of Intent to Suspend (“NOITS”) that initiated this matter, AMVAC has submitted several studies and other information to OPP pursuant to the January 31, 2013 Generic Data Call-In Notice (“DCI”) (GDCI-078701-1140).

10. Accordingly, OPP considers the following DCI data requirement to be satisfied:

- **Special study, DCPA Comparative Thyroid Assay.**

11. While OPP has not yet determined that the following two DCI data requirements have been satisfied, Respondent is no longer alleging that AMVAC failed to take appropriate steps to secure the listed data requirements, and hence will not pursue suspension under the April 28, 2022 NOITS based on:

- **Guideline 850.1400, DCPA Fish Early Life-Stage (Bluegill Sunfish);**
- **Guideline 850.1400, DCPA Fish Early Life-Stage (Sheepshead Minnow).**

12. Additionally, while OPP does not consider the following four DCI data requirements to be satisfied, Respondent is no longer alleging that AMVAC failed to take appropriate steps to secure the listed data requirements, and hence will not pursue suspension under the April 28, 2022 NOITS based on:

- **OCSPP Guideline 850.2100, DCPA Acute Avian (passerine);**
- **OCSPP Guideline 850.4100, DCPA Seedling Emergence (lettuce);**
- **Guideline 850.1350, DCPA Aquatic Invertebrate Life-Cycle, Estuarine/Marine Mysid;**
- **Special Study 1069, DCPA chironomous.**

13. Accordingly, these seven DCI data requirements in paragraphs 10-12, above, are no longer ripe for consideration during the hearing scheduled to begin January 24, 2022. However, Respondent is not waiving its ability to seek suspension under FIFRA Section 3(c)(2)(B)(iv) in a later-issued notice of intent to suspend, based on further review by OPP.

14. For the remaining 13 DCI data requirements listed in the NOITS, OPP is continuing to evaluate other data submitted by AMVAC and will provide further updates to the Presiding Officer if it determines that other DCI data requirements have been satisfied or if it chooses to no longer pursue suspension based on certain requirements.

Respectfully submitted,

Dated: December 23, 2022

Forrest Pittman  
Pesticides and Toxic Substances Law Office  
Office of General Counsel  
U.S. Environmental Protection Agency  
Mail Code 2310A  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460  
202-564-9626  
[Pittman.Forrest@epa.gov](mailto:Pittman.Forrest@epa.gov)

*Counsel for Respondent*

*/s with permission*

Hume M. Ross  
Tracy A. Heinzman  
Keith A. Matthews  
WILEY REIN LLP  
2050 M ST NW  
Washington, DC 20036  
Telephone: (202) 719-7000  
[HRoss@wiley.law](mailto:HRoss@wiley.law)  
[THeinzman@wiley.law](mailto:THeinzman@wiley.law)  
[KMatthews@wiley.law](mailto:KMatthews@wiley.law)

*Attorneys for Petitioner AMVAC Chemical Corp.*

*/s with permission*

Cristen S. Rose  
HAYNES BOONE  
800 17th Street NW  
Washington, DC 20006  
[Cristen.Rose@haynesboone.com](mailto:Cristen.Rose@haynesboone.com)  
*Attorney for Petitioner "Grower Group"*  
*(Grower-Shipper Association of*  
*Central California, et al.)*

***In re FIFRA Section 3(c)(2)(B) Notice of Intent to Suspend Dimethyl  
Tetrachloroterephthalate (DCPA) Technical Registration***

AMVAC Chemical Corporation; Grower-Shipper Association of Central California; Sunheaven Farms, LLC; J&D Produce; Ratto Bros., Inc.; and Huntington Farms, Petitioners.  
Docket No. FIFRA-HQ-2022-0002

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing **Joint Stipulations and Respondent's Status Report**, dated December 23, 2022, was sent this day to the following parties in the manner indicated below.

---

Forrest Pittman  
Attorney Advisor

Copy by OALJ E-Filing System to:  
Mary Angeles, Headquarters Hearing Clerk  
U.S. Environmental Protection Agency  
Office of Administrative Law Judges  
Ronald Reagan Building, Rm. M1200  
1300 Pennsylvania Ave. NW  
Washington, DC 20004

Copy by Electronic Mail to:

Hume M. Ross  
Tracy A. Heinzman  
Keith A. Matthews  
WILEY REIN LLP  
2050 M ST NW  
Washington, DC 20036  
Telephone: (202) 719-7000  
[HRoss@wiley.law](mailto:HRoss@wiley.law)  
[THeinzman@wiley.law](mailto:THeinzman@wiley.law)  
[KMatthews@wiley.law](mailto:KMatthews@wiley.law)

*Attorneys for Petitioner AMVAC Chemical Corp.*

Cristen S. Rose  
HAYNES BOONE  
800 17th Street NW  
Washington, DC 20006  
[Cristen.Rose@haynesboone.com](mailto:Cristen.Rose@haynesboone.com)  
*Attorney for Petitioner "Grower Group"*  
*(Grower-Shipper Association of  
Central California, et al.)*

Dated December 23, 2022