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**

RESPONDENT'S REQUESTS FOR ADMISSION AND DOCUMENT REQUESTS TO AMVAC

Respondent, the United States Environmental Protection Agency, Office of Chemical Safety and Pollution Prevention, Office of Pesticide Programs ("OPP"),[1] pursuant to the Presiding Officer's October 3, 2022 Hearing and Scheduling Order and October 18, 2022 Order on Respondent's Motion to Amend Hearing and Scheduling Order, hereby submits these Requests for Admission and Document Requests to Petitioner AMVAC Chemical Corporation ("AMVAC"). Respondent requests that AMVAC respond within 30 days or within such time as the Presiding Officer may order.

Clearly admit or deny each of the factual allegations contained herein. If an allegation is not admitted, the answer to the allegation must specifically deny it or state in detail why AMVAC cannot truthfully admit or deny it. A denial must fairly respond to the substance of the matter and provide the factual or legal basis for the denial. When good faith requires AMVAC to

[1] For purposes of this Request, the terms "OPP," "EPA," and "the Agency" should be read as synonymous, and shall encompass the United States Environmental Protection Agency and any branch or division thereof, all persons employed thereby, and any contractors or consultants who perform work on behalf thereof.

qualify an answer or deny only a part of the allegation, the answer must specify the part admitted and qualify or deny the rest. AMVAC may assert lack of knowledge as a reason for failing to admit or deny only if AMVAC states it has made a reasonable inquiry and that the information it can readily obtain is insufficient to enable AMVAC to admit or deny.

Respondent's requests for documents cover all information in AMVAC's possession, custody, or control, including information in the possession of its employees, agents, servants, contractors, representatives, attorneys, or other persons directly or indirectly employed or retained by AMVAC or anyone else acting on AMVAC's behalf or otherwise subject to AMVAC's control.

If any requested document is no longer in AMVAC's possession, custody, or control, state when the document was last in its possession, custody, or control, what was done with the document, and the identity and address of the current custodian of the document (if any). If AMVAC is unable to locate or produce documents in response to a request, state the steps that were taken to locate such documents and the reasons why you cannot produce the documents requested. If any of the documents requested do not exist, indicate this in writing in response to these requests.

If an objection is made to any interrogatory or to producing any document, or any portion thereof, or to disclosing any information contained therein, based on any claim of privilege or protection from discovery, identify the claimed privilege or protection and the specific information to which it pertains.

If AMVAC asserts that a part of an interrogatory or a document request is objectionable, respond to those remaining parts of the interrogatory or document request to which you do not

object and state whether or not you are withholding potentially responsive documents based on the objection.

I. Requests for Admission

A. Questions Regarding SS-1072, (DCPA Chronic Sediment Tox., *Leptocheirus*)

1. Admit that, on or about June 27, 2016, EPA denied AMVAC's request (MRID 49865803) to waive this data requirement, a chronic sediment toxicity study in *Leptocheirus plumulosus* ("28-day study"). *See* JX 74.

2. Admit that, in the same waiver denial discussed in Question 1, OPP informed AMVAC that the 28-day study would remain an outstanding DCI requirement. JX 74.

3. Admit that, in the same waiver denial discussed in Question 1, OPP informed AMVAC that OPP would consider waiving the 28-day study at a later date, pending the results of a 10-day study conducted pursuant to Guideline 850.1740. JX 74.

4. Admit that, in an October 16, 2020 letter ("Data Delay Letter"), OPP re-iterated that AMVAC's request to waive the 28-day study was denied, and that OPP would reconsider waiving the 28-day study based on the results of the 10-day study. JX 21.

5. Admit that, in its December 17, 2020 response to the Data Delay Letter, AMVAC informed OPP that it would not submit either the 28-day study or the 10-day study unless OPP took additional steps. *See* JX 22.

B. Questions Regarding Guidelines 860.1300, 1340, 1480, 1900 (Residues)

6. Admit that, as of August 11, 2014, labels proposed by AMVAC for its DCPA products did not contain any language prohibiting the planting of crops without an established residue tolerance for DCPA in fields previously treated with DCPA.

7. Admit that, as of August 11, 2014, the labels for AMVAC's DCPA products did not contain any language prohibiting the planting, within a certain time period (plant-back interval or "PBI"), of crops with an established residue tolerance for DCPA in fields previously treated with DCPA.

8. Admit that, in a document dated February 15, 2015, and provided to AMVAC on or about March 27, 2017, OPP informed AMVAC that residue data was still required unless specified label modifications were submitted, including PBIs for crops with established residue tolerances and plant-back prohibitions for crops without an established residue tolerance. JX 38.

9. Admit that, in the document referenced in Question 8, OPP provided draft label language that, if implemented by AMVAC, would result in the Guideline Series 860 residue data no longer being necessary.

10. Admit that the proposed label amendments submitted by AMVAC on or about June 8, 2017, contained identical crop-rotation language as contained in the proposed labels referenced in Question 6, to wit: neither set of proposed labels included plant-back prohibitions or PBIs. JX 45.

11. Admit that the proposed label amendments re-submitted by AMVAC on or about May 23, 2019, contained identical crop-rotation language as contained in the proposed labels referenced in Questions 6 and 10, to wit: no set of proposed labels included plant-back prohibitions or PBIs. JX 46.

12. Admit that AMVAC has not, at any time between issuance of the DCI and the date of this motion, indicated to EPA that it intends to submit studies addressing the residue data requirements of the DCPA DCI.

C. Questions Regarding Guideline 835.4300 (TPA aerobic aquatic metabolism)

13. Admit that, in a document dated March 21, 2014, and provided to AMVAC on or about March 17, 2017, OPP denied AMVAC's request (MRID 49115401) to waive this data requirement and stated that additional data were needed for risk assessment. JX 66.

14. Admit that, in a document submitted by AMVAC on or about February 22, 2018, AMVAC informed EPA that it intended to submit a study report that addressed this data requirement.

15. Admit that, in the October 16, 2020 Data Delay Letter, OPP re-iterated that AMVAC's request to waive this data requirement was denied, and that the data requirement remained outstanding. JX 21.

16. Admit that, in its May 27, 2022 Request for Hearing and Statement of Objections filed in this matter before the Presiding Official, AMVAC characterized its own document, referenced in Question 14, as containing an intention to submit a study responsive to this data requirement.

17. Admit that AMVAC first characterized, on June 21, 2022, its own submissions following OPP's denial of the waiver request for the data requirement as directing OPP to consider a different study submitted prior to OPP's denial of the waiver request. *See* Opposition to Respondent's Motion for Accelerated Decision.

18. Admit that AMVAC did not, in either the document referenced in Question 14 or any other document submitted prior to June 21, 2022, provide any additional data in support of its initial waiver request.

19. Admit that AMVAC did not, in either the document referenced in Question 14 or any other document submitted prior to June 21, 2022, indicate which previously-submitted study it wished OPP to consider as satisfying this data requirement.

20. Admit that, prior to June 21, 2022, AMVAC did not submit any document or other request clearly marked as a subsequent request for OPP to waive this data requirement.

D. Questions Regarding Guidelines 835.4200, 4400 (TPA Fate) and 850.1350, 1400, 4500 (TPA Environmental Effects)

21. Admit that OPP published the Preliminary Problem Formulation to the DCPA public docket, provided notice of that posting in the Federal Register on June 29, 2011, and provided an opportunity for interested persons submit comments to OPP. RX 1, JX 65.

22. Admit that AMVAC did not submit any comment with respect to the DCPA public docket or otherwise indicate, prior to OPP's issuance of the DCPA DCI, concerns with EPA's plans to require additional data for registration review of DCPA.

23. Admit that, in a document dated March 21, 2014, and provided to AMVAC on or about March 27, 2017, OPP denied AMVAC's requests to waive the following six data requirements: Guideline 835.4400 (anaerobic aquatic metabolism study of TPA), 850.1350 (daphnid chronic toxicity study for TPA), 850.1400 (three fish early life-stage toxicity studies for TPA), and 850.4500[2] (aquatic non-vascular plant toxicity, algal species, for TPA).

24. Admit that, in a document dated February 7, 2017, OPP determined that the information AMVAC submitted in response to the data requirement for Guideline 835.4200 (anaerobic soil metabolism study of TPA) was classified as supplemental, stated that a reliable anaerobic soil metabolism study for TPA was still needed for risk assessment, and accepted AMVAC's prior proposal to provide new study data in fulfillment of this data requirement.

25. Admit that, in the October 16, 2020 Data Delay Letter, OPP re-iterated that AMVAC's requests to waive the seven data requirement referenced in Questions 23 and 24 were denied. JX 21.

26. Admit that, in the October 16, 2020 Data Delay Letter, OPP re-iterated that the seven data requirement referenced in Questions 23 and 24 remained outstanding. JX 21.

[2] OCSPP Guideline 850.5400 was re-designated as 850.4500 subsequent to OPP's issuance of the DCPA DCI.

27. Admit that the additional waiver requests (MRIDs 51398102 and 51398103) that AMVAC submitted on or about December 17, 2020, for these seven data requirements present the same rationale as contained in the previously-denied waiver requests submitted by AMVAC in 2013. *Compare, e.g.*, JX 5, att. 3 at 10 (proposing that OPP defer completion of TPA Guideline 850.1400 studies and that OPP perform its ecological risk assessment of TPA using the endpoint determined for DCPA) *with* JX 22, MRID 51398103 at 6 (proposing that OPP focus solely on DCPA in its ecological risk assessment).

II. Requests for Documents

Request 1. Provide all documents and communications in AMVAC's possession or control referring to or discussing the decision to submit label amendments without plant-back prohibitions or PBIs in the context of the DCPA DCI.

Request 2. Provide all documents and communications in AMVAC's possession or control referring to or discussing the decision not to conduct an alternate Guideline 850.1740 study in the context of the SS-1072 data requirement of the DCPA DCI.

Request 3. Provide any documents in AMVAC's possession or control prepared or used to track the data requirements identified in the DCPA DCI and AMVACs response(s) and/or progress in responding to those data requirements.

Request 4. Provide all documents and communications between AMVAC and any contract laboratory or consultant referring to or discussing the timing for initiation of any still-outstanding data requirement listed in the NOITS.

Request 5. Provide all documents and communications in AMVAC's possession or control referring to or discussing the decision to not submit data responsive to any data requirement of the DCPA DCI for which OPP had previously denied AMVAC's initial waiver requests.

Request 6. Provide all documents and communications detailing what additional information AMVAC intended to provide to EPA with respect to any data requirement of the DCPA DCI for which OPP had previously denied AMVAC's initial waiver requests, or for which OPP had previously determined AMVAC's initial submission did not fully satisfy the DCPA DCI data requirement.

Respectfully submitted,

FORREST PITTMAN

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Dated: October 25, 2022

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Docket No. FIFRA-HQ-2022-0002

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Respondent's Requests for Admission and Document Requests to AMVAC**, dated October 25, 2022, was sent this day to the following parties in the manner indicated below.

FORREST PITTMAN
Digitally signed by FORREST PITTMAN
Date: 2022.10.25 22:16:52 -04'00'

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Attorney Advisor

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Dated October 25, 2022