

**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 STATEMENT REGARDING WITNESS ATTENDANCE  
AND HEARING PROCEDURES**

Respondent, the United States Environmental Protection Agency (“EPA” or the “Agency”), Petitioner AMVAC Chemical Corporation (“AMVAC”), and Petitioners Grower-Shipper Association of Central California; Sunheaven Farms, LLC; J&D Produce; Ratto Bros., Inc.; and Huntington Farms (“Grower Petitioners”) (collectively, the “Parties”) have conferred and jointly submit the following information in advance of the hearing in this matter, presently scheduled for July 6-8, 2022. The Parties are not requesting a written response from the Court in advance of the hearing but are available for a prehearing conference limited to any or all of the issues discussed below if deemed appropriate by the Court.

First, in the Parties’ Joint Motion for Witness Appearance by Videoconference, submitted on June 23, 2022, and granted on June 28, 2022, the Parties proposed to notify the Office of Administrative Law Judges (“OALJ”) by today, Wednesday, June 29, 2022, which witnesses who provided written statements will appear in person instead of by videoconference. The

Parties hereby provide notice that the following witnesses will appear in person at the hearing:  
AMVAC: Ephraim Gur, MS; Grower Petitioners: None; EPA: Jill Bloom; Christina Wendel.

Second, the parties have conferred and, subject to any modifications as the Presiding Officer may deem necessary or appropriate at the hearing, and the notes following the sequence below, agree to the following order of presentation at the hearing:

1. **Opening Statements.** Optional, limited to 20 minutes for Respondent (first) and 20 minutes (combined) for Petitioners (second).
2. **Presentation of Respondent's Case**
  - a. Respondent introduces witnesses in the order listed in Respondent's Initial Prehearing Exchange (Dkt. 18). Each witness will be briefly introduced and asked to adopt their Verified Written Witness Statement.
  - b. Petitioners may cross-examine each Agency witness following introduction.<sup>1</sup>
  - c. Respondents may redirect each witness following cross.
3. **Presentation of Petitioners' Case**
  - a. Petitioners introduce witnesses in the following order: (a) AMVAC witnesses providing factual written direct testimony in the order listed in AMVAC's prehearing exchange document (Dkt. 15); (b) Grower Petitioners' fact witness Mr. Valadez; (c) Grower Petitioners' expert witnesses Dr. Fennimore and Mr. Smith, in that order; (d) AMVAC's expert witnesses Ms. Freeman and Mr. Gur, in that order.
  - b. Respondent may cross examine each Petitioner witness following introduction.
  - c. Petitioners may redirect each witness following cross.
4. **Rebuttal**
  - a. Respondent may present rebuttal evidence.
  - b. Petitioners may cross-examine any of Respondent's witnesses that presented rebuttal testimony.
  - c. Petitioners may present rebuttal evidence.
  - d. Respondent may cross-examine any of Petitioners' witnesses that presented rebuttal testimony.
5. **Closing Arguments.** To be presented only if directed by the Presiding Officer, either at the hearing or following the submission of Post-Hearing Briefs.

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<sup>1</sup> Petitioners will designate a single attorney to cross-examine each witness.

The Parties acknowledge that witness availability may impact the order of presentation. The schedule above attempts to minimize impacts of limited availability. Known limitations and other potential exceptions to the schedule as set forth at this time are: AMVAC – Mr. Freedlander is not available on July 8 and so AMVAC may request leave for him to provide rebuttal testimony immediately after his cross-examination and redirect; Grower Petitioners request that their witnesses be called at a known time if possible, proposed to be at 11:30 ET on day 3, July 8; EPA – Ms. Mendez’s availability is limited by a family emergency. She is most available during mornings; EPA asks that Ms. Mendez be called at the opening of the hearing on day 2, July 7.

Third, the Parties agree that all witnesses who provided verified written statements containing factual testimony should be sequestered (*i.e.*, prohibited from being in the Courtroom or viewing the videoconference feed) except during the time that they are being introduced, providing testimony, or being cross-examined concerning that testimony. Witnesses who provided only expert written testimony should be permitted to be in the Courtroom or to view the video feed at any time during the hearing.<sup>2</sup>

AMVAC and EPA have each reserved the right for certain witnesses who provided written factual testimony to provide expert rebuttal testimony.<sup>3</sup> The Parties agree that these witnesses shall be sequestered as set forth above and, if they are later called to rebut a statement made by another witness during the hearing, the statement that they are called to rebut (and any

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<sup>2</sup> For the avoidance of doubt, all witnesses would be subject to the restriction for fact witnesses except for AMVAC expert witnesses Ms. Freeman and Mr. Gur, and Grower Petitioners’ expert witnesses Dr. Fennimore and Mr. Smith.

<sup>3</sup> For the avoidance of doubt, these are all of Respondent’s witnesses except for Ms. Bloom and AMVAC witnesses Mr. Freedlander and Ms. Jonynas.

relevant context for the statement) shall be presented to them by the attorney for the party presenting the rebuttal testimony.

Fourth, the parties propose to provide copies of any demonstrative exhibits (*i.e.*, materials that summarize evidence but which do not independently constitute evidence) that they intend to use at the hearing, along with a motion for leave to use these demonstratives, no later than July 5, 2022, at 2:00 pm Eastern. The parties propose that the Presiding Officer rule on the use of any submitted demonstratives orally at the hearing.

Dated: June 29, 2022

Respectfully submitted,

/s/ Forrest Pittman (with permission)

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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 Statement Regarding Witness Attendance and Hearing Procedures**, dated June 29, 2022, was sent this day to the following parties in the manner indicated below.

/s/ Hume M. Ross  
Hume M. Ross

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:  
Forrest Pittman  
Pesticides and Toxic Substances Law Office  
Office of General Counsel  
U.S. Environmental Protection Agency  
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Dated June 29, 2022