



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

JUN 19 2014

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Ms. Cynthia L. Taub  
Counsel for Insect Shield, LLC  
Steptoe & Johnson, LLP  
1330 Connecticut Avenue, NW  
Washington, DC 20036

Re: Insect Shield, LLC  
Ratified Consent Agreement and Final Order  
Docket No. FIFRA-04-2014-3002(b)

Dear Ms. Taub:

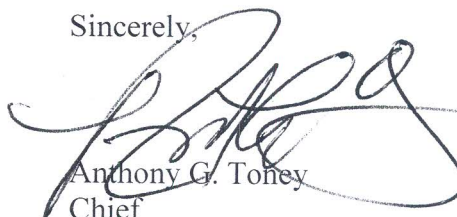
Enclosed is a copy of the ratified Consent Agreement and Final Order (CAFO) in the above-referenced matter. The original CAFO has been filed with the Regional Hearing Clerk and served on the parties as directed in Section 22.6 of the Consolidated Rules of Practice, 40 C.F.R. Part 22.

Please refer to Section V of the CAFO for penalty information and payment requirements. To ensure proper processing, the Respondent's name and Docket Number for this case, identified above and in the CAFO, should be noted on any cashier's or certified check submitted in payment of the penalty.

Also enclosed is a copy of a document entitled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts your client on notice of their potential duty to disclose to the Securities and Exchange Commission any environmental enforcement actions taken by the U.S. Environmental Protection Agency. Where used in the document "SEC" refers to the Securities and Exchange Commission.

Should you have any questions about this matter or your client's compliance status in the future, please contact Ms. Patricia Livingston of the EPA Region 4 staff at (404) 562-9171.

Sincerely,

A handwritten signature in black ink, appearing to read 'A. Toney', with a long horizontal flourish extending to the right.

Anthony G. Toney  
Chief  
Pesticides and Toxic  
Substances Branch

Enclosures

cc: NC Department of Agriculture and Consumer Services  
Patrick.jones@ncagr.gov  
Mr. Haynes Glenn Griffin, Insect Shield, LLC

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4

RECEIVED  
EPA REGION IV

2014 JUN 19 PM 12:07

HEARING CLERK

In the Matter of: )  
)  
Insect Shield, LLC )  
814 W. Market Street )  
Greensboro, NC 27401 )  
)  
Respondent. )  
\_\_\_\_\_ )

CONSENT AGREEMENT  
AND FINAL ORDER  
Docket No. FIFRA-04-2014-3062(b)

**I. PRELIMINARY STATEMENT**

1. This is an administrative action to assess a civil penalty under Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (“FIFRA”), 7 U.S.C. § 136l(a), and commenced and concluded under Sections 22.13(b); 22.18(b)(2) and (3) of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (“Consolidated Rules”) at 40 C.F.R. Part 22.

2. Complainant is U.S. Environmental Protection Agency, Region 4 (EPA). The Respondent is Insect Shield, LLC.

3. The authority to take action under Section 14(a) of FIFRA, 7 U.S.C. § 136(a), is vested in the Administrator of the EPA. The Administrator delegated this authority under FIFRA to the Regional Administrators in EPA Delegation 5-14, last updated on May 11, 1994. The Region 4 Regional Administrator redelegated this authority to the Director of the Air, Pesticides and Toxics Management Division, in EPA Region 4 Delegation 5-14, dated September 7, 2005. Pursuant to that Delegation, the Director of the Air, Pesticides and Toxics Management Division has the authority to commence an enforcement action as the Complainant in this matter, and has the authority to sign Consent Agreements memorializing settlements between the EPA and the

Respondent.

4. Pursuant to 40 C.F.R. § 22.13(b), administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (“CAFO”) when the parties agree to settle one or more causes of action before the filing of a complaint.

5. Complainant and Respondent have conferred for the purposes of settlement pursuant to 40 C.F.R. § 22.18(b), and agree to settle this action without the filing of a complaint or the adjudication of any issue of fact or law.

6. In accordance with 40 C.F.R. § 22.18(b)(2): Respondent admits the jurisdictional allegations in this CAFO and waives any defenses it might have as to venue and jurisdiction; Respondent admits the facts stipulated in the consent agreement; Respondent consents to the assessment of the civil penalty proposed by the EPA and agrees to pay the civil penalty as set forth in this CAFO; and Respondent waives any right to contest the allegations and its right to appeal the proposed final order accompanying this consent agreement.

## **II. STATUTORY AND REGULATORY BACKGROUND**

7. The importation of pesticides into the United States is governed by Section 17(c) and (e) of FIFRA, 7 U.S.C. §§ 136o(c) and 136o(e), and the regulations promulgated thereunder by the Secretary of the Treasury in consultation with the Administrator of the U.S. EPA (the Administrator). These regulations are found at 19 C.F.R. Part 12.

8. 19 C.F.R. § 12.112 states, in pertinent part, that "an importer desiring to import pesticides into the United States shall submit to the Administrator a Notice of Arrival of Pesticides or Devices (NOA) (EPA form 3540-1), prior to the arrival of the shipment to the United States." See also Section 17(c) of FIFRA, 7 U.S.C. § 136o(c).

9. Section 12(a)(2)(N) of FIFRA, 7 U.S.C. § 136(a)(2)(N), states that it shall be unlawful for any person who is a registrant, wholesaler, dealer, retailer or other distributor to fail to file reports required by FIFRA.

10. 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.

11. Section 2(u) of FIFRA, 7 U.S.C. § 136(u), and 40 C.F.R. § 152.3 define a “pesticide,” in part, as any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.

12. Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), and 40 C.F.R. § 152.3 state that “distribute or sell” means to distribute, sell, offer for sale, hold for distribution, hold for shipment, ship, deliver for shipment, release for shipment, or receive and (having so received) deliver or offer to deliver.

### **III. GENERAL ALLEGATIONS**

13. Respondent Insect Shield, LLC, is a limited liability company doing business in the State of North Carolina, with a principal place of business at 814 West Market Street, Greensboro, NC 27401.

14. Respondent is, and was at all times relevant to this CAFO, a corporation and therefore, a "person" as that term is defined at Section 2(s) of FIFRA, 7 U.S.C. § 136(s).

15. Respondent is a registrant and other distributor subject to the civil penalty provisions of Section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1).

16. On or about January 13, 2012, Respondent imported 112 cartons of Insect Shield Repellant Gear, EPA Reg. No. 74843-5, using Customs Broker Agility Project Logistics, Inc. of Houston TX, through the Port of Atlanta without filing an NOA form with the EPA.

17. On or about September 28, 2012, Respondent imported 77 cartons of Insect Shield Repellant Gear, EPA Reg. No. 74843-5, using Customs Broker Agility Project Logistics, Inc. of Houston TX through the Port of Newark, NJ without filing an NOA form with the EPA.

18. Therefore, on the two dates above, Respondent violated Section 12(a)(2)(N) of FIFRA, for which the EPA may assess a civil penalty under Section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1).

#### **IV. CIVIL PENALTY**

19. In accordance with the factors enumerated in Section 14(a) of FIFRA, the EPA's *Enforcement Response Policy for the Federal Insecticide, Fungicide, and Rodenticide Act*, dated December 2009, the Monetary Penalty Inflation Adjustment Rules at 40 C.F.R. Part 19, promulgated in accordance with the Debt Collection Improvement Act of 1996 (“DCIA”), and other factors as justice may require, including Respondent’s financial ability to pay a penalty, Complainant determined that the appropriate penalty to settle the violations alleged herein is \$7,000.

20. The civil penalty due and any interest, non-payment penalties, or charges that arise pursuant to this CAFO represent penalties assessed by the EPA and are not deductible for Federal tax purposes. Accordingly, all payments made pursuant to this CAFO are penalties within the meaning of Internal Revenue Service regulations, including 26 C.F.R. § 1.162-21.

*In the Matter of Insect Shield, LLC*, Docket No. FIFRA-04-2014-3002(b)

21. Within thirty (30) days after the effective date of this CAFO, Respondent must pay a \$7,000 civil penalty. The effective date of this CAFO is the date the Final Order is signed by the Regional Judicial Officer and filed with the hearing clerk.

22. All payments by Respondent must reference its name and address, and the FIFRA Docket Number of this action: Docket No. FIFRA-04-2014-3002(b).

23. All checks must be made payable to "United States Treasury."

24. All payments made by check and sent by regular mail must be addressed and mailed to the following address:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, Missouri 63197-9000  
Contact: 513-487-2105

25. All payments made by check and sent by overnight delivery service must be addressed and mailed to:

U.S. Bank  
Government Lockbox 979077  
U.S. EPA, Fines & Penalties  
1005 Convention Plaza  
Mail Station SL-MO-C2-GL  
St. Louis, MO 63101  
Contact: 314-4258-1818

26. All payments made by electronic wire transfer must be directed to:

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, NY 10045  
Field Tag 4200 of the Fedwire message should read "D 68010727  
Environmental Protection Agency"

27. On-Line Payment Option:

[www.pay.gov/paygov](http://www.pay.gov/paygov)

Enter sfo 1.1 in the search field. Open and complete the form.

28. Additional payment guidance is available at:

[http://www.epa.gov/ocfo/finservices/make\\_a\\_payment.htm](http://www.epa.gov/ocfo/finservices/make_a_payment.htm)

29. At the time of payment, Respondent must send proof of payment (i.e., a separate copy of the check or electronic payment) and a written statement that the payment is being made in accordance with this CAFO, to the following persons at the following addresses:

Patricia Bullock, Regional Hearing Clerk  
Environmental Protection Agency  
Region 4  
61 Forsyth Street, S.W.  
Atlanta, GA 30303

and

Kimberly Bingham  
Environmental Protection Agency  
Region 4  
61 Forsyth Street, S.W.  
Atlanta, GA 30303  
[Bingham.kimberly@epa.gov](mailto:Bingham.kimberly@epa.gov)

30. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, the EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and also to assess a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment or to comply with the conditions in this CAFO will result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.



a. Interest accrues on any penalty that is not paid within 30 days of the effective date of the CAFO. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a) and 31 C.F.R. § 901.9(b)(2).

b. The cost of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). The EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.

c. A penalty charge of six percent (6%) per year will be assessed monthly on any portion of the civil penalty which remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it will accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

31. Pursuant to Section 14(a)(5) of FIFRA, 7 U.S.C. § 136l(a)(5), if Respondent fails to pay all or such portion of the civil penalty as the Administrator may determine, the Administrator may refer the matter to the Attorney General, to recover such amount by action in the appropriate United States district court. The EPA may also refer delinquent debt to the Department of Treasury for collection action. The Department of Treasury may assess an additional servicing fee to the amount of a referred debt. The Department of Treasury may also report debts to credit reporting agencies, refer debts to collection agencies, and offset the amount from federal payments to the debtor and take other actions deemed necessary to collect the funds.

**V. GENERAL PROVISIONS**

32. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), the effective date of this CAFO is the date on which the proposed Final Order, having been signed by the Regional Judicial Officer, is filed with the hearing clerk.

33. In accordance with 40 C.F.R. § 22.18(c), compliance with this CAFO only resolves Respondent's liability for federal civil penalties for the allegations in Section III of this CAFO and does not affect the right of the EPA or the U.S. to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law. Compliance with this CAFO is not a defense to any action subsequently commenced pursuant to Federal laws and regulations administered by the EPA, and it is the responsibility of Respondent to comply with FIFRA and other applicable federal, state, and local laws and regulations.

34. Respondent certifies that to the best of Respondent's knowledge, as of the effective date of this CAFO, it is in full compliance with Sections 17(c) and (e) of FIFRA, 7 U.S.C. §§ 1360(c) and 1360(e), and the Notice of Arrival regulations found at 19 C.F.R. Part 12.

35. The terms of this CAFO bind Respondent and its successors, and assigns.

36. Each person signing this agreement certifies that he or she has the authority to sign this agreement for the party whom he or she represents and to bind that party to its terms.

37. Each party agrees to bear its own costs and attorney's fees, in this action.

38. This CAFO constitutes the entire agreement between the parties.

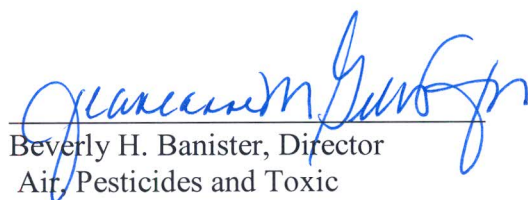
**FOR RESPONDENT:**



Haynes Glenn Griffin, Manager  
Insect Shield, LLC

Date: 5/5/14

**FOR COMPLAINANT:**



Beverly H. Banister, Director  
Air, Pesticides and Toxic  
Management Division  
United States Environmental Protection Agency  
Region 4

Date: 6-16-14

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4

<b>In the Matter of:</b>	)	
	)	
<b>Insect Shield, LLC</b>	)	<b>FINAL ORDER</b>
<b>814 W. Market Street</b>	)	<b>Docket No. FIFRA-04-2014-3002(b)</b>
<b>Greensboro, NC 27401</b>	)	
	)	
<b>Respondent.</b>	)	
_____	)	

**FINAL ORDER**

The Consent Agreement entered into by the parties to this matter, is hereby approved and issued as an Order pursuant to 40 CFR Section 22.18(b)(3) and 22.31. The effective date of this CAFO is the date shown below on which this Final Order was signed by the Regional Judicial Officer and filed with the hearing clerk.

Pursuant to Section 14(a) of FIFRA, 7 U.S.C. 136l(a), it is hereby ORDERED THAT:

1. Respondent must comply with all of the terms of the Consent Agreement, incorporated herein by reference;
2. Respondent is assessed a civil penalty in the sum of \$7,000 as described in Section IV of the Consent Agreement.
3. Respondent must, within thirty (30) calendar days of the execution the Final Order (below), make payment as agreed to in Section IV of the Consent Agreement.

June 19, 2014  
Date

Susan B. Schub  
Susan B. Schub, Regional Judicial Officer  
United States Environmental Protection Agency  
Region 4

**CERTIFICATE OF SERVICE**

I hereby certify that on the date set out below, I filed the original and one copy of the foregoing Consent Agreement and Final Order and served a true and correct copy of the foregoing Consent Agreement and Final Order In the Matter Insect Shield, LLC, Docket Number: FIFRA-04-2014-3002(b), to the addressees listed below:

Ms. Cynthia L. Taub  
Counsel for Insect Shield, LLC  
Stephoe & Johnson, LLP  
1330 Connecticut Avenue, NW  
Washington, DC 20036

(via Certified Mail, Return Receipt Requested)


Patricia Livingston  
Pesticides Section  
U.S. EPA Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303

(via EPA's internal mail)

Robert Caplan  
Associate Regional Counsel  
Office of Environmental Accountability  
U.S. EPA Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303

(via EPA's internal mail)

Date: 6-19-14



Patricia A. Bullock, Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303  
(404) 562-9511