



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

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

AUG 14 2007

4APT-PTSB

Federal Express – Overnight Delivery

Mr. Ronald Brook  
President  
Prozone Pool Products, Inc.  
2610 6<sup>th</sup> St., NW  
Huntsville, AL 35805

SUBJ: Docket No. FIFRA-04-2007-3026(b)  
Prozone Pool Products, Inc.

Dear Mr. Brook:

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.

Please make note of the provisions in Section IV of the Final Order, with respect to payment of the assessed penalty of \$1,000, which is due within 30 days from the effective date of the CAFO. If paying by cashier's or certified check, we request that the payment be identified by writing the company name and docket number on the face of the check.

Also enclosed is a copy of the October 2001 *Enforcement Alert* titled "U.S. EPA Notifying Defendants of Securities and Exchange Commission's Environmental Disclosure Requirements." 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. Please note that the contact phone number on page three of the Notice has been changed to (202) 551-3115.

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. EPA, Cincinnati Accounting Operations address identified in Section 27 of the CAFO. Should you have any questions about your compliance status in the future, please call me or Ms. Melba Table at (404) 562-9086.

Sincerely,



Joanne Benante  
Chief  
Pesticides and Toxic  
Substances Branch

Enclosures (2)

cc: Craig Bryant,  
Florida Department of  
Agriculture and Consumer  
Services

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
ATLANTA, GEORGIA

In the Matter of: )  
)  
Prozone Pool Products, Inc. )  
)  
Respondent. )  
\_\_\_\_\_ )

Docket No. FIFRA-04-2007-3026(b).

RECEIVED  
EPA REGION IV  
2007 AUG 13 PM 3:36  
HEARING CLERK

CONSENT AGREEMENT AND FINAL ORDER

I. Nature of the Action

1. This is a civil penalty proceeding pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, 7 U.S.C. §§ 136 *et seq.* (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 Prozone Pool Products, 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 the Regional Administrators 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:

Melba Table  
Pesticide Management Section  
U.S. EPA – Region 4  
61 Forsyth St. 12<sup>th</sup> Floor  
Atlanta, GA 30303-8960  
(404) 562-9086
5. Respondent is Prozone Pool Products, Inc., an Alabama corporation, located at 2610 6<sup>th</sup> St., NW, Huntsville, AL 35805.
6. Respondent is a "person" as defined by Section 2(s) of FIFRA, 7 U.S.C. § 136(s), and as such is subject to FIFRA and the regulations promulgated thereunder.
7. Respondent is a "producer" as defined by Section 2(w) of FIFRA, 7 U.S.C. § 136(w), and 40 CFR § 167.3.
8. Respondent's EPA Establishment Number is 073054-AL-001.
9. Respondent's establishment at 2610 6<sup>th</sup> St., NW, Huntsville, AL 35805 is registered with the Agency as a pesticide-producing establishment.
10. Producers operating an establishment registered with EPA are required to submit to the Administrator of EPA an annual report which indicates the types and amounts of pesticides or active ingredients which they are currently producing, which they produced

during the past year, and which they sold or distributed during the past year, pursuant to Section 7(c)(1) of FIFRA, 7 U.S.C. § 136e(c)(1), and the regulations promulgated at 40 CFR § 167.85.

11. Submittal of the annual report of pesticide-production for calendar year 2005 was due on or before March 1, 2006.
12. Respondent failed to submit the annual report on or before March 1, 2006.
13. Therefore, Respondent violated Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L).
14. Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), in conjunction with the Debt Collection Improvement Act of 1996, authorizes the assessment of a civil penalty.
15. Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a), requires EPA to consider the appropriateness of the assessed penalty to the size of business of the Respondent, the effect on Respondent's ability to continue in business, and the gravity of the violation.
16. The EPA proposes to assess a total civil penalty of \$1,000 against the Respondent for the above-described violation. 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, but neither admits nor denies any findings of fact or conclusion of law contained herein.
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 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 Consent Agreement and Final Order (CAFO), it is in compliance with all relevant requirements of FIFRA.
21. Respondent agrees to submit all future pesticide-production reports on or before the March 1<sup>st</sup> due date by means of certified mail, return receipt requested.
22. Compliance with this CAFO shall resolve the allegation of the violation 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.
23. 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

24. Respondent shall send all future pesticide-production reports required under Section 7 of FIFRA, 7 U.S.C. § 136(e), by means of certified mail, return receipt requested, to the following address:

U.S. EPA - Region 4  
Sam Nunn Atlanta Federal Center  
PCB & Chemical Products  
Management Section  
61 Forsyth Street  
Atlanta, Georgia 30303-8960.

25. Respondent is assessed a civil penalty of ONE THOUSAND DOLLARS (\$1,000).
26. Payment shall be made within 30 days from the date that this CAFO is filed with the Regional Hearing Clerk.
27. Respondent shall pay the penalty by forwarding a cashier's or certified check, payable to the "Treasurer, United States of America," to the following address:

U.S. Environmental Protection Agency  
Cincinnati Accounting Operations  
Mellon Lockbox 371099M  
Pittsburgh, PA 15251-7099.

**The check shall reference on its face "Docket No. FIFRA-04-2007-3026(b)."**

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

Regional Hearing Clerk  
U.S. EPA - Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street  
Atlanta, Georgia 30303-8960

Melba Table  
Pesticide Management Section  
U.S. EPA – Region 4  
61 Forsyth St. 12<sup>th</sup> Floor  
Atlanta, GA 30303-8960  
(404) 562-9086

and

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

29. 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.
30. 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 principle amount not paid within 90 days of the due date.
31. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
32. This CAFO shall be binding upon the Respondent, its successors and assigns.
33. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally bind that party to this CAFO.




V. Effective Date

34. 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:**

**Prozone Pool Products, Inc.**

By:   
Name: RONALD E. BROOK  
Title: COO

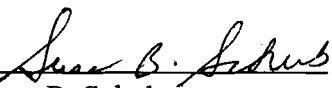
Date: 6 JULY 07

**U.S. Environmental Protection Agency**

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

Date: 8/7/07

**APPROVED AND SO ORDERED** this 13<sup>th</sup> day of August, 2007.

  
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: Prozone Pool Products, Inc., Docket No. FIFRA-04-2007- 3026(b), on the parties listed below in the manner indicated.

Melba Table, 4APT-PTSB  
PCB & Chemical Products  
Management Section  
U.S. EPA - Region 4  
61 Forsyth Street  
Atlanta, GA 30303-8960

(Via EPA's internal mail)

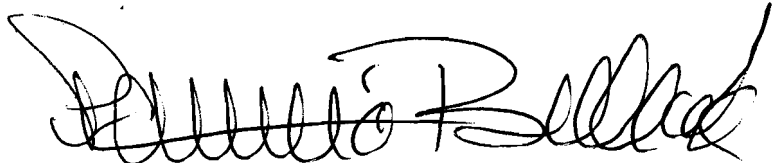
Nancy Tommelleo  
Office of Environmental Accountability  
U.S. EPA - Region 4  
61 Forsyth Street  
Atlanta, GA 30303-8960

(Via EPA's internal mail)

Ronald E. Brook  
Prozone Pool Products, Inc.  
2610 6<sup>th</sup> St. NW  
Huntsville, AL 35805

(Via Certified Mail - Return Receipt Requested)

Date: 8-14-07



Regional Hearing Clerk  
United States Environmental  
Protection Agency, Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street  
Atlanta, GA 30303-8960

**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: Sandi Wilson on 8/9/07  
(Name) (Date)

in the OEA at (404) 562-9584  
(Office) (Telephone Number)

Non-SF Judicial Order/Consent Decree  
USAO COLLECTS

Administrative Order/Consent Agreement  
FMO COLLECTS PAYMENT

SF Judicial Order/Consent Decree  
DOJ COLLECTS

Oversight Billing - Cost Package required:  
Sent with bill

Not sent with bill

Other Receivable

Oversight Billing - Cost Package not required

This is an original debt

This is a modification

PAYEE: Prozone Pool Products  
(Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 1,000  
(If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: FIFRA n/2007 3026(b)

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

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

**TO BE COMPLETED BY LOCAL FINANCIAL MANAGEMENT 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) |
|--|---|