



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

September 17, 2012

REPLY TO THE ATTENTION OF:

LC-8J

CERTIFIED MAIL

Receipt No.7009 1680 0000 7668 0806

R. Theodor ("Tad") Stricker  
Nestlé Purina PetCare  
Checkerboard Square  
St. Louis, Missouri 63164

Consent Agreement and Final Order In The Matter of  
Nestlé Purina Petcare Compny Docket No. FIFRA-05-2012-0002

Dear Mr. Stricker:

Enclosed please find a copy of a fully executed Consent Agreement and Final Order, in resolution of the above case. This document was filed on September 17, 2012 with the Regional Hearing Clerk.

The civil penalty in the amount of \$395,000 is to be paid in the manner described in paragraphs 10 thru 12. Please be certain that the number **BD 2751265P023** and the docket number are written on both the transmittal letter and on the check. Payment is due by October 17, 2012 (within 30 calendar days of the filing date).

Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in cursive script that reads "Estrella Calvo".

Estrella Calvo  
Pesticides and Toxics Compliance Section

Enclosures

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
BEFORE THE ADMINISTRATOR**

**In the Matter of:** )  
 )  
**Nestle Purina PetCare Company,** )  
**St. Louis, Missouri** )  
 )  
**Respondent.** )  
\_\_\_\_\_ )

**Docket No. FIFRA-05-2012-0002**



**Consent Agreement and Final Order**

**REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY**

**Preliminary Statement**

1. Complainant, the Director of the Land and Chemicals Division, United States Environmental Protection Agency (EPA), Region 5, brought this administrative action seeking a civil penalty under Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 136l(a).

2. On December 22, 2012, EPA filed the Complaint in this action against Respondent, Nestle Purina PetCare Company. The Complaint alleges that Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by distributing or selling an unregistered pesticide product.

3. Respondent filed an Answer and requested a hearing under Section 14 of FIFRA, 7 U.S.C. § 136l, and 40 C.F.R. § 22.15.

**Stipulations**

4. Respondent admits the jurisdictional allegations in the Complaint and neither admits nor denies the factual allegations in the Complaint, other than those admitted in its Answer.

5. Respondent waives any right to contest the allegations in the Complaint and its right

to appeal this Consent Agreement and Final Order (CAFO).

6. Respondent certifies that it is complying fully with FIFRA, 7 U.S.C. §§ 136-136y.

7. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

8. The parties agree that settling this action without further litigation, upon the terms of this CAFO, is in the public interest.

**Civil Penalty**

9. In consideration of Respondent's cooperation and good faith efforts to comply with FIFRA the Complainant agrees to mitigate the proposed penalty of \$721,200 to \$395,000, to be paid in two installments.

10. Within 30 days after the effective date of this CAFO, Respondent shall pay a first installment of one hundred and thirty five thousand dollars (\$135,000). Respondent shall make a second payment of two hundred sixty thousand dollars (\$260,000) plus interest on or before January 11, 2013, or one hundred eighty (180) days after the filing of this CAFO, whichever is the later. Interest on the second installment is calculated at one percent (1%) and will be seven dollars and 22 cents (\$7.22) per day from the time of filing of this CAFO.

11. Respondent must pay the installments by electronic funds transfer, payable to "Treasurer, United States of America," and sent to:

Federal Reserve Bank of New York  
ABA No. 021030004  
Account No. 68010727  
33 Liberty Street  
New York, New York 10045  
Field Tag 4200 of the Fedwire message should read:  
"D68010727 Environmental Protection Agency"

In the comment or description field of the electronic funds transfer, state the Respondent's name,

the docket number of this CAFO and the billing document number.

12. Respondent must send a notice of payment that states Respondent's name, complete address, the case docket number and the billing document number to EPA at the following addresses when it pays the penalty:

Regional Hearing Clerk (E-19J)  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

Estrella Calvo (LC-8J)  
Pesticides and Toxics Compliance Section  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

Jose C. de Leon (C-14J)  
Office of Regional Counsel  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604]

13. This civil penalty is not deductible for federal tax purposes.

14. If Respondent does not pay any installment payment as set forth in paragraph 10 above, the entire balance of the civil penalties plus any amount due under paragraph 15 below shall become due and owing upon written notice by EPA to Respondent of the delinquency. EPA may refer the delinquency to the Attorney General to recover any unpaid penalty with interest by action in the appropriate United States district court under Section 14(a)(5) of FIFRA, 7 U.S.C. § 136l(a)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

15. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury. Such interest shall be in addition

to the interest calculated pursuant to paragraph 10. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

### **General Provisions**

16. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in the Complaint.

17. This CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

18. This CAFO does not affect Respondent's responsibility to comply with FIFRA and other applicable federal, state and local laws.

19. This CAFO is a "final order" for purposes of EPA's FIFRA Enforcement Response Policy.

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

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

22. Each party agrees to bear its own costs and attorneys fees in this action.

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

**Nestle Purina PetCare Company, Respondent**

8/21/02  
Date

Nina Leigh Krueger  
Nina Leigh Krueger  
President  
Golden Products Division

**United States Environmental Protection Agency, Complainant**

September 12, 2012  
Date

Margaret M. Guerriero  
Margaret M. Guerriero  
Director  
Land and Chemicals Division

**In the Matter of:  
Nestle Purina PetCare Company  
Docket No. FIFRA-05-2012-0002**

**Final Order**

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

9-14-12

Date



Susan Hedman  
Regional Administrator  
United States Environmental Protection Agency  
Region 5

**RECEIVED**  
SEP 17 2012  
REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY.

**CERTIFICATE OF SERVICE**

I hereby certify that the original signed copy of the Consent Agreement and Final Order in resolution of the civil administrative action involving Nestlé Purina PetCare Company, was filed on September 17, 2012, with the Regional Hearing Clerk (E-19J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604, and will be mailed no later than the next business day by Certified Mail, Receipt No. 7009 1680 0000 7668 0806, a copy of the original to the Respondent:

R. Theodor ("Tad") Stricker  
Nestlé Purina PetCare  
Checkerboard Square  
St. Louis, Missouri 63164

and forwarded copies (intra-Agency) to:

Ann Coyle, Regional Judicial Officer, ORC/C-14J  
Jose C. de Leon, Regional Judicial Officer, ORC/C-14J  
Eric Volck, Cincinnati Finance/MWD



Frederick Brown  
Pesticides and Toxics Compliance Section  
U.S. EPA - Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

Docket No. FIFRA-05-2012-0002

