

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

Filed March 12, 2021 @ 1:39 pm  
USEPA – Region II  
Regional Hearing Clerk

In the Matter of  
EverywhereAire, LLC  
Respondent  
Proceeding Under the Federal  
Insecticide, Fungicide and  
Rodenticide Act, as amended.

**CONSENT AGREEMENT  
AND FINAL ORDER**

Docket No. FIFRA-02-2021-5197

**PRELIMINARY STATEMENT**

This administrative proceeding for the assessment of a civil penalty is initiated pursuant to Section 14(a) of the Federal Insecticide, Fungicide and Rodenticide Act, as amended, 7 U.S.C. § 1361(a) (hereinafter referred to as “FIFRA” or the “Act”), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22 (hereinafter “CROP”).

Complainant in this proceeding is the Director of the Enforcement & Compliance Assurance Division (“ECAD”), United States Environmental Protection Agency, Region 2 (“EPA”). Pursuant to Section 22.13(b) of the CROP, where the parties agree to settlement of one or more causes of action before the filing of an Administrative Complaint, a proceeding may be simultaneously commenced and concluded by issuance of a Consent Agreement and Final Order (“CAFO”) pursuant to 40 C.F.R. §§ 22.18(b)(2) and 22.18(b)(3). Complainant and Respondent agree that settling this matter by entering into this CAFO pursuant to 40 C.F.R. §§ 22.13(b), 22.18(b)(2) and 22.18(b)(3) of the CROP is an appropriate means of resolving this matter without litigation.

## LEGAL AUTHORITIES

1. Section 2(t) of FIFRA, 7 U.S.C. § 136(t), defines a “pest” as any insect, rodent, nematode, fungus, weed, or any form of terrestrial or aquatic plant or animal life or virus, bacteria or other micro-organism.

2. Section 2(u) of FIFRA, 7 U.S.C. § 136(u), defines the term “pesticide” as any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.

3. Section 2(mm) of FIFRA, 7 U.S.C. § 136(mm) defines the term “antimicrobial pesticide” as, among other things “a pesticide that (A) is intended to (i) disinfect, sanitize, reduce or mitigate growth or development of microbiological organisms.”

4. Forty C.F.R. § 152.15(a)(1) states, in part, that a substance is considered to be intended for a pesticidal purpose, and thus to be a pesticide requiring registration, if “(a) [t]he person who distributes or sells the substance claims, states or implies (by labeling or otherwise): (1) [t]hat the substance (either by itself or in combination with any other substance) can or should be used as pesticide. . .”

5. Forty C.F.R. § 152.15(c) states that a substance is considered to be intended for a pesticidal purpose, and thus to be a pesticide requiring registration, if . . . “[t]he person who distributes or sells the substance has actual or constructive knowledge that the substance will be used or is intended to be used, for a pesticidal purpose.”

6. Section 3(a) of FIFRA, 7 U.S.C. §136a provides that “no person in any State may distribute or sell to any person any pesticide that is not registered under this Act.”

7. Section 2(s) of FIFRA, 7 U.S.C. § 136a(s) defines the term “person” to mean any individual, partnership, association, corporation, or any group of persons whether incorporated or not.

8. “To distribute or sell” is defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), as “to distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, release for shipment, or receive and (having so received) deliver or offer to deliver.”

9. Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), states that it shall be unlawful for any person in any state to distribute or sell to any person any pesticide that is not registered with EPA under Section 3 of FIFRA.

10. Pursuant to 40 C.F.R. § 168.22(a) advertisements in any advertising medium to which pesticide users or the general public have access is an “offer for sale” within the meaning of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

11. Forty C.F.R. § 152.25(f) identifies the conditions necessary to exempt “minimum risk” pesticides from registration under FIFRA. Specifically, the products must: (1) contain only the active ingredients that are listed in 40 C.F.R. § 152.25(f)(1); (2) include only the inert ingredients listed in 40 C.F.R. § 152.25(f)(2); (3) bear a label identifying the name and percentage by weight of each active ingredient and the name of each inert ingredient ( 40 C.F.R. § 152.25(f)(3)(i)); (4) not bear claims either to control or mitigate micro-organisms that pose a threat to human health (40 C.F.R. § 152.25(f)(3)(ii)); and (5) not include any false and misleading labeling statements, including those listed in 40 C.F.R. § 156.10(a)(5)(i) through (viii) (40 C.F.R. § 152.25(f)(3)(iv)).

12. If any of the conditions specified in the paragraph immediately above are not satisfied, the pesticide product is not a “minimum risk” pesticide and therefore must be registered pursuant to Section 3 of FIFRA, 7 U.S.C. §136a.

13. Section 2(p) of FIFRA, 7 U.S.C. § 136(p), defines “label” as the written, printed or graphic matter on, or attached to, the pesticide or any of its containers or wrappers.

14. Section 2(p) of FIFRA, 7 U.S.C. § 136(p), defines “labeling” as all labels or other written, printed or graphic matter (a) accompanying the pesticide or (b) to which reference is made in literature accompanying the pesticide.

15. Section 2(q)(1)(A) of FIFRA, 7 U.S.C. § 136(q)(1)(A) states that a pesticide is misbranded if its labeling bears any statement, design or graphic representation relative thereto or to its ingredients which is false and misleading in any particular.

16. Pursuant to the authority in Section 25(a) of FIFRA, 7 U.S.C. §136w(a), the Administrator promulgated the labeling requirements for pesticides found at 40 C.F.R. Part 156, and 40 C.F.R. § 156.10(a)(5)(i) through (x) provides examples of false and misleading statements or representations in the labeling which constitute misbranding. Such claims may include false and misleading statements as to the efficacy (40 C.F.R. § 156.10(a)(5)(ii)) or comparative statements to other pesticides (40 C.F.R. §156.10(a)(5)(iv)), or safety (40 C.F.R. § 156.10(a)(5)(ix)) of the product or its ingredients.

17. Section 2(q)(2)(A), 7 U.S.C. § 136(q)(2)(A) states that a pesticide is misbranded if the label does not bear an ingredient statement.

18. Pursuant to 40 C.F.R. § 156.10(g), the label of each pesticide product must bear a statement which contains the name and percentage by weight of each active ingredient and the

total percentage by weight of all inert ingredients. The active ingredients must be designated by the term “active ingredients” and the inert ingredients by the term “inert ingredients.”

19. Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), states that it shall be unlawful for any person in any state to distribute or sell to any person any pesticide that is misbranded.

20. Section 14(a)(1) of FIFRA, 7 U.S.C. § 136(l)(a)(1) states that “[a]ny registrant, commercial applicator, wholesaler, dealer, retailer, or other distributor who violates any provision of this subchapter may be assessed a civil penalty of not more than \$5,000 for each offense.”

21. EPA’s Civil Monetary Penalty Inflation Adjustment Rule, 85 Fed. Reg. 1751, 1754 (January 13, 2020) adjusted the level of the maximum statutory civil monetary penalty amounts under the statutes that EPA administers, including the FIFRA statute. For violations under Section 14(a)(1) of FIFRA, 7 U.S.C. § 136(l)(a)(1), that occurred after November 2, 2015, where penalties are assessed on or after January 13, 2020, the maximum statutory civil penalty is \$20,288.

#### **EPA’S FINDINGS OF FACT AND CONCLUSIONS OF LAW**

22. Respondent is EverywhereAire, LLC, a Delaware corporation (hereinafter “Respondent” or “EverywhereAire”).

23. Respondent’s office is located at 116 Village Boulevard, Suite 200, Princeton, New Jersey 08540.

24. Respondent is a "person" as that term is defined in FIFRA § 2(s), 7 U.S.C. § 136(s).

25. Respondent has, from at least December 4, 2018 through July 30, 2020, sold, distributed, and/or held for sale or distribution an antibacterial pesticide—the PlaneAire Travel Mist.

26. Since at least June 28, 2018, Respondent has maintained and/or operated a warehouse located in Princeton, New Jersey, where the PlaneAire Travel Mist was held for distribution and sale.

27. To produce PlaneAire Travel Mist, EverywhereAire contracted with Suite K Value Added Services LLC, of 30/31 Executive Avenue, Edison, New Jersey 08817.

28. From at least December 4, 2018 through July 30, 2020, EverywhereAire advertised and offered the PlaneAire Travel Mist for retail sale to consumers on the Amazon.com and Planeaire.com websites. In the same time frame, EverywhereAire also distributed and sold the PlaneAire Travel Mist to retail stores.

29. On August 23, 2019, pursuant to Sections 8 and 9 of FIFRA, 7 U.S.C. §§ 136f and 136g, an authorized inspector from EPA Region 2 conducted an inspection at CIBO Express Gourmet Market/retail outlet, located at Newark Liberty International Airport in Terminal C near Gate 75 C at 3 Brewster Road, Newark, New Jersey 07114 (hereinafter “CIBO” or “the Inspection”).

30. During the Inspection, EPA’s inspector observed PlaneAire Travel Mist in a product display bearing numerous pesticidal claims, including but not limited to the following:

- a. “Surface & Air Purifying Travel Mist;”
- b. “Germ-free travel is just a spray away;”
- c. “PlaneAire is a powerful germ-killer;”
- d. “Eliminates Surface Bacteria & Purifies the Air Naturally;”

- e. “Kills 99.99% of harmful bacteria;”
- f. “Laboratory tested to kill 99.99% of illness-causing bacteria, including MSRA;” and
- g. “PlaneAire is an all-natural...surface sanitizer and air purifier.”

31. EPA’s inspector observed that the label on each unit of PlaneAire Travel Mist also read, “Packed, Distributed and Sold by EverywhereAire LLC, Princeton Forrestal Village, 116 Forrestal Blvd., Suite 200, Princeton, NJ 08540 USA.”

32. At the Inspection, EPA’s inspector observed that the PlaneAire Travel Mist label did not contain required information, such as the percentage by weight of each active ingredient, a condition necessary to meet the minimum risk pesticide exemption under 40 C.F.R. §152.25(f)(3)(i).

33. At the Inspection, EPA’s inspector collected a physical sample of the PlaneAire Travel Mist.

34. EPA’s inspector collected documentary evidence of sixteen (16) distributions or sales of the PlaneAire Travel Mist by EverywhereAire to CIBO from April 2, 2019 to October 18, 2019.

35. Subsequent to the inspection, EPA collected documentary evidence of thousands of sales of PlaneAire Travel Mist made by EverywhereAire from December 2018 through October 2019 on Amazon.com and hundreds of sales made by EverywhereAire from May 2019 through October 2019 on the Planeaire.com website.

36. On several dates in June 2019, September 2019, February 2020 and March 2020, a federally-credentialed inspector reviewed claims concerning the PlaneAire Travel Mist on the websites of Planeaire.com and Amazon.com.

37. The PlaneAire.com website at <http://www.planeaire.com> offered for sale the PlaneAire Travel Mist and contained numerous pesticidal claims, including but not limited to the following:

- a. “This potent, all-natural surface sanitizer and air purifier;”
- b. “PlaneAire’s results...which has shown it to eliminate more than 99.99% of surface bacteria;”
- c. “Disinfect your hotel room surfaces with PlaneAire. Our laboratory-tested mist is great for sanitizing your hotel room items, including the bedspread and blow dryer;”
- d. “The six oils were carefully selected for their powerful anti-bacterial, anti-viral, antimicrobial and anti-fungal properties;” and,
- e. “Erase the bacterial history someone else left behind.”

38. The Amazon.com website at <http://amazon.com> offered for sale the PlaneAire Travel Mist and contained numerous pesticidal claims, including but not limited to the following:

- a. “Kills 99.99% of harmful bacteria;”
- b. “Kills Germs on Contact | Surface & Air;”
- c. “...kill[s] 99.99% of harmful bacteria, including MRSA;” and
- d. “Summary of kill rate (percent reduction) for PlaneAire formula against 4 test bacteria.” The test bacteria listed are *P. aeriuginosa*, *S. enterica*, *S. aureus* and MRSA.”

39. The claims identified in paragraphs 30, 37 and 38 above, are pesticidal claims.

40. PlaneAire Travel Mist is a pesticide.

41. As distributed and sold, PlaneAire Travel Mist is not exempt from registration as a minimum risk pesticide pursuant to 40 C.F.R. § 152.25(f).

42. PlaneAire Travel Mist is a pesticide that must be registered in accordance with Section 3 of FIFRA, 7 U.S.C. § 136a, to be lawfully sold and distributed in the United States.

43. PlaneAire Travel Mist is not, and has never been, a pesticide registered in accordance with Section 3 of FIFRA, 7 U.S.C. § 136a.

44. At all times relevant, Respondent was a “distributor or seller” within the meaning of Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg).

45. At all times relevant, Respondent, was a “distributor” within the meaning of Section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1).

46. Each of Respondent’s sales or distributions of the PlaneAire Travel Mist, between at least December 4, 2018 and July 30, 2020 is a sale or distribution of an unregistered pesticide and constitutes an unlawful act pursuant to Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), for which a penalty may be assessed.

47. The labels and/or labeling of the PlaneAire Travel Mist sold by the Respondent between at least December 4, 2018 and July 30, 2020 displayed public health claims that are “false and misleading” within the meaning of 40 C.F.R. §§ 156.10(a)(5)(ii) (false and misleading statements concerning the effectiveness of the product as a pesticide), (iv) (comparative statements to other pesticides), and (ix) (claims as to the safety of the pesticide or its ingredients, including statements such as “safe” and “nontoxic”) and failed to display ingredient information required by 40 C.F.R. § 156.10(g).

48. The PlaneAire Travel Mist distributed or sold by respondent was therefore misbranded as that term is defined by Section 2(q) of FIFRA, 7 U.S.C. § 136(q).

49. Each of Respondent's sales or distributions of the PlaneAire Travel Mist between at least December 4, 2018 and July 30, 2020 is a sale or distribution of a misbranded pesticide and constitutes an unlawful act pursuant to Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), for which a penalty may be assessed.

50. On September 10, 2020, Respondent submitted documents regarding its financial condition to EPA.

51. On October 9, 2020, Respondent submitted a certified statement regarding the truth, accuracy and completeness of the financial documents it submitted on September 10, 2020.

52. In December 2020, a waste disposal company picked up from Respondent the remaining existing stock (10,886 units) of PlaneAire Travel Mist and on January 21, 2021, Respondent received a "Certificate of Treatment, Recycling, and/or Disposal" from that company that indicates that the waste disposal company has disposed of said existing stock of PlaneAire Travel Mist. Respondent understands that the waste disposal company disposed of the PlaneAire Travel Mist in accordance with applicable federal, state and local disposal requirements.

### **CONSENT AGREEMENT**

Based upon the foregoing, and pursuant to Section 22.18 of the CROP, 40 C.F.R. § 22.18, it is hereby agreed that:

1. Respondent shall hereinafter maintain compliance with the statutory provisions of FIFRA, as amended, 7 U.S.C. § 136 *et seq.*, and its implementing regulations, including the requirements which prohibit the sale of unregistered and misbranded pesticides.

2. Respondent certifies to the following:

a. As of the date of execution of this CAFO, Respondent is in compliance with the statutory provisions of FIFRA, as amended, 7 U.S.C. § 136 *et seq.*, and its implementing regulations.

b. As of July 30, 2020, Respondent ceased all distributions and sales of the PlaneAire Travel Mist.

c. As of the date of execution of this CAFO, Respondent retains no existing stock of PlaneAire Travel Mist.

3. Respondent further certifies to the truth and accuracy of the information, documentation and representations made to EPA relating to Respondent's financial condition on September 10, 2020 and October 9, 2020. Respondent acknowledges that EPA relied on this information when agreeing to the civil penalty terms included in Paragraph 4 of this Consent Agreement.

4. Respondent shall pay, either by certified check or electronically by Fedwire, a civil penalty in the amount of **One Hundred Thousand Dollars (\$100,000.00)**. **Payment shall be received (if made by check) or effected (if implemented by Fedwire) on or before 30 days from the Regional Administrator's signature of the Final Order.**

(i) If the payment is made by check, then the check shall be made payable to the "Treasurer of the United States of America" and shall be mailed by one of the following two methods:

**a. STANDARD DELIVERY**

The check shall be mailed to:

United States Environmental Protection Agency  
Fines & Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, Missouri 63197-9000

**b. SIGNED RECEIPT CONFIRMATION DELIVERY (Fedex, DHL, UPS, USPS, Certified, Registered, etc.)**

United States Environmental Protection Agency  
Government Lockbox 979077  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, MO 63101

The check shall be identified with a notation thereon listing the following: *In the Matter of EverywhereAire, LLC* and shall bear the Docket No. **FIFRA-02-2021-5197**

- (ii) If Respondent chooses to make payment electronically through Fedwire, Respondent shall provide the following information to its remitter bank (Federal Reserve Bank of New York) when each payment is made:
- a. Amount of payment: \$100,000.00
  - b. SWIFT address: **FRNUS33, 33 Liberty Street, New York, NY 10045**
  - c. Account Code for Federal Reserve Bank of New York receiving payment: **68010727**
  - d. Federal Reserve Bank of New York ABA routing number: **021030004**
  - e. Field Tag 4200 of the Fedwire message should read: **“D 68010727 Environmental Protection Agency”**
  - f. Name of Respondent: **EverywhereAire, LLC**
  - g. Case Docket Number: **FIFRA-02-2021-5197**
- (iii) If Respondent chooses to make on-line payments, Respondent shall go to [www.pay.gov](http://www.pay.gov) and enter SFO 1.1 in the search field on the tool bar on the Home Page; select Continue under “EPA Miscellaneous Payments – Cincinnati Finance Center;” and open the form and complete the required fields. Once payment has been effected, Respondent shall email proof of payment to [aber.bruce@epa.gov](mailto:aber.bruce@epa.gov) and to Milton Wise of EPA Region 2’s Finance Office [wise.milton@epa.gov](mailto:wise.milton@epa.gov) with *In the Matter of EverywhereAire LLC* as the subject line.

5. Failure to pay the full amount of the penalty, according to the above provisions, will result in the referral of this matter to the United States Department of Justice and/or the United States Department of Treasury for collection and/or other appropriate action.

6. If timely payment is not received on or before the due date, then Respondent shall also pay the following amounts:

A. Interest: Any unpaid portion of a civil penalty must bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1) from the date said payment was required to have been made through the date said payment has been received. in accordance with 40 C.F.R. § 13.11(a).

B. Handling Charges: Pursuant to 31 U.S.C. § 3717(e)(1), a monthly handling charge of fifteen dollars (\$15.00) shall be assessed for each thirty (30) day calendar day period or any portion thereof, following the date the payment was to have been made, in which payment of the amount remains in arrears.

C. Late Penalty Charge: A late penalty charge of six percent (6%) per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). The late payment penalty on any portion of the civil penalty that remains delinquent more than ninety days shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

7. The civil penalty (including any payment(s) for interest or late payment and handling charges that have become due) and any applicable stipulated penalties provided for herein are penalties within the meaning of 26 U.S.C. § 162(f), and are not deductible expenditures for purposes of federal or state law.

8. If in the future, EPA believes that the information which Respondent certified to, pursuant to paragraphs 2 and 3 of this Consent Agreement section, was inaccurately or falsely certified, and EPA relied upon such information for purposes of settlement, EPA will so advise Respondent of its belief and basis, and will afford the Respondent thirty (30) days to submit comments to EPA pursuant to paragraph 10 below. After EPA's review pursuant to paragraph 11 below of any comments submitted, EPA shall provide a written statement of its decision to the Respondent, which decision shall be final and binding upon Respondent. Respondent agrees that false certification shall constitute a violation of this CAFO, and Respondent shall be liable to EPA for a lump stipulated penalty of **Ten Thousand Dollars (\$10,000.00)** for such false certification.

9. Unless Respondent provides EPA with a written explanation in accordance with paragraph 10 below, all stipulated penalties are due and payable within thirty (30) calendar days of the Respondent's receipt from EPA of a written demand for payment of the penalties. Respondent agrees that such demand may be sent by electronic mail or certified mail to the addressees identified in paragraph 14, below. All stipulated penalty payments shall be made in accordance with the payment instructions in paragraph 4 of this Consent Agreement. Penalties shall accrue as provided above regardless of whether EPA has notified the Respondent of the violation or made a demand for payment but need only be paid upon demand. Any payment of stipulated penalties shall be in addition to any other payments required under any other paragraph of this Consent Agreement. Failure to pay any stipulated penalty in full will result in referral of this matter to the United States Department of Justice or the United States Department of Treasury for collection and/or other appropriate action.

10. After receipt of demand from EPA for stipulated penalties pursuant to paragraph 8, above, Respondent shall have thirty (30) calendar days in which to provide Complainant with a written explanation of why it believes a stipulated penalty is not appropriate for the cited violation(s) of the Consent Agreement (including technical, financial or other information that Respondent deems relevant). Pursuant to paragraph 11, below, EPA shall evaluate the written explanation provided by Respondent.

11. The Complainant may, in her sole discretion, reduce or eliminate any stipulated penalty due under the CAFO if Respondent has, in writing, demonstrated to EPA's satisfaction good cause for such action by EPA. If, after review of Respondent's submission, if any, pursuant to the preceding paragraph, Complainant determines that Respondent has provided an inaccurate or false certification or failed to otherwise comply with the provisions of this Consent Agreement, Complainant will notify Respondent by electronic or certified mail of its decision and allow Respondent fifteen (15) days to reply. If after review of Respondent's reply or after the fifteen (15) days from the date of Complainant's decision has elapsed without receipt of any reply, and Complainant does not, in her sole discretion, eliminate the stipulated penalties demanded by EPA, Complainant will notify Respondent, by electronic mail or certified mail, that either the full stipulated penalty or a reduced stipulated penalty must be paid by Respondent. Respondent shall pay the stipulated penalty amount indicated in EPA's notice within thirty (30) days of its receipt of such written notice from EPA. Failure of the Respondent to pay any stipulated penalty demanded by EPA pursuant to this Consent Agreement will result in the referral of this matter to the United States Department of Justice or the United States Department of Treasury for collection and/or other appropriate action.

12. Nothing in this document is intended or shall be construed to waive, prejudice or otherwise affect the right of EPA, or the United States, from pursuing any appropriate remedy, sanction or penalty prescribed by law against Respondent if Respondent has made any material misrepresentations or has provided materially false information herein or in any document submitted pursuant to this Consent Agreement.

13. Respondent consents to the use of electronic signatures in this matter and to service upon it of a copy of this Consent Agreement and Final Order by an EPA employee other than the Regional Hearing Clerk via electronic mail to the following addressee:

EverywhereAire LLC, c/o Lisa M. Campbell, of Bergeson & Campbell, P.C., at the email address: [Lcampbell@lawbc.com](mailto:Lcampbell@lawbc.com)

Delivery of the fully executed documents to the email addresses in this paragraph shall constitute Respondent's receipt and acceptance of the CAFO.

14. Any responses, documentation, and other communication submitted to EPA in connection with this Consent Agreement shall be sent by regular mail and email to:

Kristen Ridarick  
Lead Paint & Pesticides Compliance Section  
Enforcement and Compliance Assurance Division  
U.S. Environmental Protection Agency – Region 2  
2890 Woodbridge Avenue, MS 500  
Edison, NJ 08837  
[Ridarick.kristen@epa.gov](mailto:Ridarick.kristen@epa.gov)

and

Bruce Aber  
Assistant Regional Counsel  
Office of Regional Counsel  
U.S. Environmental Protection Agency – Region 2  
290 Broadway, 16<sup>th</sup> Floor  
New York, NY 10007-1866  
[Aber.bruce@epa.gov](mailto:Aber.bruce@epa.gov)

Unless the above-named EPA contacts are later advised otherwise by electronic mail, EPA shall address any written future correspondence (including any correspondence related to payment of the penalty in accordance with the provisions of this CAFO), to the addressees identified in paragraph 14, above.

15. This Consent Agreement is being voluntarily and knowingly entered into by the Complainant and Respondent. Full payment of the penalty described in paragraph 4 of this Consent Agreement section, above, shall only resolve Respondent's liability for federal civil penalties for the violations and facts described in Paragraphs 25 to 49 of the "Findings of Fact and Conclusions of Law" section in this Consent Agreement. Full payment of this penalty shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

16. For the purpose of this proceeding and in the interest of an expeditious resolution of this matter, Respondent (a) admits that EPA has jurisdiction pursuant to Section 14 of FIFRA, 7 U.S.C. § 136l(a), to commence a civil administrative proceeding based on the Findings of Fact and Conclusions of Law section above; and (b) neither admits nor denies any allegation or determination in the Findings of Fact and Conclusions of Law contained herein.

17. Respondent has read the Consent Agreement, understands its terms, finds it to be reasonable and consents to the issuance and its terms. Respondent consents to the issuance of the accompanying Final Order. Respondent agrees that all terms of settlement are set forth herein.

18. Respondent explicitly and knowingly consents to the assessment of the civil penalty as set forth in this Consent Agreement and agrees to pay the civil penalty and any stipulated penalties that become due in accordance with the terms of this Consent Agreement.

19. Respondent explicitly and knowingly waives its right to request or to seek any Hearing on the Complaint, this Consent Agreement or on the Findings of Fact and Conclusions of Law herein, or on the accompanying Final Order.

20. The Respondent agrees not to contest the validity or any term of this CAFO in any action brought: a) by the United States, including EPA, to enforce this CAFO; or b) to enforce a judgment relating to this CAFO. Any failure by Respondent to perform fully any requirement herein will be considered a violation of this CAFO and may subject Respondent to a civil judicial action by the United States to enforce the provisions of this CAFO.

21. Respondent waives any right it might have to appeal this Consent Agreement and the accompanying Final Order.

22. This Consent Agreement and any provision herein shall not be construed as an admission of liability in any criminal or civil action or other administrative proceeding, except in an action or proceeding to enforce or seek compliance with this Consent Agreement and its accompanying Final Order.

23. This Consent Agreement and Final Order does not relieve Respondent of its obligations to comply with all applicable provisions of federal, state or local law, nor shall it be construed to be a ruling on, or a determination of, any issue related to any federal, state or local permit. This Consent Agreement and Final Order does not waive, extinguish, or otherwise affect Respondent's obligation to comply with all applicable provisions of FIFRA and the regulations promulgated thereunder.

24. Nothing in this Consent Agreement and Final Order shall be construed as a release from any other action under any law and/or regulation administered by EPA.

25. Each undersigned signatory to this Consent Agreement certifies that: a) he or she is duly and fully authorized to enter into this Consent Agreement and all the terms, conditions and requirements set forth in this Consent Agreement and Final Order, and b) he or she is duly and fully authorized to bind the party on behalf of whom (which) he or she is entering this Consent Agreement to comply with and abide by all the terms, conditions and requirements of this Consent Agreement.

26. The provisions of this Consent Agreement and Final Order shall be binding upon both EPA and Respondent, its officers/officials, agents, authorized representatives and successors or assigns.

27. Each party hereto agrees to bear its own costs and fees in this matter.

**In the Matter of EverywhereAire, LLC, FIFRA-02-2021-5197**

RESPONDENT:

BY:



(Signature)

NAME: Deborah Lu Lynch

TITLE: President

COMPANY NAME: EverywhereAire, LLC

DATE: 3.3.2021

**In the Matter of EverywhereAire, LLC, FIFRA-02-2021-5197**

COMPLAINANT:

---

for  
Dore LaPosta, Director  
Enforcement & Compliance  
Assurance Division  
U.S. Environmental Protection  
Agency - Region 2

DATE: \_\_\_\_\_

**In the Matter of Everywhere, LLC, FIFRA-02-2021-5197**

**FINAL ORDER**

The Regional Administrator of the U.S. Environmental Protection Agency, Region 2, ratifies the foregoing Consent Agreement in the Matter of EverywhereAire, LLC, bearing Docket Number FIFRA-02-2021-5197. The Consent Agreement, which has been duly accepted and entered into by the parties, is hereby approved and incorporated into this Final Order. This Final Order is hereby issued and shall take effect when filed with the Regional Hearing Clerk of EPA, Region 2. 40 C.F.R. § 22.31(b). This Final Order is being entered pursuant to the authority of 40 C.F.R. § 22.18(b)(3). The effective date of this Order shall be the date of electronic filing with the Regional Hearing Clerk, United States Environmental Protection Agency, Region 2, New York, New York.

\_\_\_\_\_  
Walter E. Mugdan, Acting Regional Administrator  
U.S. Environmental Protection  
Agency – Region 2  
290 Broadway  
New York, New York 10007-1866

DATE: \_\_\_\_\_

**In the Matter of EverywhereAire LLC, FIFRA-02-2021-5197**

**CERTIFICATE OF SERVICE**

I certify that I have this day caused to be sent the foregoing fully executed Consent Agreement and Final Order (“CAFO”), bearing the above-referenced docket number, in the following manner to the respective addressees listed below:

By Electronic Mail:

Karen Maples  
Office of the Regional Hearing Clerk  
U.S. Environmental Protection  
Agency, Region 2  
290 Broadway, 16<sup>th</sup> Floor  
New York, New York 10007-1866  
[Maples.karen@epa.gov](mailto:Maples.karen@epa.gov)

By Electronic Mail

Counsel for EverywhereAire LLC  
Lisa M. Campbell, Partner  
Bergeson & Campbell, PC  
2200 Pennsylvania Avenue, NW  
Suite 100W  
Washington, D.C. 20037  
[Lcampbell@lawbc.com](mailto:Lcampbell@lawbc.com)

[Deborah@everywhereaire.com](mailto:Deborah@everywhereaire.com)

Dated  
New York, New York

---