



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

MAY 22 2017

REPLY TO THE ATTENTION OF:

LC-17J

VIA EMAIL

Mr. Rayman Snare  
c/o Mr. Vesper Williams  
Attorney  
4643 Sylvania Avenue  
Toledo, Ohio 43623

veswill2@gmail.com

Consent Agreement and Final Order In the Matter of Pool and Spa Warehouse,  
Inc., Docket Number FIFRA-05-2017-0030

Mr. Williams:

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 May 22, 2017 with the Regional Hearing Clerk.

The civil penalty in the amount of \$1,000 is to be paid in the manner described in paragraphs 26 and 27. Please be certain that the docket number is written on both the payment notification letter and on the check. Payment is due within 30 calendar days of the filing date.

Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Claudia Niess".

Claudia Niess  
Pesticides and Toxics Compliance Section

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

In the Matter of:

Pool & Spa Warehouse, Inc.  
Toledo, Ohio.

Respondent.



Docket No. FIFRA-05-2017-0030

Proceeding to Assess a Civil Penalty  
Under Section 14(a) of the Federal  
Insecticide, Fungicide, and Rodenticide  
Act, 7 U.S.C. § 136l(a)

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 136l(a), and Sections 22.13(b) and 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) as codified at 40 C.F.R. Part 22.

2. The Complainant is the Director of the Land and Chemicals Division, United States Environmental Protection Agency (EPA), Region 5.

3. Respondent is Pool & Spa Warehouse, a corporation doing business in the State of Ohio.

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

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

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

**Jurisdiction and Waiver of Right to Hearing**

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and its right to appeal this CAFO.

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

**Statutory and Regulatory Background**

10. Respondent owned or operated a place of business located at 5457 Secor Road, Toledo, Ohio during the calendar year 2013.

11. On March 5, 2013, an inspector employed by the Ohio Department of Agriculture and authorized to conduct inspections under FIFRA conducted an inspection at Respondent's place of business in Toledo, Ohio.

12. During the March 5, 2013 inspection, the inspector collected a labels, photos, and distribution records for the pesticide product Bulk Chlorine which Respondent was holding for distribution or sale.

13. Bulk Chlorine was not registered with the EPA at the time of the inspection.

14. The Administrator of EPA may assess a civil penalty against any wholesaler, dealer, retailer, or other distributor who violates any provision of FIFRA of up to \$7,500 for each offense that occurred after January 12, 2009, through November 2, 2015, pursuant to Section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1), and 40 C.F.R. Part 19.

**Factual Allegations and Alleged Violations**

15. Respondent owned or operated a place of business located at 5457 Secor Road, Toledo, Ohio during calendar years 2011, 2012 and 2013.

16. Respondent distributed or sold the pesticide Bulk Chlorine on December 14, 2011 to Splash Universe in Dundee, Michigan.

17. Bulk Chlorine was not registered on December 14, 2011.

18. Respondent's distribution or sale of the unregistered pesticide Bulk Chlorine constitutes an unlawful act pursuant to Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

19. Respondent distributed or sold the pesticide Bulk Chlorine on June 22, 2011 to Splash Universe in Dundee, Michigan.

20. Bulk Chlorine was not registered on June 22, 2011.

21. Respondent's distribution or sale of the unregistered pesticide Bulk Chlorine constitutes an unlawful act pursuant to Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

22. Respondent distributed or sold the pesticide Bulk Chlorine on August 7, 2012 to Covered Wagon in Ottawa Lake, Michigan.

23. Bulk Chlorine was not registered on August 7, 2012.

24. Respondent's distribution or sale of the unregistered pesticide Bulk Chlorine constitutes an unlawful act pursuant to Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

#### **Civil Penalty**

25. Pursuant to Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), Complainant determined that an appropriate civil penalty to settle this action is \$1,000. In determining the penalty amount, Complainant considered the appropriateness of the penalty to the size of Respondent's business, the effect on Respondent's ability to continue in business, and the gravity of the violation. Complainant also considered EPA's FIFRA Enforcement Response Policy,

dated December 2009.

26. Within 30 days after the effective date of this CAFO, Respondent must pay a \$1,000 civil penalty for the FIFRA violations by sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. EPA  
Fines and Penalties  
Cincinnati Finance Center  
Post Office Box 979077  
St. Louis, Missouri 63197-9000

The check must note Pool & Spa Warehouse and the docket number of this CAFO

27. Respondent must send a notice of payment that states Respondent's name and the case docket 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

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

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

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

29. If the Respondent does not pay timely the civil penalty, EPA may refer the matter to the Attorney General who will recover such amount 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.

30. 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 amount overdue from the date payment was due at a rate established by the Secretary of the Treasury. 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**

31. Consistent with the “Standing Order Authorizing E-Mail Service of Order and Other Documents Issued by the Regional Administrator or Regional Judicial Officer Under the Consolidated Rules,” dated March 27, 2015, the parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: nagle.richard@epa.gov (for Complainant), and veswill2@gmail.com (for Respondent). The parties waive their right to service by the methods specified in 40 C.F.R. § 22.6.

32. This CAFO resolves only Respondent’s liability for federal civil penalties for the violations and facts alleged in the CAFO.

33. 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 violations of law.

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

35. This CAFO is a “final order” for purposes of EPA’s FIFRA Enforcement Response Policy.

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

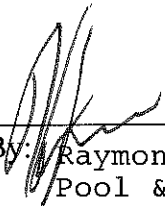
37. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

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

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


**Pool & Spa Warehouse, Respondent**

5-1-17  
Date

 PRES  
By: Raymond Snare, President of  
Pool & Spa Warehouse Inc.

**United States Environmental Protection Agency, Complainant**

05/18/17  
Date

  
Ignacio L. Arrázola  
Acting Director  
Land and Chemicals Division

**In the Matter of:  
Pool & Spa Warehouse, Inc.  
Docket No. FIFRA-05-2017-0030**

**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.

May 19, 2017  
Date

Ann L. Coyle  
Ann L. Coyle  
Regional Judicial Officer  
United States Environmental Protection Agency  
Region 5



Consent Agreement and Final Order  
In the matter of: Pool and Spa Warehouse, Inc.  
Docket Number: **FIFRA-05-2017-0030**

**CERTIFICATE OF SERVICE**

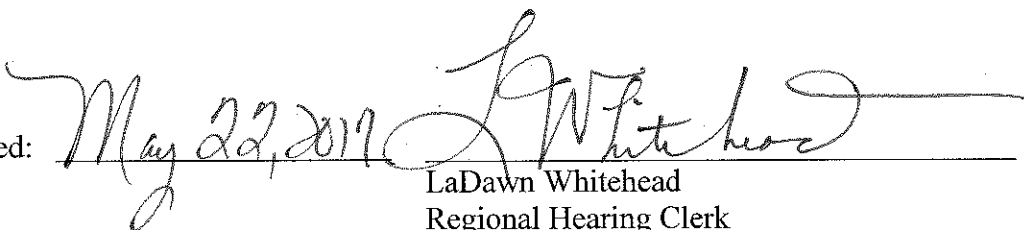
I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, docket number **FIFRA-05-2017-0030**, which was filed on 5/22/2017, in the following manner to the following addressees:

Copy by E-mail to Attorney for Respondent: Vesper Williams  
veswill2@gmail.com

Copy by E-mail to Attorney for Complainant: Rick Nagle  
nagle.richard@epa.gov

Copy by E-mail to Regional Judicial Officer: Ann Coyle  
coyle.ann@epa.gov

Dated: May 22, 2017

  
\_\_\_\_\_  
LaDawn Whitehead  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 5