

**FILED**

**5/3/24**

**4:01 PM**

**U.S. EPA REGION 1  
HEARING CLERK**

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1**

In the Matter of:

**Ocean State Jobbers, Inc.  
375 Commerce Park Road  
North Kingstown, RI 02852**

Respondent

**CONSENT AGREEMENT AND  
FINAL ORDER**

**EPA Docket No.  
FIFRA-01-2024-0026**

**CONSENT AGREEMENT**

**I. PRELIMINARY STATEMENT AND JURISDICTION**

1. The United States Environmental Protection Agency (EPA), Region 1 and Ocean State Jobbers, Inc. d/b/a Ocean State Job Lot (Ocean State Job Lot) agree to settle this matter and consent to the entry of this Consent Agreement and Final Order (CAFO).

2. The issuance of this Consent Agreement and attached Final Order, in accordance with 40 C.F.R. § 22.13(b), simultaneously commences and concludes an administrative penalty assessment proceeding brought under Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 136/(a), and Sections 22.13 and 22.18 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules of Practice), as codified at 40 C.F.R. Part 22, for the distribution or sale of misbranded pesticide devices in violation of Section 12(a)(1)(F) of FIFRA, 7 U.S.C. § 136j(a)(1)(F), and the failure to file reports required by FIFRA (i.e., "Notices of Arrival" for imported pesticides or devices) in violation of Section 12(a)(2)(N) of FIFRA, 7 U.S.C. § 136j(a)(2)(N).

3. Complainant is the EPA, Region 1. On EPA's behalf, the Director of the Enforcement and Compliance Assurance Division, EPA Region 1, is delegated the authority to settle civil administrative penalty proceedings under Section 14(a) of FIFRA, 7 U.S.C. § 136/(a).

4. Respondent is Ocean State Job Lot, a company incorporated in the state of Rhode Island, with its corporate headquarters located in North Kingstown, Rhode Island.

5. Complainant and Respondent (collectively, the Parties), having agreed that settlement of this matter is in the public interest, agree to settle this action before any hearing or the taking of any testimony and without the filing of a complaint or the adjudication of any issue of fact or law, agree to comply with the terms of this Consent Agreement, and consent to the issuance of a final order ratifying this Consent Agreement.

6. This Consent Agreement and Final Order (CAFO) is entered into under Section 14(a) of FIFRA, 7 U.S.C. § 136/(a), and the Consolidated Rules of Practice, 40 C.F.R. Part 22.

7. The Consent Agreement informs Respondent of Complainant's intention to assess a penalty against Respondent for alleged violations of Section 12 of FIFRA, as amended, 7 U.S.C. § 136j, and implementing regulations at 40 C.F.R. Parts 150 - 180 and at 19 C.F.R §§ 12.110 - 12.117 (collectively, the FIFRA regulations). The Consent Agreement also informs Respondent of its right to request a hearing.

8. The Regional Judicial Officer is authorized to ratify this Consent Agreement, which memorializes a settlement between Complainant and Respondent. 40 C.F.R. §§ 22.4(b), 22.18(b).

## **II. GOVERNING LAW**

9. FIFRA, 7 U.S.C. § 136 et seq., and the FIFRA regulations govern the import, sale, distribution and use of pesticides and pesticide devices in the United States.

10. Section 12(a)(1)(F) of FIFRA, 7 U.S.C. § 136j(a)(1)(F), provides that it shall be unlawful for any person to distribute or sell to any person a pesticide device which is misbranded.

11. 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."

12. Section 2(gg) of FIFRA, 7 U.S.C § 136(gg), states that the term "to distribute or sell" means "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."

13. The regulation set forth at 40 C.F.R. § 152.3 further explains that “[d]istribute or sell” and other grammatical variations of the term such as “distributed or sold” and “distribution or sale,” means “the acts of distributing, selling, offering for sale, holding for sale, shipping, holding for shipment, delivering for shipment, or receiving and (having so received) delivering or offering to deliver, or releasing for shipment to any person in any State.”

14. Section 2(t) of FIFRA, 7 U.S.C. § 136(t), defines a “pest,” in pertinent part, as “any insect, rodent, nematode, fungus, weed, or [ ] other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism (except viruses, bacteria, or other micro-organisms on or in living man or other living animals) which the [EPA] Administrator declares to be a pest under section [25(c)(1) of FIFRA].”

15. Section 2(h) of FIFRA, 7 U.S.C. § 136(h), defines a “device,” in part, as any instrument or contrivance (other than a firearm) which is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life.

16. 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 device or any of its containers or wrappers,” and “labeling” as “all labels and all other written, printed, or graphic matter— (A) accompanying the pesticide or device at any time; or (B) to which reference is made on the label or in literature accompanying the pesticide or device ...”.

17. The regulation at 40 C.F.R. § 152.500(b) states, in pertinent part, that a device is subject to the requirements set forth in FIFRA Section 2(q) and 40 C.F.R. Part 156, with respect to labeling; FIFRA Sections 12, 13, and 14 with respect to violations, enforcement activities, and penalties; and FIFRA Section 17, with respect to import and export of devices.

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

19. Section 2(q)(1)(D) of FIFRA, 7 U.S.C. § 136(q)(1)(D), states that a pesticide or device is misbranded if its label does not bear the registration number assigned under [FIFRA] Section 7 to each establishment in which it was produced.

20. The regulation at 40 C.F.R. § 156.10(a)(1)(v) states that every pesticide product shall bear a label containing clearly and prominently, *inter alia*, the producing establishment number as prescribed in 40 C.F.R. § 156.10(f).

21. The regulation at 40 C.F.R. § 156.10(f) states that the producing establishment registration number preceded by the phrase “EPA Est.”, of the final establishment at which the product was produced may appear in any suitable location on the label or immediate container.

22. The regulation at 40 C.F.R. § 156.10(a)(5) states that a pesticide or a device is misbranded if its labeling is false or misleading in any particular including both pesticidal and non-pesticidal claims.

23. Section 12(a)(1)(F) of FIFRA, 7 U.S.C. § 136j(a)(1)(F), provides that “[i]t shall be unlawful for any person in any State to distribute or sell to any person – any device which is misbranded.”

24. The importation of pesticides and devices into the United States is governed by Sections 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 EPA, set forth at 19 C.F.R. §§ 12.110 – 12.117. 19 C.F.R. § 12.1(b).

25. Section 17(c) of FIFRA, 7 U.S.C. § 136o(c), and the regulations implementing that provision set forth at 19 C.F.R. §§ 12.110 – 12.117, establish that an importer or the importer’s agent desiring to import pesticides or devices into the United States shall submit to EPA, prior to the arrival of the shipment in the United States, a Notice of Arrival of Pesticides and Devices (“Notice of Arrival”) on EPA Form 3540-1, or, in the alternative, file the electronic version of Form 3540-1, with the filing of entry documentation, via any electronic data interchange system authorized by the U.S. Customs and Border Protection (“CBP”). (Herein, both the physical Form 3540-1 and its electronic alternative are referred to as a “NOA”).

26. The term “importer” is defined at 19 C.F.R. § 101.1 as the person primarily liable for the payment of any duties on the merchandise, or an authorized agent acting on his behalf. The importer may be the consignee, importer of record, the actual owner of the merchandise or the transferee of the merchandise.

27. Section 12(a)(2)(N) of FIFRA, 7 U.S.C. § 136j(a)(2)(N), provides that “[i]t shall be unlawful for any person who is a registrant, wholesaler, dealer, retailer, or other distributor to fail to file reports required by [FIFRA].” Such reports include, but are not limited to, NOAs submitted to EPA for each shipment of pesticides or devices that are imported into the United States under Section 17 of FIFRA and 19 C.F.R. § 12.112(a).

28. The FIFRA requirement to submit NOAs prior to importing pesticides or devices into the United States protects against unreasonable risks to human health or the environment by providing EPA with vital information about pesticides or devices before their arrival into the United States for distribution or sale. NOAs provide information – including active ingredients, quantities, countries of origin, identity of producing establishments, carriers, and ports of entry – that enables EPA to make informed decisions about whether importation will pose unreasonable adverse risks to public health or the environment and, also, provide critical contact information in the event of an emergency related to the movement of potentially harmful pesticides or devices.

29. Section 14(a)(1) of FIFRA, 7 U.S.C. § 136/(a)(1), states that any registrant, commercial applicator, wholesaler, dealer, retailer or other distributor who violates any provision of FIFRA may be assessed a civil penalty by the EPA of not more than \$5,000 for each offense. The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended through 2015, 28 U.S.C. § 2461, and its implementing regulations set forth at 40 C.F.R. Part 19, increased the amount that can be assessed to \$24,255 for each offense occurring after November 2, 2015, when assessed on or after December 27, 2023. See 88 Fed. Reg. 89,312 (December 27, 2023).

30. Section 14(a)(4) of FIFRA, 7 U.S.C. § 136/(a)(4), provides that the Administrator, in determining the amount of the penalty, shall consider the appropriateness of such penalty to the size of the business of the person charged, the effect on the person’s ability to continue in business, and the gravity of the violation.

### **III. COMPLAINANT’S FINDINGS OF FACT AND ALLEGED VIOLATIONS**

31. Respondent is, and was at all times relevant to the allegations herein, a corporation, and therefore, a “person” as that term is defined by Section 2(s) of FIFRA, 7 U.S.C. § 136(s).

32. Between February 5, 2020 and April 14, 2023, Respondent imported into the United States numerous shipments of bug zapper products, which were labeled and marketed with pesticidal claims (the “Shipments”).

33. Respondent imported the bug zapper products through the United States Port of Entry at Boston, Massachusetts (CBP Port of Entry number 0401) and the United States Port of Entry at Worcester, Massachusetts (CBP Port of Entry number 0403).

34. The bug zapper products that Respondent imported, distributed or sold between February 5, 2020, and April 14, 2023, represent seven bug zapper pesticide “devices,” as that term is defined in FIFRA, and 40 C.F.R. § 152.3. The seven pesticide devices (referred to collectively herein as the “Bug Zapper Pesticide Devices”) are listed below (including the product name and associated Stock Keeping Unit (SKU) number):

- a. Bug Zapper Mini (SKU 224389);
- b. Bug Zapper Plus (SKU224388);
- c. Bug Zapper With Light (SKU 275319);
- d. Outdoor 2-in-1 Bug Zapper Light (SKU 208606);
- e. Solar Powered Light and Bug Zapper (SKU 236966);
- f. Outdoor Insect Zapper (SKU 263896) (formerly SKU 230402); and
- g. Zap Guard Ultra Electric Bug Zapper (SKU 259985).

35. On June 15, 2023, two duly-authorized EPA Region 1 FIFRA inspectors conducted an inspection (the “Inspection”) of Respondent’s headquarters facility at 375 Commerce Park Road, North Kingstown, Rhode Island (the “Facility”).

36. During the Inspection, EPA obtained documents related to the Bug Zapper Pesticide Devices imported, distributed or sold by Respondent between February 5, 2020, and April 14, 2023, including:

- a. Labels (for SKU numbers 224389, 224388, 275319, 236966, 263896, and 208606);
- b. Photographs of packaged products (for SKU numbers 224389, 224388, 275319, 263896, 208606, and 259985);
- c. A list of import entries dated between February 5, 2020 – April 14, 2023 and the SKU numbers associated with each entry (including SKU numbers

- 224389, 224388, 263896, 224389, 236966, and 208606);
- d. Entry Summaries (CBP Form 7501) and commercial invoices (for SKU numbers 224389, 224388, 275319, 263896, and 208606); and
- e. Current store and warehouse inventories (for SKU numbers 224389, 224388, 236966, 263896, 208606, and 259985).

37. EPA also obtained documents from Respondent after the Inspection via certified mail and email related to the Bug Zapper Pesticide Devices imported, distributed or sold by Respondent between February 5, 2020, and April 14, 2023, including:

- a. Entry Summaries (CBP Form 7501) and commercial invoices (for SKU numbers 263896, 280877, and 280878); and
- b. A letter from Respondent addressed to EPA, dated June 27, 2023, that states Respondent's estimated sales volume for Fiscal Year 2023.

38. After reviewing the documents described in Paragraphs 36 and 37 above, EPA staff determined that:

- a. The Bug Zapper Pesticide Devices are pesticide devices as defined under Section 2(h) of FIFRA, 7 U.S.C. § 136(h);
- b. Respondent imported the following Bug Zapper Pesticide Devices without filing the required NOAs prior to their arrival in the United States on numerous occasions between February 5, 2020, and April 14, 2023:
  - i. Bug Zapper Mini (SKU 224389);
  - ii. Bug Zapper Plus (SKU 224388);
  - iii. Bug Zapper With Light (SKU 275319);
  - iv. Outdoor 2-in-1 Bug Zapper Light (SKU 208606);
  - v. Solar Powered Light and Bug Zapper (SKU 236966); and
  - vi. Outdoor Insect Zapper (SKU 263896) (formerly SKU 230402) (collectively referred to herein as the "Imported Bug Zapper Pesticide Devices");
- c. The following Bug Zapper Pesticide Devices distributed or sold by Respondent were not labeled with an EPA Establishment number as required by 40 C.F.R. § 156.10(a)(1)(v), and were therefore misbranded

pursuant to Section 2(q)(1)(D) of FIFRA, 7 U.S.C. § 136(q)(1)(D):

- i. Bug Zapper Mini (SKU 224389);
  - ii. Bug Zapper Plus (SKU224388);
  - iii. Bug Zapper With Light (SKU 275319);
  - iv. Outdoor 2-in-1 Bug Zapper Light (SKU 208606);
  - v. Solar Powered Light and Bug Zapper (SKU 236966); and
  - vi. Zap Guard Ultra Electric Bug Zapper (SKU 259985) (collectively referred to herein as the “Misbranded Bug Zapper Pesticide Devices”); and
- d. Respondent distributed or sold the Misbranded Bug Zapper Pesticide Devices on numerous occasions between February 5, 2020, and April 14, 2023.

39. Respondent is, and was at all times relevant to the allegations herein, an “importer” as that term is defined in 19 C.F.R. § 101.1 and within the meaning of 19 C.F.R. § 12.112, and Respondent was the importer of record for all of the unlawful imports alleged herein.

40. Respondent was responsible for submitting NOAs in accordance with section 17(c)(1) of FIFRA, 7 U.S.C. § 136o(c)(1), and 19 C.F.R. § 12.112(a), for its imports of the Imported Bug Zapper Pesticide Devices.

41. Each of Respondent’s numerous failures to submit NOAs in accordance with 19 C.F.R. § 12.112(a) for the import of the Imported Bug Zapper Pesticide Devices between February 5, 2020 and April 14, 2023, constitutes a failure to file reports required by section 17(c)(1) of FIFRA, 7 U.S.C. § 136o(c)(1), and is therefore a violation of section 12(a)(2)(N) of FIFRA, 7 U.S.C. § 136j(a)(2)(N). 7 U.S.C § 136/(a)(1).

42. Respondent’s importation of the Misbranded Bug Zapper Pesticide Devices, as labeled upon arrival, between February 5, 2020, and April 14, 2023, constitutes an act within the definition of “to distribute or sell” in section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), and 40 C.F.R. § 152.3.



43. Respondent's holding for sale, offering for sale, and distribution of the Misbranded Bug Zapper Pesticide Devices to customers in the United States between February 5, 2020, and April 14, 2023, constitutes an act within the definition of "to distribute or sell" in section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), and 40 C.F.R. § 152.3. Respondent was a distributor of the Misbranded Bug Zapper Pesticide Devices within the meaning of Section 14(a)(a) of FIFRA, 7 U.S.C. § 136/(a)(1) at all times relevant to the allegations herein.

44. Each of Respondent's numerous unlawful distributions or sales of the Misbranded Bug Zapper Pesticide Devices, which were misbranded pursuant to Section 2(q)(1)(D) of FIFRA, 7 U.S.C. § 136(q)(1)(D), between February 5, 2020, and April 14, 2023, constitutes a distribution of misbranded pesticide devices and is therefore a violation of Section 12(a)(1)(F) of FIFRA, 7 U.S.C. § 136j(a)(1)(F).

45. Each of Respondent's unlawful acts, as alleged herein, is a violation of FIFRA for which a penalty may be independently assessed under Section 14(a)(1), 7 U.S.C. § 136/(a)(1).

46. Respondent may be assessed a civil penalty under the authority in section 14(a)(1) of FIFRA for each violation of sections 12(a)(1)(F) and 12(a)(2)(N) of FIFRA, 7 U.S.C. §§ 136j(a)(1)(F) and 136j(a)(2)(N). 7 U.S.C. § 136/(a)(1).

47. During EPA's investigation described above in Paragraphs 35 - 38, Respondent cooperated and provided complete information in response to questions from EPA.

48. As described in its Corrective Action Plan provided to EPA on February 5, 2024, Respondent took the following actions after the EPA Inspection to achieve FIFRA compliance: (1) Respondent ceased selling the Misbranded Bug Zapper Pesticide Devices and required its stores to remove the Misbranded Bug Zapper Pesticide Devices from sales floors; (2) Respondent implemented procedures for its point-of-sale systems to create alerts in the event that a customer attempts to purchase a Misbranded Bug Zapper Pesticide Device inadvertently left on the sales floor; (3) for bug zapper pesticide devices that have been or will be ordered in 2024, Respondent has taken steps to ensure that the product labels for the devices have been updated to include an EPA establishment number; (4) Respondent has coordinated with EPA to develop a process for correcting non-compliant product labels on Misbranded Bug Zapper Pesticide Devices in order for the products to be returned to the sales floor; and (5) Respondent has taken steps to ensure that a NOA will be submitted to EPA prior to any future importation of pesticide devices.

#### IV. CIVIL PENALTY

49. Based on an evaluation of the facts alleged in this Consent Agreement, the factors enumerated in section 14(a)(4) of FIFRA, 7 U.S.C. § 136/(a)(4), and the EPA's Enforcement Response Policy for the Federal Insecticide, Fungicide, and Rodenticide Act (December 2009), Complainant has determined the appropriate penalty to settle this action is \$53,500 (Civil Penalty).

#### V. TERMS OF AGREEMENT

50. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:

- a. Admits the jurisdictional allegations in this CAFO;
- b. Neither admits nor denies the specific factual allegations contained in this CAFO;
- c. Consents to the assessment of a civil penalty as stated below;
- d. Consents to the issuance of any specified compliance or corrective action order;
- e. Consents to the conditions specified in this CAFO;
- f. Consents to any stated Permit Action;
- g. Waives any right to contest the allegations forth in section III of this Consent Agreement; and
- h. Waives its right to appeal the Final Order ratifying this Consent Agreement.

51. For the purposes of this proceeding, Respondent also:

- a. Acknowledges that it has been informed of its right to request a hearing to contest the allegations set forth in this CAFO;
- b. Agrees that this CAFO states a claim upon which relief can be granted against Respondent;
- c. Acknowledges that this CAFO constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement actions;
- d. Waives any and all remedies, claims for relief, and otherwise available

- rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this CAFO;
- e. Consents to personal jurisdiction in any action to enforce this Consent Agreement or Final Order, or both, in the United States District Court for the District of Massachusetts; and
  - f. Waives any rights it may possess at law or in equity to challenge the authority of EPA to bring a civil action in a United States District Court to compel compliance with the Consent Agreement or Final Order, or both, and to seek an additional penalty for such noncompliance, and agree that federal law shall govern in any such civil action.

52. The parties agree to submit this Consent Agreement to the EPA Region 1 Regional Judicial Officer with a request that it be incorporated into a Final Order.

53. Respondent consents to the assessment of the Civil Penalty in the amount specified in section IV of this Consent Agreement and agrees to pay such penalty to the United States within 30 calendar days following the effective date of the Final Order.

54. Respondent agrees to pay the Civil Penalty in the manner specified below:

- a. Using any method, or combination of methods, provided on the website: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>, and identify every payment with “*In the Matter of Ocean State Jobbers, Inc.*”, Docket No. FIFRA-01-2024-0026”; and
- b. Within 24 hours of payment of the Civil Penalty, Respondent shall send proof of payment by email to the Regional Hearing Clerk, Kevin Pechulis, and the Cincinnati Finance Center at:

Wanda I. Santiago  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 1  
[Santiago.Wanda@epa.gov](mailto:Santiago.Wanda@epa.gov)  
and  
[R1\\_Hearing\\_Clerk\\_Filings@epa.gov](mailto:R1_Hearing_Clerk_Filings@epa.gov)

and to:

Kevin Pechulis, Senior Enforcement Counsel, Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 1  
[Pechulis.Kevin@epa.gov](mailto:Pechulis.Kevin@epa.gov)

and to:

U.S. Environmental Protection Agency  
Cincinnati Finance Center  
Via electronic mail to:  
[CINWD\\_AcctsReceivable@epa.gov](mailto:CINWD_AcctsReceivable@epa.gov)

“Proof of payment” means, as applicable, a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with “*In the Matter of Ocean State Job Lot, Inc.*, Docket No. FIFRA-01-2024-0026.”

55. 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. In the event that any portion of the civil penalty is not paid when due, the penalty shall be payable, plus accrued interest, without demand. Interest shall be payable at the rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b)(2) and shall accrue from the original date on which the penalty was due to the date of payment. In addition, a penalty charge of six (6) percent per year will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. However, should assessment of the penalty charge on the debt be required, it will be assessed as of the first day payment is due under 31 C.F.R. § 901.9(d).

56. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service (“IRS”) annually, a completed IRS Form 1098-F (“Fines, Penalties, and Other Amounts”) with respect to any court order or settlement agreement (including administrative settlements), that require a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor’s violation of any

law or the investigation or inquiry into the payor's potential violation of any law, including amounts paid for "restitution or remediation of property" or to come "into compliance with a law." EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number ("TIN"), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. In order to provide EPA with sufficient information to enable it to fulfill these obligations, EPA herein requires, and Respondent herein agrees, that:

- a. Respondent shall complete an IRS Form W-9 ("Request for Taxpayer Identification Number and Certification"), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;
- b. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent's correct TIN or that Respondent has applied and is waiting for issuance of a TIN;
- c. Respondent shall email its completed Form W-9 to EPA's Cincinnati Finance Center at [Chalifoux.Jessica@epa.gov](mailto:Chalifoux.Jessica@epa.gov), within 30 days after the Final Order ratifying this Agreement is filed, and EPA recommends encrypting IRS Form W-9 email correspondence; and
- d. In the event that Respondent has certified in its completed IRS Form W-9 that it does not yet have a TIN but has applied for a TIN, Respondent shall provide EPA's Cincinnati Finance Center with Respondent's TIN, via email at the address provided above, within five (5) days of Respondent's receipt of a TIN issued by the IRS.

57. The provisions of this Consent Agreement shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, authorized representatives, successors, and assigns.

58. By signing this CAFO, Respondent acknowledges that this CAFO will be available to the public and agrees that this CAFO does not contain any confidential business information or personally identifiable information.

59. By signing this CAFO, the undersigned representative of Complainant and the undersigned representative of Respondent each certify that he or she is fully authorized to execute and enter into the terms and conditions of this CAFO and has the legal capacity to bind the party he or she represents.

60. By signing this CAFO, the parties agree that each party's obligations under this CAFO and EPA's compromise of statutory maximum penalties constitute sufficient consideration for the other party's obligations.

61. By signing this CAFO, Respondent certifies that the information it has supplied concerning this matter was at the time of submission true, accurate, and complete for each such submission, response, and statement. Respondent acknowledges that there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.

62. By signing this CAFO, Respondent certifies that, to the best of its knowledge and belief, it is presently complying with FIFRA, 7 U.S.C. §§ 136 to 136y, and the FIFRA regulations promulgated thereunder, that it has fully addressed the violations alleged by EPA herein, and that the information it has provided to EPA during the course of the EPA investigation of this matter and up to the present is true and complete.

63. Complainant and Respondent, by entering into this CAFO, each consent to accept digital signatures hereupon. Respondent further consents to accept electronic service of the fully executed CAFO, by email at: [s.harris@osjl.com](mailto:s.harris@osjl.com). Respondent understands that this email address may be made public when the CAFO and Certificate of Service are electronically filed and uploaded to a searchable database. Complainant has provided Respondent with a copy of the EPA Region 1 Regional Judicial Officer's Authorization of EPA Region 1 Part 22 Electronic Filing System for Electronic Filing and Service of Documents Standing Order, dated June 19, 2020. Electronic signatures shall comply with, and be maintained in accordance with, that Standing Order.

## **VI. EFFECT OF CONSENT AGREEMENT AND ATTACHED FINAL ORDER**

64. In accordance with 40 C.F.R. § 22.18(c), Respondent's full compliance with this Consent Agreement shall only resolve liability for federal civil penalties for the violations specifically alleged in section III above.

65. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 12 of FIFRA, for the specific violations alleged in section III of this CAFO. Compliance with this CAFO shall not be a defense to any other actions subsequently commenced pursuant to federal laws and regulations administered by EPA for matters not addressed in this CAFO, and it is the responsibility of Respondent to comply with all applicable provisions of federal, state or local law.

66. The civil penalty due under this CAFO, and any interest, non-payment penalties, and charges described in this CAFO, shall represent penalties assessed by EPA within the meaning of 26 U.S.C. § 162(f) and are not tax deductible for purposes of federal, state, or local law. Accordingly, Respondent agrees to treat all payments made pursuant to this CAFO as penalties within the meaning of Internal Revenue Service regulations, including 26 C.F.R. § 1.162-21, and further agrees not to use these payments in any way as, or in furtherance of, a tax deduction under federal, state or local law.

67. This CAFO constitutes the entire agreement and understanding of the parties and supersedes any prior agreements or understandings, whether written or oral, among the parties with respect to the subject matter hereof.

68. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of FIFRA and other federal, state or local laws or statutes, nor shall it restrict the EPA's ability to seek compliance with any applicable laws or regulations, or be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.

69. EPA reserves the right to revoke this CAFO and settlement penalty if and to the extent that EPA finds, after signing this CAFO, that any information provided by Respondent was materially false or inaccurate at the time such information was provided to EPA, and EPA reserves the right to assess and collect any and all civil penalties for any violation described herein. EPA shall give Respondent notice of its intent to revoke, which shall not be effective until received by Respondent in writing.

70. This CAFO in no way relieves Respondent or its employees of any criminal liability, and EPA reserves all its other criminal and civil enforcement authorities, including the authority to seek injunctive relief and the authority to undertake any action against Respondent

in response to conditions which may present an imminent and substantial endangerment to the public health, welfare, or the environment.

71. Except as qualified by Paragraph 55 (overdue penalty), each party shall bear its own costs and fees in this proceeding including attorney's fees. Respondent specifically waives any right to seek such costs and fees from EPA pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504, or other applicable laws.

**VII. EFFECTIVE DATE**

72. Respondent and Complainant agree to issuance of the attached Final Order. Upon filing, EPA will electronically transmit a copy of the filed CAFO to Respondent. This CAFO shall become effective after execution of the Final Order by the Regional Judicial Officer, on the date of filing with the Regional Hearing Clerk.

The foregoing Consent Agreement, *In the Matter of Ocean State Jobbers, Inc.*, Docket No. FIFRA-01-2024-0026, is hereby stipulated, agreed, and approved for entry.

For Respondent, OCEAN STATE JOBBERS, INC.:

  
\_\_\_\_\_  
John Conforti, CFO  
Ocean State Jobbers, Inc.

4-24-24  
Date



The foregoing Consent Agreement, *In the Matter of Ocean State Jobbers, Inc.*, Docket No. FIFRA-01-2024-0026, is hereby stipulated, agreed, and approved for entry.

For Complainant, U. S. ENVIRONMENTAL PROTECTION AGENCY, REGION 1:

---

James Chow, Acting Director  
Enforcement and Compliance Assurance Division  
U.S. Environmental Protection Agency, Region 1

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1**

In the Matter of:

**Ocean State Jobbers, Inc.  
375 Commerce Park Road  
North Kingstown, RI 02852**

Respondent

**CONSENT AGREEMENT AND  
FINAL ORDER**

**EPA Docket No.  
FIFRA-01-2024-0026**

**FINAL ORDER**

Pursuant to 40 C.F.R. §§ 22.18(b) and (c) of the EPA's Consolidated Rules of Practice, the attached Consent Agreement resolving this matter is incorporated by reference into this Final Order and is hereby ratified. The Respondent is ORDERED to comply with all terms of the Consent Agreement, which shall become effective on the date it is filed with the Regional Hearing Clerk

**So ordered.**

---

LeAnn W. Jensen, Regional Judicial Officer  
U.S. Environmental Protection Agency, Region 1