



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590  
November 26, 2013

REPLY TO THE ATTENTION OF:

LC- 8J

**CERTIFIED MAIL: No.7009 1680 0000 7676 4254**  
**RETURN RECEIPT REQUESTED**

Mr. Richard Immerman  
Bleachtech LLC  
19301 Shaker Boulevard  
Cleveland, Ohio 44122

Consent Agreement and Final Order In the Matter of  
Bleachtech LLC, Docket No. FIFRA-05-2014-0002

Mr. Immerman:

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 November 26, 2013 with the Regional Hearing Clerk.

The civil penalty in the amount of \$17,160 is to be paid in the manner described in paragraphs 45 through 47. Please be certain that the docket number is written on both the transmittal letter and on the check. Payment is due by December 26, 2013 (within 30 calendar days of the filing date).

Thank you for your cooperation in resolving this matter.

Sincerely,

*Terence Bonace*

Terence Bonace  
Pesticides and Toxics Compliance Section

Enclosures



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

In the Matter of: )

Bleachtech LLC )  
Cleveland, Ohio, )

Respondent. )  
\_\_\_\_\_ )

Docket No. FIFRA-05-2014-0002

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 Commencing and Concluding the Proceeding**

**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 Bleachtech LLC, a limited liability 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 to 136y.

**Statutory and Regulatory Background**

10. Section 3(c)(1)(C), 7 U.S.C. § 136a(c)(1)(C), states that each applicant for registration of a pesticide shall file with the Administrator a statement which includes a complete copy of the labeling of the pesticides, a statement of all claims to be made for it, and any directions for its use.

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

12. Section 2(q)(1)(F) of FIFRA, 7 U.S.C. § 136(q)(1)(F), defines a pesticide as “misbranded” if the labeling accompanying it does not contain directions for use which are necessary for effecting the purpose for which the product is intended and if complied with, together with any requirements imposed under Section 3(d) of this Act, is adequate to protect health and the environment.

13. Section 2(q)(1)(G) of FIFRA, 7 U.S.C. § 136(q)(1)(G), defines a pesticide as “misbranded” if the label does not contain a warning or caution statement which may be necessary and if complied with, together with any requirements imposed under Section 3(d) of

this Act, is adequate to protect health and the environment.

14. Section 2(q)(2)(C)(iv) of FIFRA, 7 U.S.C. § 136(q)(2)(C)(iv), defines a pesticide as misbranded if there is not affixed to its container, and to the outside container or wrapper of the retail package, if there be one, thorough which the required information on the immediate container cannot be clearly read, a label bearing the registration number assigned to the pesticide under FIFRA.

15. 40 C.F.R. § 152.132 states that a registrant may distribute or sell his registered product under another person's name and address instead of (or in addition to) his own. The product is referred to as a "distributor product."

16. 40 C.F.R. § 152.132 states that supplemental distribution is permitted upon notification to the Agency if all of the following conditions are met: (a) The registrant has submitted to the Agency for each distributor product a statement signed by both the registrant and the distributor listing the names and addresses of the registrant and the distributor, the distributor's company number, the additional brand name(s) to be used, and the registration number of the registered product, (b) The distributor product is produced, packaged and labeled in a registered establishment operated by the same producer who produces, packages, and labels the registered product, (c) The distributor product is not repackaged (remains in the producer's unopened containers), (d) The label of the distributor product is the same as that of the registered product, except that the product name of the distributor product may be different, the name and address of the distributor may appear instead of that of the registrant, the registration number of the registered product must be followed by a dash, followed by the distributor's company number, the establishment number must be that of the final establishment at which the product was produced, and specific claims may be deleted, provided that no other changes are

necessary, and (e) Voluntary cancellation of a product applies to the registered product and all distributor products distributed or sold under that registration number.

17. 40 C.F.R. §152.132 also specifies that a distributor is considered an agent of the registrant for all intents and purposes under FIFRA, and both the registrant and the distributor may be held liable for violations pertaining to the distributor product.

18. The term “person” as defined in Section 2(s) of FIFRA, 7 U.S.C. § 136(s) “means any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.”

19. The term “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.” 7 U.S.C. § 136(gg).

20. The term “person,” as defined in Section 2(s) of FIFRA, 7 U.S.C. § 136(s) means “any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.”

21. A “pest,” as defined in Section 2(t) of FIFRA, 7 U.S.C. § 136(t), means any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism which the Administrator of EPA declares to be a pest under Section 25(c)(1) of FIFRA.

22. A “pesticide,” as defined in Section 2(u) of FIFRA, 7 U.S.C. § 136(u) means, among other things, any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.

23. A “registrant,” as defined in Section 2(y) of FIFRA, § 136(y) means, a person who has registered any product pursuant to the provisions of FIFRA.

24. The Administrator of EPA may assess a civil penalty against any registrant, commercial applicator, wholesaler, dealer, retailer, other distributor who violates any provision of FIFRA of up to \$7,500 for each offense that occurred after January 12, 2009, 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**

25. Respondent is a “person” as defined at Section 2(s) of FIFRA, 7 U.S.C. § 136(s).

26. Respondent is a “person” as defined at Section 2(s) of FIFRA, 7 U.S.C. § 136(s).

27. Respondent is a “registrant” as defined at Section 2(y) of FIFRA, 7 U.S.C. § 136(z).

28. At all times relevant to the Complaint, Respondent owned or operated a place of business located at 300 Ryan Road, Seville, Ohio.

29. The company number assigned to Bonded Chemicals Incorporated (Bonded), located at 2645 Charter Street, Columbus, Ohio, is 82351.

30. On or about March 31, 2003, Respondent registered its pesticide product, **Bleach Tech 12.5% Solution** with EPA.

31. EPA assigned EPA Registration Number (EPA Reg. No.) 75373-20001 to Respondent’s pesticide product, **Bleach Tech 12.5% Solution**.

32. On or about April 20, 2005, Respondent and Bonded submitted a Notice of Supplemental Registration of Distributor to EPA for the pesticide product, **Bleach Tech 12.5% Solution**.

33. The Notice of Supplemental Registration of Distributor listed the distributor of **Bleach Tech 12.5% Solution**, EPA Reg. No, 75373-20001, as Bonded.

34. The Notice of Supplemental Registration of Distributor listed the distributor product name as **Hypochlorite Solution 12-15%**.

35. The EPA Reg. No. for the distributor product **Hypochlorite Solution 12-15%** is 75373-20001-82351.

36. **Hypochlorite Solution 12-15%**, EPA Reg. No. 75373-20001-82351, is a “pesticide” as that term is defined in Section 2(u) of FIFRA, 7 U.S.C. § 136(u).

37. Bonded is considered an agent of the registrant, Respondent, for all intents and purposes under 40 C.F.R. § 152.132 with respect to its distributor product **Hypochlorite Solution 12-15%**, EPA Reg. No. 75373-20001-82351.

38. On or about January 4, 2010, an inspector employed by the Ohio Department of Agriculture and authorized to conduct inspections under FIFRA conducted an inspection at Bonded’s place of business.

39. During the January 4, 2010 inspection, the inspector collected a label and shipping records of the pesticide product, **Hypochlorite Solution 12-15%**, EPA Reg. No. 75373-20001-82351, which Bonded was holding for distribution or sale.

40. The label of **Hypochlorite Solution 12-15%**, EPA Reg. No. 75373-20001-82351, did not bear the use direction, “Note: This product degrades with age. Use a chlorine test kit and increase dosage, as necessary, to obtain the required level of available chlorine.”

41. The label of **Hypochlorite Solution 12-15%**, EPA Reg. No. 75373-20001-82351, did not bear the warning statement, under, “If swallowed,” “Have a person drink large amounts of water.”

42. The label of **Hypochlorite Solution 12-15%**, EPA Reg. No. 75373-20001-82351, did not bear the complete registration number assigned to the pesticide.

43. On or about 6 occasions in December of 2009 and January of 2010, Bonded distributed or sold **Hypochlorite Solution 12-15%**, EPA Reg. No. 75373-20001-82351.

**Civil Penalty**

44. 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 \$17,160. 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 *Enforcement Response Policy for the Federal Insecticide, Fungicide, and Rodenticide Act*, dated July 2, 1990.

45. Within 30 days after the effective date of this CAFO, Respondent must pay a \$17,160 civil penalty for the FIFRA violations. Respondent must pay the penalty by sending [*For checks sent by regular U.S. Postal Service Mail*] a cashier's or certified check, payable to the "Treasurer, United States of America," to:

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

[*For checks sent by express mail*] by sending a cashier's or certified check, payable to "Treasurer, United States of America," to :

U.S. Bank  
Government Lockbox 979077 U.S. EPA Fines and Penalties  
Contact: Natalie Pearson  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
St. Louis, Missouri 63101

The check must note "Bleachtech LLC, and the docket number of this CAFO.

[*For electronic funds transfer*] by transferring funds, 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:  
“D 68010727 Environmental Protection Agency”

In the comment or description field of the electronic funds transfer, state “Bleachtech LLC” and the docket number of this CAFO.

*[For Automated Clearinghouse (ACH) also known as REX or remittance express]* by an ACH electronic funds transfer, payable to “Treasurer, United States of America,” and sent to:

US Treasury REX/ Cashlink ACH Receiver  
ABA: 051036706  
Account Number: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22-checking

In the comment area of the electronic funds transfer, state “Bleachtech LLC” and the docket number of the CAFO.

*[For on line payment]* To pay on-line, go to [www.pay.gov](http://www.pay.gov). Use the Search Public Forms option on the tool bar and enter SFO 1.1 in the search field. Open the form and complete the required fields.

Respondent must send a notice of payment that states Respondent’s name, complete address 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

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

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

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

47. If Respondent does not pay the civil penalty timely, 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.

48. 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**

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

50. This CAFO does not 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.

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

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

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

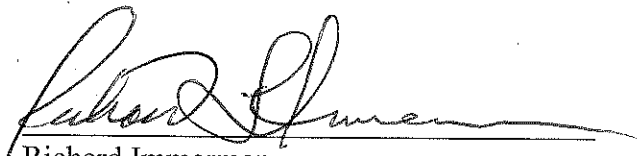
54. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

55. Each party agrees to bear its own costs and attorney's fees, in this action.

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

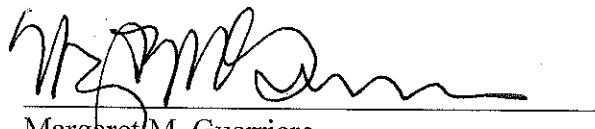
**Bleachtech LLC, Respondent**

10-1-2013  
Date

  
Richard Immerman  
Member  
Bleachtech LLC

**United States Environmental Protection Agency, Complainant**

11/15/2013  
Date

  
Margaret M. Guerriero  
Director  
Land and Chemicals Division


In the Matter of:  
[Respondent's Name]  
Docket No. FIFRA-05-2014-0002



**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.

11/20/13  
Date

  
\_\_\_\_\_  
Susan Hedman  
Regional Administrator  
United States Environmental Protection Agency  
Region 5



**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 Bleachtech LLC, was filed on November 26, 2013, with the Regional Hearing Clerk (E-19J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604, and that I mailed by Certified Mail, Receipt No. 7009 1680 0000 7668 1759, a copy of the original to the Respondent:

Mr. Richard Immerman  
Bleachtech LLC  
19301 Shaker Boulevard  
Cleveland, Ohio 44122

and forwarded copies (intra-Agency) to:

Ann Coyle, Regional Judicial Officer, ORC/C-14J  
Puja Lakhani, Regional Judicial Officer, ORC/C-14J  
Eric Volck, Cincinnati Finance/MWD

A handwritten signature in blue ink that reads "Frederick Brown". The signature is written in a cursive style and is positioned above a horizontal line.

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

Docket No. FIFRA-05-2014-0002