



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

**AUG 02 2007**

4APT-PTSB

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Mr. Mike Lomazoff  
President  
Texas Pool Chemicals  
10690 Shadow Wood Drive  
Suite 102  
Houston, Texas 77043

SUBJ: Docket No. FIFRA-04-2007-3034(b)  
PAR Enterprises, dba Texas Pool Chemicals

Dear Mr. Lomazoff:

Enclosed is a copy of the ratified Consent Agreement and Final Order (CAFO) in the above-referenced matter. The original CAFO has been filed with the Regional Hearing Clerk and served on the parties as directed in Section 22.6 of the Consolidated Rules of Practice, 40 CFR Part 22.

Please make note of the provisions in Section IV of the Final Order, with respect to payment of the assessed penalty of \$900 which is due within 30 days from the effective date of the CAFO. If paying by cashier's or certified check, we request that the payment be identified by writing the company name and docket number on the face of the check.

Also enclosed is a copy of the October 2001 *Enforcement Alert* titled "U.S. EPA Notifying Defendants of Securities and Exchange Commission's Environmental Disclosure Requirements." This document notifies you of your potential duty to disclose to the Securities and Exchange Commission (SEC) any environmental enforcement actions taken by the EPA. Please note that the contact phone number on page three of the Notice has been changed to (202) 551-3115.

Internet Address (URL) • <http://www.epa.gov>

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Penalty payment questions should be directed to Ms. Lori Weidner either by telephone at (513) 487-2125 or by written correspondence to her attention at the U.S. EPA, Cincinnati Accounting Operations address identified in Section IV of the CAFO. Should you have any questions about your compliance status in the future, please call me or Mr. Mark Bloeth at (404) 562-9013.

Sincerely,

A handwritten signature in cursive script that reads "Joanne Benante".

Joanne Benante  
Chief  
Pesticides and Toxic  
Substances Branch

Enclosures (2)

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
ATLANTA, GEORGIA

2007 AUG -2 PM 3:53

RECEIVED  
EPA REGION IV

In the Matter of: )  
)  
PAR Enterprises )  
d/b/a Texas Pool Chemicals )  
)  
Respondent. )  
\_\_\_\_\_ )

Docket No. FIFRA-04-2007-3034(b)

CONSENT AGREEMENT AND FINAL ORDER

I. Nature of the Action

1. This is a civil penalty proceeding pursuant to Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, 7 U.S.C. § 136l(a) (hereinafter "FIFRA"), and pursuant to the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties and the Revocation / Termination or Suspension of Permits (Consolidated Rules), 40 CFR Part 22. Complainant is the Director of the Air, Pesticides and Toxics Management Division, United States Environmental Protection Agency, Region 4 (EPA). Respondent is PAR Enterprises d/b/a Texas Pool Chemicals, 10690 Shadow Wood Drive, #102, Houston, Texas 77043.
2. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 CFR § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 CFR § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

## II. Preliminary Statements

3. The authority to take action under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), is vested in the Administrator of EPA. The Administrator of EPA has delegated this authority under FIFRA to EPA Region 4 by EPA Delegation 5-14 dated May 11, 1994.
4. Pursuant to 40 CFR § 22.5(c)(4) the following individual represents EPA in this matter and is authorized to receive service for EPA in this proceeding:

Mark D. Bloeth  
Pesticides and Toxic  
Substances Branch  
U.S. EPA - Region 4  
61 Forsyth Street  
Atlanta, GA 30303-8960  
(404) 562-9013.
5. Respondent is PAR Enterprises d/b/a Texas Pool Chemicals, 10690 Shadow Wood Drive, #102, Houston, Texas 77043.
6. Respondent is registered as a pesticide producing facility identified by EPA Establishment Number 83921-TX-001 and located at 2815 Dixie Farm Road, Houston, Texas 77089.
7. Respondent is a "person" as defined by Section 2(s) of FIFRA, 7 U.S.C. § 136(s), and as such is subject to FIFRA and the regulations promulgated thereunder.
8. On or about June 29, 2007, EPA Region 4 received a Notice of Arrival of Pesticides and Devices form (NOA) relative to the importation of "Pro Shock Granular Calcium Hypochlorite," EPA Reg. No. 83921-1, originating from {CBI Deleted} into the Port of Charleston, South Carolina, and destined for Texas Pool Chemicals, 2815 Dixie Farm Road, Houston, Texas 77089.

9. The subject NOA and other import records indicated the EPA Producer Establishment Number as EPA Est. No. 83921-TX-001.
10. Respondent has certified that at the time of importation into the United States, the incorrect EPA Est. No. 83921-TX-001 appeared on the labeling of all quantities of “Pro Shock Granular Calcium Hypochlorite” for Entry No. AFQ 0021099-5.
11. On July 10, 2007, EPA Region 4 received a revised NOA for Entry No. AFQ 0021099-5, which indicated the correct foreign EPA Producer Establishment Number (EPA Est. No. 74831-CHN-001) with a reference that EPA Est. No. 83921-TX-001 appears on the labeling.
12. Respondent is the consignee of record for Entry No. AFQ 0021099-5.
13. “Pro Shock Granular Calcium Hypochlorite” is a “pesticide” as defined in Section 2(u) of FIFRA, 7 U.S.C. § 136(u), which includes any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.
14. A “pest” is defined in Section 2(t) of FIFRA, 7 U.S.C. § 136(t), as 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 (except viruses, bacteria, or other microorganisms on or in living man or other living animals) which the Administrator declares to be a pest under Section 25(c)(1) of FIFRA, 7 U.S.C. § 136w(c)(1).
15. Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg) defines the term “distribute or sell” to include: 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.

16. Respondent “distributes or sells” pesticides as defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg).
17. According to FIFRA 2(q)(1)(D), 7 U.S.C. § 136(q)(1)(D), a pesticide is misbranded if its label does not bear the registration number assigned under section 7 to each establishment in which it was produced.
18. It is unlawful according to FIFRA 12(a)(1)(E), 7 U.S.C. § 136j(a)(1)(E), for any person in any State to distribute or sell to any person any pesticide which is misbranded.
19. Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), on at least one occasion and is therefore subject to the assessment of civil penalties under Section 14 of FIFRA, 7 U.S.C. § 136l.
20. Section 14 of FIFRA, 7 U.S.C. § 136l, in conjunction with the Civil Monetary Inflation Adjustment Rule, 40 CFR Part 19, authorizes EPA to assess a civil penalty of not more than \$6,500 for each offense that occurs on or after March 15, 2004.
21. Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), requires EPA to consider the appropriateness of the assessed penalty to the size of business of the Respondent, the effect on Respondent's ability to continue in business, and the gravity of the violation.
22. The EPA proposes to assess a total civil penalty of NINE HUNDRED DOLLARS (\$900) against the Respondent for the above violations. Civil penalties under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), may be assessed by Administrative Order.

### III. Consent Agreement

23. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the factual allegations.
24. Respondent waives its right to a hearing on the allegations contained herein and its right to appeal the proposed final order accompanying the consent agreement.
25. Respondent consents to the assessment of the penalty proposed by EPA and agrees to pay the civil penalty as set forth in this CAFO.
26. EPA agrees to allow the further distribution of misbranded "Pro Shock Granular Calcium Hypochlorite" from the Port of Charleston, South Carolina, to the Texas Pool Chemicals production facility (EPA Est. 83921-TX-001) located in Houston, Texas.
27. Respondent will notify EPA Region 4 within seven (7) calendar days upon receipt of the misbranded "Pro Shock Granular Calcium Hypochlorite" and provide digital photographs of the product and labeling as it is received from the Port of Charleston, South Carolina.
28. Respondent will re-label all quantities of misbranded "Pro Shock Granular Calcium Hypochlorite" in a manner which reflects the correct foreign establishment number (EPA Est. No. 74831-CHN-001) and in so doing, bring the product into compliance with FIFRA labeling requirements.
29. Respondent will report to EPA Region 4 within seven (7) calendar days after the aforementioned relabeling activity is completed and provide digital photographs of the relabeled "Pro Shock Granular Calcium Hypochlorite".
30. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all other relevant requirements of FIFRA.

31. Compliance with this CAFO shall resolve the allegations of the violations contained herein. This CAFO shall not otherwise affect any liability of Respondent to the United States. Other than as expressed herein, neither EPA nor Complainant waives any right to bring an enforcement action against Respondent for violation of any federal or state statute, regulation or permit, to initiate an action for imminent and substantial endangerment, or to pursue criminal enforcement.
32. Complainant and Respondent agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of FIFRA.

#### IV. Final Order

33. Respondent is assessed a civil penalty of NINE HUNDRED DOLLARS (\$900) which is to be paid within thirty (30) days of the effective date of this CAFO.
34. Respondent shall remit the penalty by either a cashier's or certified check made payable to the "Treasurer, United States of America," and shall send the check via U.S. mail to the following address:

U.S. Environmental Protection Agency  
Cincinnati Accounting Operations  
Mellon Lockbox 371099M  
Pittsburgh, PA 15251-7099.

**The check shall reference on its face the name and the Docket Number of the CAFO "PAR Enterprises d/b/a Texas Pool Chemicals, FIFRA-04-2007-3034(b)."**

35. At the time of payment, Respondent shall send a separate copy of the check and a written statement that the payment is being made in accordance with this CAFO, to the following persons at the following addresses:

Regional Hearing Clerk  
U.S. EPA - Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960;

Mark D. Bloeth  
Pesticides and Toxic  
Substances Branch  
U.S. EPA - Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960;

and

Saundi Wilson  
Environmental Accountability Division  
U.S. EPA - Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960.

36. For the purposes of state and federal income taxation, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for any civil penalty payment made pursuant to this CAFO. Any attempt by Respondent to deduct any such payments shall constitute a violation of this CAFO.
37. 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. Interest will therefore begin to accrue on the civil penalty from the date of entry of this CAFO, if the penalty is not paid by the date required. A charge will also be assessed to cover the administrative costs, both direct and indirect, of overdue debts. In addition, a late payment penalty charge shall be applied on any principle amount not paid within 90 days of the due date.
38. Complainant and Respondent shall bear their own costs and attorney fees in this matter.

- 39. This CAFO shall be binding upon the Respondent, its successors and assigns.
- 40. The undersigned representative of the party to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally binds that party to this CAFO.

V. Effective Date

- 41. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

**AGREED AND CONSENTED TO:**

**PAR Enterprises (d/b/a Texas Pool Chemicals)**

By: Mike Lamazoff Date: 7-13-07

Name: Mike Lamazoff (Typed or Printed)

Title: President (Typed or Printed)

**U.S. Environmental Protection Agency**

By: Carol G. Kemper for Date: 7/27/07

Beverly H. Banister, Director  
Air, Pesticides and Toxics  
Management Division  
61 Forsyth Street  
Atlanta, Georgia 30303-8960

**APPROVED AND SO ORDERED** this 2<sup>nd</sup> day of Aug 2007.

Susan B. Schub  
Susan B. Schub  
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing Consent Agreement and Final Order, in the Matter of: PAR Enterprises, dba Texas Pool Chemicals, FIFRA Docket No. 04-2007-3034(b), on the parties listed below in the manner indicated.

For Complainant:

Mark D. Bloeth  
PCB & Chemical Products Management Section  
U.S. EPA - Region 4, 4APT-PTSB  
61 Forsyth Street  
Atlanta, GA 30303-8960

(Via EPA's internal mail)

Saundi Wilson  
Office of Environmental Accountability  
U.S. EPA - Region 4  
61 Forsyth Street  
Atlanta, GA 30303-8960.

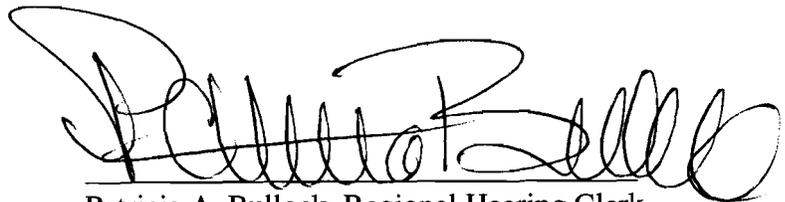
(Via EPA's internal mail)

For Respondent:

Mr. Mike Lomazoff  
President  
Texas Pool Chemicals  
10690 Shadow Wood Drive  
Suite 102  
Houston, Texas 77043

(Via Certified Mail - Return Receipt Requested)

Date: 8-2-07



Patricia A. Bullock, Regional Hearing Clerk  
United States Environmental  
Protection Agency, Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street  
Atlanta, GA 30303-8960  
(404) 562-9511

**EPA ACCOUNTS RECEIVABLE CONTROL NUMBER FORM**

**TO BE COMPLETED BY THE ORIGINATING OFFICE:**

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Saundi Wilson on 8/2/07  
(Name) (Date)

in the OET at (404) 562-9574  
(Office) (Telephone Number)

Non-SF Judicial Order/Consent Decree  
USAO COLLECTS

Administrative Order/Consent Agreement  
FMO COLLECTS PAYMENT

SF Judicial Order/Consent Decree  
DOJ COLLECTS

Oversight Billing - Cost Package required:  
Sent with bill

Not sent with bill

Other Receivable

Oversight Billing - Cost Package not required

This is an original debt

This is a modification

PAYEE: PAR Enterprises db/a Texas Pool Chemicals  
(Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 900  
(If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: FIFRA 04 2007 3034(b)

The Site Specific Superfund Account Number: \_\_\_\_\_

The Designated Regional/Headquarters Program Office: \_\_\_\_\_

**TO BE COMPLETED BY LOCAL FINANCIAL MANAGEMENT OFFICE:**

The IFMS Accounts Receivable Control Number is: \_\_\_\_\_ Date \_\_\_\_\_

If you have any questions, please call: \_\_\_\_\_ of the Financial Management Section at: \_\_\_\_\_

**DISTRIBUTION:**

A. **JUDICIAL ORDERS:** Copies of this form with an attached copy of the front page of the **FINAL JUDICIAL ORDER** should be mailed to:

- |  |                              |
|--|------------------------------|
| 1. Debt Tracking Officer<br>Environmental Enforcement Section<br>Department of Justice RM 1647<br>P.O. Box 7611, Benjamin Franklin Station<br>Washington, D.C. 20044 | 2. Originating Office (EAD)  |
|  | 3. Designated Program Office |

B. **ADMINISTRATIVE ORDERS:** Copies of this form with an attached copy of the front page of the Administrative Order should be to:

- |                           |                              |
|---------------------------|------------------------------|
| 1. Originating Office     | 3. Designated Program Office |
| 2. Regional Hearing Clerk | 4. Regional Counsel (EAD)    |