



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

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

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Ms. Karen S. McLead  
Pinch A Penny, Inc.  
14480 62 Street North  
Clearwater, Florida 33760

Re: Docket No.: FIFRA-04-2010-3038(b)  
Sun Wholesale Supply, Inc.  
d/b/a Suncoast Chemicals Company and Pinch A Penny, Inc.

Dear Ms. McLead:

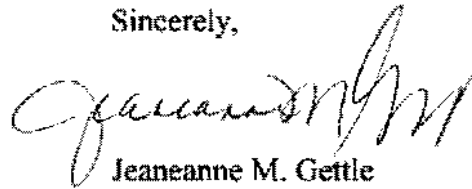
Enclosed is a copy of the ratified Consent Agreement and Final Order (CAFO) in the above-referenced matter. The original CAFO has been filed with the Regional Hearing Clerk and served on the parties as directed in Section 22.6 of the Consolidated Rules of Practice, 40 C.F.R. Part 22. As stated in Section V of the CAFO, the assessed penalty of \$4,230 is due within 30 days from the effective date. Please ensure that the face of your cashier's or certified check includes the name of the company and the docket number of this case.

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. Environmental Protection Agency's Cincinnati Accounting Operations address identified in the CAFO. Should you have any questions about this matter or your compliance status in the future, please call me at (404) 562-8979 or Mr. Phillip Beard at (404) 562-9012.

Also enclosed is a copy of a document entitled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document

puts you on notice of your potential duty to disclose to the Securities and Exchange Commission (SEC) any environmental enforcement actions taken by EPA.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeaneanne M. Gettle". The signature is fluid and cursive, with the first name being the most prominent.

Jeaneanne M. Gettle  
Chief  
Pesticides and Toxic  
Substances Branch

Enclosures

cc: Craig Bryant, Environmental Administrator  
Florida Department of Agriculture and Consumer Services  
State File No. 208-015-4117

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
ATLANTA, GEORGIA

In the Matter of: )  
)  
Sun Wholesale Supply, Inc., d/b/a )  
Suncoast Chemicals Company and )  
Pinch A Penny, Inc. )  
)  
)  
Respondents. )  
\_\_\_\_\_ )

Docket No. FIFRA-04-2010-3038(b)

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FEDERAL CLERK

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 C.F.R. Part 22. Complainant is the Director of the Air, Pesticides, and Toxics Management Division, United States Environmental Protection Agency, Region 4 (EPA). Respondents are Sun Wholesale Supply, Inc., d/b/a Suncoast Chemicals Company and Pinch A Penny, Inc.
2. Complainant and Respondents have conferred for the purpose of settlement pursuant to 40 C.F.R. § 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 C.F.R. § 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 C.F.R. § 22.5(c)(4) the following individual represents EPA in this matter and is authorized to receive service for EPA in this proceeding:

Phillip Beard  
Pesticides Section  
U.S. EPA – Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960  
(404) 562-9012.

5. Respondents are Florida corporations. Pinch A Penny, Inc., is a franchisor. Sun Wholesale Supply, Inc. is an affiliated company and distributes chemical products under the private label name of Suncoast Chemicals Company to the Pinch A Penny chain of 205 retail franchisees which are independently owned and operated. Respondents are located at 14480 62 Street, North, Clearwater, Florida 33760
6. Respondents are “persons” 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.

## III. Specific Allegations

7. On or about December 12, 2008, an authorized representative of the EPA conducted an inspection at a Pinch A Penny store located at 7935 Airport Pulling Road, Unit 3, Naples, Florida 34109. During the aforementioned inspection, “Stop Bug” was identified as being sold and distributed at the store by the Respondent, Pinch A Penny.

8. "Stop Bug" is manufactured by Suncoast Chemicals Company ("Suncoast Chemicals"). Sun Wholesale Supply sells and distributes "Stop Bug" to the Pinch A Penny franchisee stores, and to third party retailers and wholesalers.
9. The label on "Stop Bug" contained pesticidal claims that the product "eliminates floating insects from swimming pools," and "allows floating or diving insects to drop to the bottom of the pool for easy removal by vacuum or filtration." As a result of the pesticidal claims on its label, "Stop Bug" is a pesticide as defined in Section 2(u) of FIFRA, 7 U.S.C. § 136(u). The definition of pesticide includes any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.
10. 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).
11. Respondents "distribute or sell" pesticides. The term "to distribute or sell" as defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), includes to distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, or release for shipment.
12. Under Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), it is unlawful for any person in any State to distribute or sell any pesticide that is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a. The pesticide "Stop Bug" is not registered under Section 3 of FIFRA.

13. By selling and distributing an unregistered pesticide, Respondents violated Section 12(a)(1)(A) of FIFRA, and are subject to the assessment of civil penalties under Section 14 of FIFRA, 7 U.S.C. § 136l.
14. Pursuant to FIFRA Section 2(q)(2)(A), 7 U.S.C. § 136(q)(2)(A), a pesticide is misbranded if its label does not bear an ingredient statement on the immediate container which is presented or displayed under customary conditions of purchase. At the time of the inspection, the “Stop Bug” pesticide product was misbranded in that the label did not bear an ingredient statement as required by Section 2(q)(2)(A) of FIFRA.
15. Under Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), it is unlawful for any person in any state to distribute or sell to any person any pesticide which is misbranded.
16. By selling and distributing a misbranded pesticide, Respondents violated Section 12(a)(1)(E) of FIFRA, and are therefore subject to the assessment of civil penalties under Section 14 FIFRA, 7 U.S.C. § 136l.
17. Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), in conjunction with the Debt Collection Improvement Act of 1996, authorizes the assessment of a civil penalty.
18. 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 Respondents, the effect on Respondents’ ability to continue in business, and the gravity of the violation.
19. After consideration of the factors set forth in Section 14(a)(4) of FIFRA, the EPA proposes to assess a total civil penalty of FOUR THOUSAND TWO HUNDRED THIRTY DOLLARS (\$4,230), against the Respondents for the above-described

violations. Civil penalties under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), may be assessed by Administrative Order.

#### IV. Consent Agreement

20. For the purposes of this CAFO, Respondents admit the jurisdictional allegations set forth above and neither admit nor deny the factual allegations set forth above.
21. Respondents waive their right to a hearing on the allegations contained herein and their right to appeal the proposed Final Order accompanying the Consent Agreement.
22. Respondents consent to the assessment of the penalty proposed by EPA and agree to pay the civil penalty as set forth in this CAFO.
23. Respondents certify that as of the date of its execution of this CAFO, they are in compliance with all relevant requirements of FIFRA.
24. Compliance with this CAFO shall resolve the allegations of the violations contained herein. This CAFO shall not otherwise affect any liability of Respondents to the United States. Other than as expressed herein, neither EPA nor Complainant waives any right to bring an enforcement action against Respondents 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.
25. Complainant and Respondents 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.

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V. Final Order

26. Respondents are assessed a civil penalty of FOUR THOUSAND TWO HUNDRED THIRTY DOLLARS (\$4,230), which shall be paid within 30 days from the effective date of this CAFO.
27. Respondents shall remit the penalty payment 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  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000.

**The check shall reference on its face the name of the  
Respondents and the Docket Number assigned to this CAFO.**

28. At the time of payment, Respondents 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;

Phillip Beard  
Pesticides Section  
U.S. EPA – Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960;

and



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

29. For the purposes of state and federal income taxation, Respondents shall not be entitled, and agree not to attempt, to claim a deduction for any civil penalty payment made pursuant to this CAFO. Any attempt by Respondents to deduct any such payments shall constitute a violation of this CAFO.
30. 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 principal amount not paid within 90 days of the due date.
31. Complainant and Respondents shall bear their own costs and attorney fees in this matter.
32. This CAFO shall be binding upon the Respondents, their successors and assigns.
33. The undersigned representative of each party to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and to legally bind that party to this CAFO.

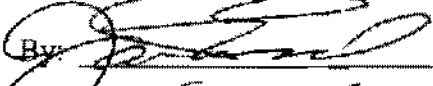
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VI. Effective Date

34. 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:

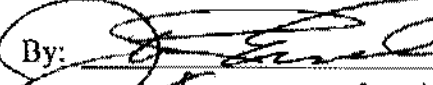
Pinch A Penny, Inc.  
Docket No. FIFRA-04-2010-3038(b)

By:  (Signature) Date: 8/19/10

Name: James P. Etsch (Typed or Printed)  
James P. Etsch

Title: COO (Typed or Printed)

Sun Wholesale Supply, Inc.  
d/b/a Suncoast Chemicals Company

By:  (Signature) Date: 8/19/10

Name: James P. Etsch (Typed or Printed)  
James P. Etsch

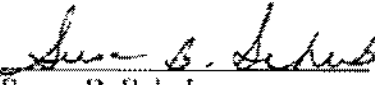
Title: COO (Typed or Printed)

U.S. Environmental Protection Agency

By:  Date: 10/6/2010

Carol L. Kemker, Acting Director  
Air, Pesticides and Toxics  
Management Division  
U.S. EPA, Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960

APPROVED AND SO ORDERED this 28<sup>th</sup> day of Oct. 2010.

  
Susan B. Schub  
Regional Judicial Officer

**CERTIFICATE OF SERVICE**

I hereby certify that on the date set out below, I filed the original and one copy of the foregoing Consent Agreement and Final Order and served a true and correct copy of the foregoing Consent Agreement and Final Order. In the Matter of Sun Wholesale Supply, Inc., d/b/a Suncoast Chemicals Company and Pinch A Penny, Inc. Docket Number: FIFRA-04-2010-3038(b), to the addressees listed below.

Ms. Karen S. McLead  
Pinch A Penny, Inc.  
14480 62 Street North  
Clearwater, FL 33760

(via Certified Mail, Return Receipt Requested)

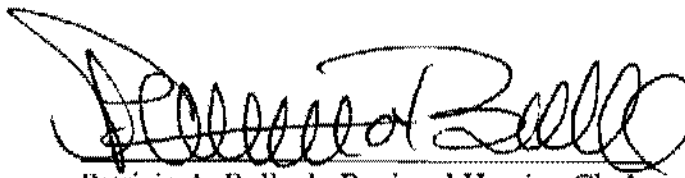
Phillip Beard  
Pesticides Section  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, GA 30303

(via EPA's internal mail)

Robert Caplan  
Associate Regional Counsel  
Office of Environmental Accountability  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, GA 30303

(via EPA's internal mail)

Date: 10-28-10



Patricia A. Bullock, Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 4  
Atlanta Federal Center  
61 Forsyth St., S.W.  
Atlanta, GA 30303  
(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 10/20/16  
(Name) (Date)

in the Region 4, ORC, OEA at (404) 562-9904  
(Office) (Telephone Number)

- |  |  |
|--|--|
| <input type="checkbox"/> Non-SF Judicial Order/Consent Decree<br>USAO COLLECTS | <input checked="" type="checkbox"/> Administrative Order/Consent Agreement<br>FMO COLLECTS PAYMENT |
| <input type="checkbox"/> SF Judicial Order/Consent Decree<br>DOJ COLLECTS      | <input type="checkbox"/> Oversight Billing - Cost Package required<br>Sent with bill               |
| <input type="checkbox"/> Other Receivable                                      | <input type="checkbox"/> Not sent with bill  |
| <input type="checkbox"/> This is an original debt                              | <input type="checkbox"/> Oversight Billing - Cost Package not required                             |
|  | <input type="checkbox"/> This is a modification  |

PAYEE: Sun Wholesale Supply Inc d/b/a Suncoast Chemicals + Pinch A Penny Inc  
(Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 4230  
(If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: FIERA of 2010 3038(b)

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

The Designated Regional/Headquarters Program 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)<br>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 mailed to:
- |  |   |
|--|---|
| 1. Originating Office<br>2. Regional Hearing Clerk | 3. Designated Program Office<br>4. Regional Counsel (EAD) |
|--|---|