



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

4APT-PTSB

SEP 12 2007

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Roger Stefl
Astro-Pure, Inc.
1441 S.W. 1st Way
Deerfield Beach, FL 33441

SUBJ: Docket No. FIFRA-04-2007-3020(b)
Astro-Pure, Inc.

Dear Mr. Stefl:

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 the Final Order, with respect to payment of the assessed penalty of \$3,300. The initial payment in the amount of \$280.99 is due within 30 days from the effective date of the CAFO. Remaining payments are due as set forth in Section 32 of the CAFO.

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 33 of the CAFO. Should you have any questions about your company's compliance status in the future, please do not hesitate to call me or Melba Table at (404) 562-9086.

Sincerely,

Joanne Benante
Chief
Pesticides and Toxic
Substances Branch

Enclosures

cc: Craig Bryant, FLDACS

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
ATLANTA, GEORGIA

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HEARINGS CLERK

In the Matter of:)
Astro-Pure, Inc.) Docket No. **FIFRA-04-2007-3020(b)**
Respondent.)
_____)

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 Astro-Pure, Inc.
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:

Melba Table
Pesticides Management Section
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960
(404) 562-9086.

5. Respondent is Astro-Pure, Inc., a Florida corporation, located at 1441 S.W. 1st Way, Deerfield Beach, FL 33441.

6. 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.

7. On or about December 2, 2004, an authorized representative of the EPA conducted an inspection at Astro-Pure Inc., 1441 S.W.1st Way, Deerfield Beach, FL 33441.

8. During the aforementioned inspection, the product and labeling pertaining to "Astro-Pure Water Filter," EPA Reg. No. 39040-3 (expired), made antimicrobial claims.

9. The Astro-Pure Water Filter product was identified as being produced and distributed by the Respondent.

10. The inspector documented photographs and collected literature, which accompanied the sale of the Astro-Pure Water Filter on at least one occasion.

11. Astro-Pure Water Filter, is a pesticide as defined in Section 2(u) of FIFRA, 7 U.S.C. § 136(u), which includes any substance or mixture or substances intended for preventing, destroying, repelling, or mitigating any pest.
12. Furthermore, the Astro-Pure Water Filter is an antimicrobial pesticide as defined in Section 2(mm) of FIFRA, 7 U.S.C. § 136(mm).
13. 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).
14. An antimicrobial pesticide is defined in Section 2(mm) of FIFRA, 7 U.S.C. § 136(mm), as a pesticide that is intended to disinfect, sanitize, reduce, or mitigate growth or development of microbiological organisms.
15. Respondent “distributes or sells” pesticides. The term “to distribute to 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.
16. At the time of the inspection, the Astro-Pure Water Filter was not registered as a pesticide with EPA.

17. It is unlawful according Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), for any person to distribute or sell to any person any pesticide that is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.
18. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), 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.
19. At the time of the inspection, Respondent produced the pesticide Astro-Pure Water Purifer in an establishment that was not registered with the Administrator of EPA as a pesticide-producing establishment.
20. Produce is defined in 40 CFR § 167.3, a regulation promulgated under FIFRA, to include packaging, repackaging, labeling, relabeling or otherwise changing the container of any pesticide.
21. Respondent violated Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L) and is therefore subject to the assessment of civil penalties under Section 14 of FIFRA, 7 U.S.C. § 136l.
22. 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.
23. 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.

24. After consideration of the factors set forth in Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), the EPA proposes to assess a total civil penalty of THREE THOUSAND THREE HUNDRED DOLLARS (\$3,300) plus interest at one percent per annum, against the Respondent 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.

III. Consent Agreement

25. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the factual allegations.
26. 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.
27. Respondent consents to the assessment of the penalty proposed by EPA and agrees to pay the civil penalty as set forth in this CAFO.
28. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of FIFRA.
29. 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.

30. 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

31. Respondent is assessed a civil penalty of THREE THOUSAND THREE HUNDRED DOLLARS (\$3,300) plus interest at four percent which shall be paid in (12) equal installments according to the schedule agreed upon in paragraph 32.
32. **The initial payment in the amount of \$280.99 is due within 30 days from the effective date this CAFO is filed with the Regional Hearing Clerk.**

The remaining eleven installment payments will be made as set forth below:

| DATE | AMOUNT |
|-------------------|-----------|
| November 1, 2007 | \$280.99 |
| December 1, 2007 | \$280.99 |
| January 1, 2008 | \$280.99 |
| February 1, 2008 | \$280.99 |
| March 1, 2008 | \$280.99 |
| April 1, 2008 | \$280.99 |
| May 1, 2008 | \$280.99 |
| June 1, 2008 | \$280.99 |
| July 1, 2008 | \$280.99 |
| August 1, 2008 | \$280.99 |
| September 1, 2008 | \$280.99. |

33. Respondent shall remit the penalty by either cashier's or certified checks on or before the due dates payable to the "Treasurer, United States of America," and shall mail the checks via U.S. mail to the following address:

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

The check shall reference the name and the Docket Number of the CAFO [“Astro-Pure, Inc., FIFRA-04-2007-3020(b)”].

34. At the time of payment, Respondent shall send a separate copy of each 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, S.W.
Atlanta, Georgia 30303-8960;

Melba Table
Pesticides Management 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.

35. 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.

36. 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.
37. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
38. This CAFO shall be binding upon the Respondent, its successors and assigns.
39. 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.

Remainder of Page Left Blank Intentionally

30. 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.

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| July 1, 2008 | \$280.99 |
| August 1, 2008 | \$280.99 |
| September 1, 2008 | \$280.99. |

33. Respondent shall remit the penalty by either cashier's or certified checks on or before the due dates payable to the "Treasurer, United States of America," and shall mail the checks via U.S. mail to the following address:

V. Effective Date

40. 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:

Astro-Pure, Inc.

By: R.L. Steel (Signature)

Date: 8-7-07

Name: R.L. STEEL (Typed or Printed)

Title: PRESIDENT (Typed or Printed)

U.S. Environmental Protection Agency

By: Banister for

Date: 8/31/07

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

APPROVED AND SO ORDERED this 11th day of Sept., 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: Astro-Pure, Inc., FIFRA Docket No. 04-2007-3020(b), on the parties listed below in the manner indicated.

For Complainant:

Melba Table

(Via EPA's internal mail)

U.S. EPA - Region 4, 4APT-PTSB

Pesticides Management Section

61 Forsyth Street

Atlanta, GA 30303-8960

Saundi Wilson

(Via EPA's internal mail)

Office of Environmental Accountability

U.S. EPA - Region 4

61 Forsyth Street

Atlanta, GA 30303-8960

For Respondent:

Roger Stefl

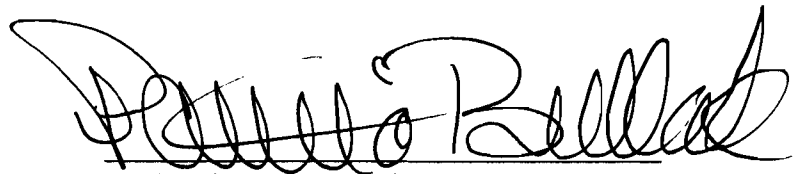
(Via Certified Mail - Return Receipt Requested)

Astro-Pure, Inc.

1441 S. W. 1st Way

Deerfield Beach, FL 33441

Date: 9-12-07



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