

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	Docket No. FIFRA-05-2023-0009
)	
Glenn Wadler)	Proceeding to Assess a Civil Penalty
dba Pro AG CHB-Logistics, Inc.)	Under Section 14(a) of the
Miami, Florida)	Federal Insecticide, Fungicide, and
)	Rodenticide Act, 7 U.S.C. § 136l(a)
Respondent.)	
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Consent Agreement and Final Order
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 Enforcement & Compliance Assurance Division, U.S. Environmental Protection Agency (EPA), Region 5.

3. Respondent is Glenn Wadler, an individual, doing business as Pro AG CHB-Logistics, Inc. located at 1800 NW 133rd Avenue Suite 900, Miami, Florida 33182.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, an 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. The importation of pesticides 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 EPA. These regulations are found at 19 C.F.R. Part 12.

11. 19 C.F.R. § 12.1(b) states that the importation of pesticides and devices is governed by 17(c) of the FIFRA (7 U.S.C. 136o(c)), and regulations issued under the authority of section 17(e) of FIFRA (7 U.S.C. 1360(e)) by the Secretary of the Treasury, in consultation with the Administrator of the Environmental Protection Agency, as set forth in 19 C.F.R. §§ 12.110 to 12.117 (Pesticides and Devices).

12. Section 12(a)(2)(N) of FIFRA, 7 U.S.C. § 136j(a)(2)(N), states that it is unlawful for any person who is a registrant, wholesaler, dealer, retailer, or other distributor to fail to file reports required by FIFRA.

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

14. The term “to distribute or sell” is defined in Section 2(gg) of FIFRA, 7 U.S.C. §136(gg), as 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.

15. A distributor is one who distributes or sells pesticides. See 40 C.F.R. § 152.3 (defining the term “distribute or sell” and “other grammatical variations of the term” as 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.)

16. The term “pesticide” is defined in Section 2(u) of FIFRA, 7 U.S.C. § 136(u), as, in pertinent part, any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating a pest.

17. The term “pest” is defined in Section 2(t) of FIFRA, 7 U.S.C. § 136(t) as, in pertinent part, any form of virus, bacteria, or other micro-organism. See also 40 C.F.R. § 152.5(d).

18. 19 C.F.R. § 12.112(a) states, in pertinent part, that an importer desiring to import pesticides into the United States shall submit to EPA, prior to the arrival of the shipment in the U.S., a Notice of Arrival of Pesticides or Devices (NOA) on U.S. EPA Form 3540-1.

19. The term “importer” is defined by 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, inter alia, the consignee or importer of record.

20. The Administrator of EPA may assess a civil penalty against any registrant, wholesaler, dealer, retailer, importer, or other distributor who violates any provision of FIFRA of up to \$23,494 for each offense that occurred after November 2, 2015, and assessed on or after January 12, 2022, 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

21. Respondent, an individual, is, and at all times relevant to this CAFO was, a “person” as that term is defined in Section 2(s) of FIFRA, 7 U.S.C. § 136(s).

22. Respondent is, and at all times relevant to this CAFO was, a wholesaler, dealer, retailer, or other “distributor” as that term is defined in 40 C.F.R. § 152.3.

23. Respondent is, and at all times relevant to this CAFO was, importing pesticides into the United States, and therefore an “importer” as that term is defined in 19 C.F.R. § 101.1.

Entry Number CEY-10241170

24. Respondent imported Lysol Disinfectant Spray (Entry Number CEY-10241170) into the United States through the Detroit, Michigan Port of Entry on or about January 20, 2022.

25. The importer of record for Entry Number CEY-10241170 is listed as Glenn Wadler, 1800 NW 133rd Avenue Suite 900, Miami, Florida.

26. The Lysol Disinfectant Spray referenced in Paragraph 24, above, contained the pesticidal claims “disinfectant spray,” “kills 99.9% of viruses and bacteria,” and “kills over 100 illness causing germs” on its label.

27. The Lysol Disinfectant Spray referenced in Paragraph 24, above, is therefore a “pesticide” as that term is defined in Section 2(u) of FIFRA, 7 U.S.C. § 136(u), because it is a substance or mixture of substances intended for preventing, destroying, repelling, or mitigating viruses, bacteria, or other micro-organisms.

28. Respondent failed to submit to EPA an NOA on U.S. EPA Form 3540-1, prior to the arrival of shipment CEY-10241170 in the United States.

29. To date, Respondent has not filed an NOA on shipment CEY-10241170.

Entry Number CEY-10241188

30. Respondent imported Lysol Disinfectant Spray (Entry Number CEY-10241188) into the United States through the Detroit, Michigan Port of Entry on or about January 19, 2022.

31. The importer of record for Entry Number CEY-10241188 is listed as Glenn Wadler, 1800 NW 133rd Avenue Suite 900, Miami, Florida.

32. The Lysol Disinfectant Spray referenced in Paragraph 30, above, contained the pesticidal claims “disinfectant spray,” “kills 99.9% of viruses and bacteria,” and “kills over 100 illness causing germs” on its label.

33. The Lysol Disinfectant Spray referenced in Paragraph 30, above, is therefore a “pesticide” as that term is defined in Section 2(u) of FIFRA, 7 U.S.C. § 136(u), because it is a substance or mixture of substances intended for preventing, destroying, repelling, or mitigating viruses, bacteria, or other micro-organisms.

34. Respondent failed to submit to EPA an NOA on U.S. EPA Form 3540-1 prior to the arrival of shipment CEY-10241188 in the United States.

35. To date, Respondent has not filed an NOA on shipment CEY-10241188.

Entry Number CEY-10242533

36. Respondent imported Lysol Disinfectant Spray (Entry Number CEY-10242533) into the United States through the Detroit, Michigan Port of Entry on or about February 2, 2022.

37. The importer of record for Entry Number CEY-10242533 was originally listed as Glenn Wadler, 1800 NW 133rd Avenue Suite 900, Miami, Florida.

38. The Lysol Disinfectant Spray referenced in Paragraph 36, above, contained the pesticidal claims “disinfectant spray,” “kills 99.9% of viruses and bacteria,” and “kills over 100 illness causing germs” on its label.

39. The Lysol Disinfectant Spray referenced in Paragraph 36, above, is therefore a “pesticide” as that term is defined in Section 2(u) of FIFRA, 7 U.S.C. § 136(u), because it is a substance or mixture of substances intended for preventing, destroying, repelling, or mitigating viruses, bacteria, or other micro-organisms.

40. Respondent failed to submit to EPA an NOA on U.S. EPA Form 3540-1 prior to the arrival of shipment CEY-10242533 in the United States.

41. To date, Respondent has not filed an NOA on shipment CEY-10242533.

Count One: Entry Number CEY-10241170

42. Complainant incorporates Paragraphs 10 through 41 by reference, as though fully set forth herein.

43. Section 12(a)(2)(N) of FIFRA, 7 U.S.C. § 136j(a)(2)(N), makes it unlawful for any person who is a registrant, wholesaler, dealer, retailer, or other distributor to fail to file a report required under FIFRA.

44. NOAs are a report required under FIFRA. See 19 C.F.R. § 12.1 and 7 U.S.C. § 136o(c).

45. Respondent, an importer and a wholesaler, dealer, retailer, or other distributor, failed to submit NOAs on U.S. EPA Form 3540-1 to EPA prior to the arrival of the pesticides contained in import shipment CEY-10241170 into the United States as required by 19 C.F.R. § 12.112(a).

46. Respondent's failure to submit NOAs to the EPA for the pesticides contained in import shipment CEY-10241170 prior to the arrival of the shipment into the United States constitutes a violation of Section 12(a)(2)(N) of FIFRA, 7 U.S.C. § 136j(a)(2)(N).

47. Respondent's violation of Section 12(a)(2)(N), 7 U.S.C. § 136j(a)(2)(N), of FIFRA subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

Count Two: Entry Number CEY-10241188

48. Complainant incorporates Paragraphs 10 through 41 by reference, as though fully set forth herein.

49. Section 12(a)(2)(N) of FIFRA, 7 U.S.C. § 136j(a)(2)(N), makes it unlawful for any person who is a registrant, wholesaler, dealer, retailer, or other distributor to fail to file a report required under FIFRA.

50. NOAs are a report required under FIFRA. See 19 C.F.R. § 12.1 and 7 U.S.C. § 136o(c).

51. Respondent, an importer and a wholesaler, dealer, retailer, or other distributor, failed to submit NOAs on U.S. EPA Form 3540-1 to EPA prior to the arrival of the pesticides contained in import shipment CEY-10241188 into the United States as required by 19 C.F.R. § 12.112(a).

52. Respondent's failure to submit NOAs to the EPA for the pesticides contained in import shipment CEY-10241188 prior to the arrival of the shipment into the United States constitutes a violation of Section 12(a)(2)(N) of FIFRA, 7 U.S.C. § 136j(a)(2)(N).

53. Respondent's violation of Section 12(a)(2)(N) of FIFRA subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

Count Three: Entry Number CEY-10242533

54. Complainant incorporates Paragraphs 10 through 41 by reference, as though fully set forth herein.

55. Section 12(a)(2)(N) of FIFRA, 7 U.S.C. § 136j(a)(2)(N), makes it unlawful for any person who is a registrant, wholesaler, dealer, retailer, or other distributor to fail to file a report required under FIFRA.

56. NOAs are a report required under FIFRA. See 19 C.F.R. § 12.1 and 7 U.S.C. § 136o(c).

57. Respondent, an importer and a wholesaler, dealer, retailer, or other distributor, failed to submit NOAs on U.S. EPA Form 3540-1 to EPA prior to the arrival of the pesticides contained in import shipment CEY-10242533 into the United States as required by 19 C.F.R. § 12.112(a).

58. Respondent's failure to submit NOAs to the EPA for the pesticides contained in import shipment CEY-10242533 prior to the arrival of the shipment into the United States constitutes a violation of Section 12(a)(2)(N) of FIFRA, 7 U.S.C. § 136j(a)(2)(N).

59. Respondent’s violation of Section 12(a)(2)(N) of FIFRA subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

Civil Penalty

60. 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 \$17,520. 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 FIFRA Enforcement Response Policy, dated December 2009.

61. Respondent must pay a \$17,520 civil penalty in six installments with interest as follows:

Installment	Due By	Payment	Principal	Interest
Payment #1	Within 30 days of effective date of CAFO	\$2,920	\$2,920	\$0
Payment #2	Within 60 days of effective date of CAFO	\$2,944.33	\$2,920	\$24.33
Payment #3	Within 90 days of effective date of CAFO	\$2,929.73	\$2,920	\$9.73
Payment #4	Within 120 days of effective date of CAFO	\$2,927.30	\$2,920	\$7.30
Payment #5	Within 150 days of effective date of CAFO	\$2,924.87	\$2,920	\$4.87
Payment #6	Within 180 days of effective date of CAFO	\$2,922.43	\$2,920	\$2.43

Respondent must pay the installments 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
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, Missouri 63101

The check must note Glenn Wadler dba Pro AG CHB-Logistics, Inc. and the docket number of this CAFO.

62. Respondent must send a notice of payment that states Respondent's name and the case docket number to EPA at the following e-mail addresses when it pays the penalty:

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5
r5hearingclerk@epa.gov

Angela Bouche (ECP-17J)
Pesticides and Toxics Compliance Section
U.S. EPA, Region 5
bouche.angela@epa.gov
and
R5lecab@epa.gov

Andrew Futerman (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
futerman.andrew@epa.gov

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

64. If Respondent does not pay any installment payment as set forth in paragraph 61, above, the entire balance of the civil penalty and any amount required by paragraph 65, below, shall become due and owing upon written notice by EPA to Respondent of the delinquency. EPA may refer the delinquency to the Attorney General to recover any unpaid penalty with interest by action in the appropriate United States district court under Section 14(a)(5) of FIFRA,

7 U.S.C. § 1361(a)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

65. 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

66. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: futerman.andrew@epa.gov (for Complainant), and JSchoenig@GDLSK.com (for Respondent). Respondent understands that the CAFO will become publicly available upon filing.

67. Respondent's full compliance with this CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in the CAFO.

68. This CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

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

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

71. The terms of this CAFO bind Respondent and its successors.

72. 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.


73. Each party agrees to bear its own costs and attorneys fees, in this action.

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

**In the Matter of:
Glenn Wadler
dba Pro AG CHB-Logistics, Inc.**

Glenn Wadler dba Pro AG CHB-Logistics, Inc., Respondent

3/17/23
Date


Glenn Wadler, President
Pro AG CHB – Logistics, Inc.

**In the Matter of:
Glenn Wadler
dba Pro AG CHB-Logistics, Inc.**

United States Environmental Protection Agency, Complainant

**MICHAEL
HARRIS**

Digitally signed by
MICHAEL HARRIS
Date: 2023.03.27
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Michael D. Harris, Director
Enforcement & Compliance Assurance Division

**In the Matter of:
Glenn Wadler
dba Pro AG CHB-Logistics, Inc.
Docket No.: FIFRA-05-2023-0009**

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.

ANN COYLE Digitally signed by ANN
COYLE
Date: 2023.04.05
11:43:34 -05'00'

Ann L. Coyle
Regional Judicial Officer
United States Environmental Protection Agency
Region 5