



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2

290 BROADWAY

NEW YORK, NEW YORK 10007-1866

MAR - 5 2008

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

Carrie Crawford  
Regulatory Consultant  
Roxide International, Inc.  
5927 Paint Bank Road  
New Castle, Virginia 24127

Re: Roxide International, Inc.  
Docket No. FIFRA-02-2007-5212

Dear Ms. Crawford:

Enclosed is a fully executed Final Order that resolves and settles the above noted matter, as Respondent, Roxide International, Inc., remitted the full penalty payment in the amount of \$3,610.00 to the U.S. Treasurer on or about October 30, 2007.

Should you have any questions or require any additional information concerning this matter, please do not hesitate to contact me directly at (212) 637-3637 or Coles Phinizy at (212) 637-3209.

Sincerely,

Karen L. Taylor  
Assistant Regional Counsel  
Office of Regional Counsel

Enclosure

cc: Karen Maples, Regional Hearing Clerk

Maureen Serafini  
Chief, Pesticides Management Bureau  
New York State Department of Environmental Conservation  
625 Broadway, Albany NY 12233

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG. 2  
2008 MAR -5 PM 4:49  
REGIONAL HEARING  
CLERK

bcc: Richard Cahill, 2PAD-POB  
Karen Taylor, 2 ORC-WTSB  
Coles Phinizy, 2ORC-WTSB  
Richard Koustas, 2DECA-PTSB  
Adrian Enache, 2DECA-PTSB  
Linda Hall, 2DECA-PTSB

Blake Edwards, Accounts Receivable  
United States Environmental Protection Agency  
26 West Martin Luther King Drive, MS: NWD  
Attention: FINANCE  
Cincinnati, Ohio 45268

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG. II  
2008 MAR -5 PM 4:49  
REGIONAL HEARING  
CLERK

-----X  
In the Matter of  
**ROXIDE INTERNATIONAL, INC.,**  
Respondent.  
Proceeding Under the Federal  
Insecticide, Fungicide and  
Rodenticide Act.  
-----X

**FINAL ORDER**

Docket No.  
FIFRA-02-2007-5212

This administrative proceeding for the assessment of a civil penalty was instituted pursuant to Section 14(a)(1) of the Federal Insecticide, Fungicide and Rodenticide Act ("FIFRA" or "the Act"), 7 U.S.C. § 1361(a)(1).

On or about March 3, 2006, authorized representatives of EPA conducted an inspection of Schofield Hardware, a retail store located at 215 Church Street, Georgetown, South Carolina 29440, in order to examine and collect samples of pesticides offered for sale, as authorized under Section 9 of FIFRA, 7 U.S.C. § 136g. During the aforementioned inspection, the inspector found offered for sale the pesticide product "Revenge Rodent Smoke Bomb," EPA Reg. No. 9086-4. Respondent is the registrant of the pesticide "Revenge Rodent Smoke Bomb." Respondent had arranged for the manufacture of the product and for its distribution in the marketplace and sold or distributed the product "Revenge Rodent Smoke Bomb" which was offered for sale by the Schofield Hardware.

As a result of the inspection, EPA representatives determined that Respondent distributed or sold the misbranded pesticide "Revenge Rodent Smoke Bomb" in violation of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E). The "Revenge Rodent Smoke Bomb" front panel label statements "Keep

Out of Reach of Children” and “WARNING” lacked the prominence and the type size required by Title 40 of the Code of Federal Regulations (CFR) Section 156.60(b); therefore, the label was misbranded.

The Complainant in this proceeding, the Director of the Division of Enforcement and Compliance Assistance, Region 2, United States Environmental Protection Agency (“EPA”), issued a Complaint and Notice of Opportunity for Hearing to Respondent on June 22, 2007. The Complaint charged Respondent with one violation of Section 12(a)(1)(E) of FIFRA.

A civil penalty of \$ 3,610 was proposed in accordance with Section 14(a) of FIFRA, 7 U.S.C. § 136/(a), which authorizes the assessment of a civil penalty of up to \$5,000 for each violation of FIFRA and the regulations promulgated pursuant thereto. As per the Civil Monetary Penalty Inflation Adjustment Final Rule, which was mandated by the Debt Collection Improvement Act of 1996 to adjust civil monetary penalties for inflation on a periodic basis, any such violation that occurs on or after January 31, 1997 may be assessed a civil penalty up to \$5,500 for each violation, and any such violation that occurs on or after March 15, 2004 may be assessed a civil penalty up to \$6,500 for each violation. 61 Fed. Reg. 69360 (December 31, 1996); 69 Fed. Reg. 7121 (February 13, 2004). To develop the proposed penalty in this Complaint, Complainant has taken into account the particular facts and circumstances of this case, to the extent known at the time of the filing of the Complaint, with specific reference to EPA's “Enforcement Response Policy For The Federal Insecticide, Fungicide and Rodenticide Act (FIFRA),” dated July 2, 1990.

The rules of procedure governing this civil administrative litigation are entitled, “CONSOLIDATED RULES OF PRACTICE GOVERNING THE ADMINISTRATIVE ASSESSMENTS OF CIVIL PENALTIES, ISSUANCE OF

COMPLIANCE OR CORRECTIVE ACTION ORDERS, AND THE REVOCATION, TERMINATION OR SUSPENSION OF PERMITS”, and are codified at 40 C.F.R. Part 22. Pursuant to 40 C.F.R. § 22.18(a), a Respondent may resolve the proceeding at any time by paying the specific penalty proposed in the Complaint and by filing with the Regional Hearing Clerk a copy of the check or other instrument of payment.

On October 24, 2007, Respondent paid the total amount of the proposed penalty by cashier’s check payable to the Treasurer, United States of America.


Issuance of this final order terminates this administrative litigation and the civil proceeding arising out of the allegations made in the Complaint. Full payment of the penalty proposed in the Complaint shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. Full payment of the penalty proposed in the Complaint shall only resolve Respondent’s liability for Federal civil penalties for the violations and facts alleged in the Complaint. Respondent’s having made payment in full in settlement of the allegations made in the Complaint constitutes a knowing waiver of Respondent’s right to: 1) contest the allegations made in the Complaint, and 2) appeal said Final Order to, or otherwise seek review of said Final Order in, Federal court. Such payment does not extinguish, waive, satisfy or otherwise affect Respondent’s obligations and responsibilities to comply with FIFRA and its implementing regulations, and to maintain such compliance.

**In the Matter of Roxide International, Inc.  
Docket No. FIFRA-02-2007-5212**

ORDER

NOW THEREFORE, PURSUANT TO 40 C.F.R. § 22.18(a)(3), it is hereby Ordered that Respondent is assessed an administrative penalty in the amount of \$3,610, and payment having been made, this matter is concluded.

Dated: March 5, 2008

  
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Helen Ferrara  
Regional Judicial Officer  
U.S. Environmental Protection Agency  
290 Broadway, 16<sup>th</sup> Floor  
New York, New York 10007

**In the Matter of Roxide International, Inc.**  
**Docket No. FIFRA-02-2007-5212**

**CERTIFICATE OF SERVICE**

I certify that I have this day caused to be sent the foregoing fully executed FINAL ORDER, bearing the above-referenced docket number, in the following manner to the respective addressees below:

Original and One Copy  
by Hand:

Office of Regional Hearing Clerk  
U.S. Environmental Protection Agency -  
Region 2  
290 Broadway, 16<sup>th</sup> floor  
New York, NY 10007-1866

Copy by Certified Mail,  
Return Receipt Requested:

Carrie Crawford  
Regulatory Consultant  
Roxide International, Inc.  
5927 Paint Bank Road  
New Castle, Virginia 24127

Dated:     MAR - 5 2008      
New York, NY

    Mildred N. Bae