

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Peter DeCambre 6/18/15
Name of Case Attorney Date

in the ORC (RAA) at 918-1113
Office & Mail Code Phone number

Case Docket Number FIFRA-01-2015-0010

Site-specific Superfund (SF) Acct. Number _____

This is an original debt This is a modification

Name and address of Person and/or Company/Municipality making the payment:

PetEdge, Inc.
100 Cummings Center 307B
Beverly, MA 01915

Total Dollar Amount of Receivable \$ 75,900 Due Date: 8/18/15

SEP due? Yes _____ No Date Due _____

Installment Method (if applicable)

INSTALLMENTS OF:

1st \$ _____ on _____
2nd \$ _____ on _____
3rd \$ _____ on _____
4th \$ _____ on _____
5th \$ _____ on _____

For RHC Tracking Purposes:

Copy of Check Received by RHC _____ Notice Sent to Finance _____

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

IFMS Accounts Receivable Control Number _____

If you have any questions call: _____
in the Financial Management Office

Phone Number _____



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I – New England
5 Post Office Square - Suite 100
Boston, Massachusetts 02109-3912

BY HAND

June 18, 2015

Wanda I. Santiago, Regional Hearing Clerk
EPA Region 1 – New England
5 Post Office Square, Suite 100 (ORA18-1)
Boston, MA 02109-3912

RECEIVED
JUN 18 2015
EPA ORC *WS*
Office of Regional Hearing Clerk

Re: In the Matter of PetEdge, Inc., Docket No. FIFRA-2015-0010;
Approved Consent Agreement and Final Order

Dear Ms. Santiago:

Please find enclosed for filing the original and one copy of a Consent Agreement and Final Order (CAFO) resolving the above-referenced enforcement case. Also enclosed is the original and one copy of a certificate of service documenting that, on this date, a copy of the CAFO and this cover letter were mailed to the Respondent and Respondent's counsel.

Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Peter DeCambre".

Peter DeCambre,
Senior Enforcement Counsel

Enclosures

cc: Leann Jensen, Acting Regional Judicial Officer (without enclosures)
Anatoly M. Darov, Esq., Burns & Levinson LLP
Marianne Milette, Office of Environmental Stewardship, EPA Region 1

U. S. ENVIRONMENTAL PROTECTION AGENCY

RECEIVED

JUN 18 2015

EPA ORC
Office of Regional Hearing Clerk

In the Matter of:)

PetEdge, Inc.)

100 Cummings Center)

307B)

Beverly, MA 01915)

Respondent.)

Proceedings under Section 14(a)
of the Federal Insecticide, Fungicide,
and Rodenticide Act, as amended,
7 U.S.C. Section 136l(a).)

) Docket No. FIFRA-01-2015-0010

) **CONSENT AGREEMENT**
) **and**
) **FINAL ORDER**

I. INTRODUCTION

1. The United States Environmental Protection Agency (“EPA”), as Complainant, and PetEdge, Inc., as Respondent (“PetEdge” or “Respondent”), enter into this Consent Agreement and Final Order (“CAFO”) by mutual consent. The CAFO informs Respondent of EPA’s intention to assess a penalty against PetEdge for alleged violations of Section 12 of the Federal Insecticide, Fungicide and Rodenticide Act, as amended (“FIFRA”), 7 U.S.C. § 136j, and implementing regulations at 40 C.F.R. Parts 150 – 180 and at 19 C.F.R. §§ 12.110 – 12.117 (collectively, “FIFRA Regulations”). The CAFO also informs Respondent of its right to request a hearing.

2. This CAFO simultaneously commences and concludes the cause of action described herein, pursuant to 40 C.F.R. §§ 22.13(b) and 22.18(b), and Section 14(a) of FIFRA, 7 U.S.C. § 136l(a). Complainant and Respondent (collectively, the “Parties”) agree that settlement of this matter is in the public interest and that entry of this CAFO

without litigation is the most appropriate means of resolving this matter.

3. Therefore, before any hearing or the taking of any testimony, without adjudication of any issue of fact or law herein, the Parties agree to comply with the terms of this CAFO.

II. PRELIMINARY STATEMENT

RESPONDENT

4. PetEdge, Inc. is a corporation organized in 1973 under the laws of the Commonwealth of Massachusetts with its principal place of business located at 100 Cummings Center 307B, Beverly, Massachusetts. PetEdge is a *person*¹ as defined by Section 2(s) of FIFRA, 7 U.S.C. § 136(s), subject to FIFRA and the FIFRA Regulations promulgated thereunder.

5. Respondent *produces*, imports into the United States, *distributes or sells* various pet care and pet grooming products. Respondent ships these products throughout the United States. Respondent owns and/or operates two distribution facilities, one located at 90 Salem Road, Billerica, Massachusetts (the “Billerica Facility”) and another located at 3875 Corsair Street, Reno, Nevada.

6. Respondent distributes or sells various pet products under its own trademark brand name, “Top Products.” Respondent also conducts business by distributing or selling other products that are those of third parties not affiliated with PetEdge or a PetEdge brand name.

¹ Words that appear in italics upon first use indicate terms that are defined in Section 2 of FIFRA, 7 U.S.C. § 136, and/or the FIFRA Regulations. Such terms are relevant to the EPA findings specified in this CAFO and, unless otherwise indicated, are intended to be used as so defined.

STATUTORY AND REGULATORY AUTHORITY

7. Section 2(t) of FIFRA, 7 U.S.C. § 136(t), defines the term “pest” to mean, in pertinent part, “any insect, rodent, nematode, fungus, weed” or “any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organisms” declared by EPA to be a pest under Section 25(c)(1) of FIFRA, 7 U.S.C. § 136w(c)(1).

8. Section 2(u) of FIFRA, 7 U.S.C. § 136(u), defines “pesticide” to mean, in pertinent part, “any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pest”

9. Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), defines “to distribute or sell,” to mean, in pertinent part, “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.”

10. Section 2(p) of FIFRA, 7 U.S.C. § 136(p), defines “label” and “labeling.” The term “label” means “the written, printed, or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers.” The term “labeling” means “all labels and all other written, printed, or graphic matter (A) accompanying the pesticide or device at any time; or (B) to which reference is made on the label or in literature accompanying the pesticide or device...”

11. Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), states, in pertinent part, that it shall be unlawful for any person in any *State* to distribute or sell to any person any pesticide that is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a. The FIFRA Regulations at 40 C.F.R. Part 152 set forth procedures, requirements and criteria concerning the registration of pesticides under Section 3 of FIFRA.

12. The FIFRA Section 3 registration requirement lies at the core of FIFRA's regulatory scheme and, through rigorous scientific review of each substance, serves a fundamental purpose of ensuring that no pesticide is distributed, sold, or used in a manner that may pose an unreasonable risk to human health or the environment. This registration requirement is also important because it helps ensure that pesticide end users and members of the public have accurate, up-to-date, and compliant information about any pesticides in the marketplace.

13. Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), provides that it is unlawful for any person in any State to distribute or sell to any person any pesticide which is *adulterated* or *misbranded*.

14. Section 2(q) of FIFRA, 7 U.S.C. § 136(q), provides, in pertinent part, that a pesticide is "misbranded" if: (a) its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular [Sec. 2(q)(1)(A)]; (b) any word, statement, or other information required by FIFRA to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use [Sec. 2(q)(1)(E)]; and, (c) there is not affixed to its container... a label bearing... the name, brand, or trademark under which the pesticide is sold... the net weight or measure of the content... [and] the registration number assigned to the pesticide under FIFRA [Sec. 2(q)(2)(C)].

15. The FIFRA prohibition against the distribution or sale of misbranded pesticides is important because it helps ensure that end users and members of the public

have the most accurate, up-to-date, and compliant information available about pesticides in the marketplace—including ingredients, directions for use, potential hazards and safety precautions—and about the establishments in which they are produced.

16. Section 12(a)(2)(N) of FIFRA, 7 U.S.C. § 136j(a)(2)(N), provides 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. Such reports include notices of arrival (“NOAs”) regarding the arrival of each shipment of pesticides or devices that are imported into the United States under Section 17 of FIFRA, 7 U.S.C. § 136o, and 19 C.F.R. §§ 12.112(a).

17. The FIFRA requirement to submit reports (i.e., NOAs) prior to importing a pesticide or device into the United States is important because it protects against unreasonable risks to human health or the environment by providing EPA with vital information about pesticides and devices before their arrival into the United States for distribution or sale. NOAs provide information—including active ingredients, quantities, countries of origin, identity of producing establishments, carriers, and ports of entry—that enables EPA to make informed decisions about whether importation will pose unreasonable adverse risks to public health or the environment and, also, provide critical contact information in the event of an emergency related to the movement of potentially toxic pesticide materials.

18. Under Sections 8 and 9 of FIFRA, 7 U.S.C. §§ 136f and 136g, EPA and duly-designated state partners are authorized, among other things and upon presentation of credentials and written notice, to conduct inspections at producer and distributor establishments and to collect information required to be maintained by FIFRA regarding

pesticide distribution or sales, including samples of pesticides that are packaged, labeled, and released for shipment.

19. Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), authorizes the assessment of civil penalties of up to \$5,000 against any registrant, commercial applicator, wholesaler, dealer, retailer, or other distributor for each violation of FIFRA and the FIFRA Regulations. Under the Debt Collection Improvement Act of 1996 (“DCIA”), 31 U.S.C. § 3701 note, and EPA’s Civil Monetary Penalty Inflation Adjustment Rule (“Penalty Inflation Rule”) at 40 C.F.R. Part 19, this amount was increased to \$6,500 for violations occurring after March 15, 2004 and to \$7,500 for violations occurring after January 12, 2009.

EPA GENERAL ALLEGATIONS

20. At all times relevant to the allegations of violation herein, in 2012 and 2013, Respondent “distributed” or “sold,” within the meaning of Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the following ten (10) pet care products identified, below, by both the name then listed on the PetEdge website and, in parentheses, the name listed on the product label:

- a. Paw Earth Natural Flea & Tick Shampoo (Paw Earth Natural Shampoo Flea & Tick);
- b. Top Performance Citrilux Shampoo (Top Performance CITRILUX);
- c. Bobbi Panter Charlie Dog Flea & Tick Shampoo (Bobbi’s Charlie Dog);
- d. Espree Citrusil Plus Shampoo (Citrusil Plus Shampoo);
- e. PPP AromaCare Flea Defense Citrus Shampoo (Flea Defense Citrus);
- f. Top Performance Natural Flea & Tick Shampoo (Top Performance Natural Flea & Tick Shampoo);
- g. Tropiclean Neem Natural Flea & Tick Shampoo (Tropiclean);
- h. #1 All Systems Natural Flea and Tick Shampoo (#1 All Systems Flea & Tick Shampoo);
- i. Bio-Groom Flea & Tick Conditioning Shampoo (Bio-Groom Flea & Tick Shampoo);
- and,
- j. PPP Perma-Dip Flea & Tick Solution (PPP Perma-Dip Flea & Tick Dip Solution).

21. At all times relevant to the allegations of violation herein, Respondent categorized each of the products listed in the preceding Paragraph 20 as among the PetEdge “Flea & Tick Shampoo” product line.

22. Prior to December 2012, Respondent imported into the United States for distribution or sale, within the meaning of Section 2(gg) of FIFRA, certain pet care products under the “Guardian Gear Insect Shield” brand name. The Guardian Gear Insect Shield products included fabric or textile pet blankets, beds, garments, crates, pens, and/or other pet-related items which, prior to import into the United States, had been treated with pesticides (collectively, the “Insect Shield Products”). At least two of the substances that were incorporated into the Insect Shield Products prior to being imported into the United States were FIFRA-registered pesticides.

23. At all times relevant to the allegations of violation herein, Respondent imported Insect Shield Products into the United States using third-party brokers or agents including, but not necessarily limited to, Expeditors International of Washington, Inc. (“Expeditors International”).

24. On November 28, 2012, pursuant to Sections 8 and 9 of FIFRA, duly-authorized EPA inspectors conducted a FIFRA compliance inspection at the Billerica Facility (the “Billerica Inspection”). During the Billerica Inspection, the EPA inspectors sampled and/or documented various PetEdge pesticide products that were present at the Billerica Facility, including the products listed in Paragraph 20, above (collectively, the “Flea & Tick Products”).

25. On December 14, 2012 and, again, on November 26, 2013, pursuant to Sections 8 and 9 of FIFRA, 7 U.S.C. §§ 136f and 136g, a duly-authorized EPA inspector

conducted FIFRA compliance inspections at an Expeditors International warehouse located in Peabody, Massachusetts. During the inspections at the Expeditors International warehouse, the EPA inspector sampled and/or documented various pesticide products that were present, including some of the Insect Shield Products described in Paragraph 22, above.

III. EPA FINDINGS

26. During the Billerica Inspection, the EPA inspectors observed that the pesticide products sampled and/or documented at that time, including all of those Flea & Tick Products listed in Paragraph 20, above, were packaged, labeled, and released for shipment.

27. Upon information and belief, based on a review of the PetEdge website (www.petedge.com) on or about December 26, 2013, Respondent was advertising and offering for sale all of the Flea & Tick Products listed in Paragraph 20, above.

28. Upon information and belief, at all times relevant to the allegations of violation herein, the labels and/or labeling (including Internet advertising) for all of the Flea & Tick Products listed in Paragraph 20, above, contained pesticidal statements and/or claims—including identification as flea and tick shampoos— indicating that such products were intended to be sold or distributed to prevent, destroy, repel or mitigate a pest, and were therefore “pesticides” as defined by Section 2(u) of FIFRA.

29. Upon information and belief, at all times relevant to the allegations of violation herein, none of the Flea & Tick Products listed in Paragraph 20, above, were exempt from regulation under FIFRA and the FIFRA Regulations, including under the minimum risk pesticides exemption set forth at 40 C.F.R. § 152.25(f).

30. Upon information and belief, at all times relevant to the allegations of violation herein, the labels and/or labeling (including Internet advertising) for the Insect Shield Products described in Paragraph 22, above, contained pesticidal statements and/or claims indicating that the products were intended to be sold or distributed to prevent, destroy, repel or mitigate a pest, and were therefore “pesticides” as defined by Section 2(u) of FIFRA.

31. Upon information and belief, up until December 2012, EPA alleges Respondent had not previously filed with EPA any reports of pesticide imports (i.e., NOAs) regarding the arrival of any shipment of pesticide products into the United States pursuant to FIFRA and the FIFRA Regulations at 19 C.F.R. §§ 12.110 – 12.117. Respondent refutes this allegation.

32. Based upon information collected during or as a result of the Billerica Inspection, information collected during or as a result of the inspections at Expeditors International, a review of records provided by Respondent, and further investigation by EPA, the FIFRA violations documented by EPA and alleged in this CAFO include the following, as further detailed in Section IV, below: (a) distributing or selling unregistered pesticides, in violation of FIFRA Section 12(a)(1)(A) and the FIFRA Regulations; (b) distributing or selling misbranded pesticides, in violation of Sections 12(a)(1)(E) and 2(q) of FIFRA and the FIFRA Regulations; and, (c) importing pesticides into the United States for distribution or sale without filing NOAs with EPA, in violation of FIFRA Sections 12(a)(2)(N) and 17(c) and the FIFRA Regulations.

IV. EPA ALLEGATIONS OF VIOLATION

COUNT 1

Distributing or Selling Unregistered Pesticides

33. Paragraphs 1-32 are realleged and incorporated herein by reference.

34. During or as a result of the Billerica Inspection, a review of the PetEdge website on December 26, 2013, and further investigation by EPA, Respondent distributed or sold each of the following seven pesticides —also listed in Subparagraphs 20.a.

through 20.g., above— without the products being registered as pesticides under FIFRA

Section 3:

- a. Paw Earth Natural Flea & Tick Shampoo;
- b. Top Performance Citrilux Shampoo;
- c. Bobbi Panter Charlie Dog Flea & Tick Shampoo;
- d. Espree Citrusil Plus Shampoo;
- e. PPP AromaCare Flea Defense Citrus Shampoo;
- f. Top Performance Natural Flea & Tick Shampoo; and,
- g. Tropiclean Neem Natural Flea & Tick Shampoo.

35. During or as a result of the Billerica Inspection, a review of the PetEdge website on December 26, 2013, and further investigation by EPA, EPA determined that Respondent distributed or sold the seven pesticides listed in the preceding Paragraphs 34, at least once each in 2012 and 2013, without the products being registered as pesticides under FIFRA Section 3.

36. Accordingly, on at least fourteen (14) separate occasions between 2012 and 2013, Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), and the FIFRA Regulations at 40 C.F.R. Part 152, each of which is a violation for which penalties may be assessed pursuant to Section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1).

COUNT 2

Distributing or Selling Misbranded Pesticides

37. Paragraphs 1 – 36 are realleged and incorporated herein by reference.

38. During or as a result of the Billerica Inspection, a review of the PetEdge website on December 26, 2013, and further investigation by EPA, Respondent distributed or sold each of the following three pesticides —also listed in Subparagraphs 20.h. through 20.j., above— when the labels and/or labeling for the products did not bear all of the information required under FIFRA and the FIFRA Regulations:

- a. #1 All Systems Natural Flea and Tick Shampoo;
- b. Bio-Groom Flea & Tick Conditioning Shampoo; and,
- c. PPP Perma-Dip Flea & Tick Solution.

39. During or as a result of the Billerica Inspection, a review of the PetEdge website on December 26, 2013, and further investigation by EPA, EPA determined that Respondent distributed or sold the three pesticides listed in the preceding Paragraph 38, at least once each in 2012 and 2013, when the labels and/or labeling for the products bore an erroneous product registration number (EPA Reg. No.), inaccurate brand name, incorrect percent active ingredient, and/or false or misleading claims or statements under FIFRA Section 2(q) and 40 C.F.R. § 156.10(a)(5).

40. Accordingly, on at least six (6) separate occasions between 2012 and 2013, Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), and the FIFRA Regulations at 40 C.F.R. Part 156, each of which is a violation for which penalties may be assessed pursuant to Section 14(a)(1) of FIFRA.

COUNT 3

Failing to File Reports of Pesticide Imports (Notices of Arrival)

41. Paragraphs 1 – 40 are realleged and incorporated herein by reference.

42. During or as a result of the Billerica Inspection, the EPA inspections at Expeditors International, review of Respondent’s website, and further investigation by

EPA, on at least one occasion prior to December 2012, Respondent imported into the United States for distribution or sale one or more of the Insect Shield Products described in Paragraph 22, above, without filing a report (i.e., notice of arrival) with EPA, as required by Section 17 of FIFRA and 19 C.F.R. § 12.112(a).

43. Accordingly, on at least one (1) occasion before December 2012, Respondent violated Section 12(a)(2)(N) of FIFRA and the FIFRA Regulations at 19 C.F.R. §§ 12.110 – 12.117 which is a violation for which penalties may be assessed pursuant to Section 14(a)(1) of FIFRA.

V. TERMS OF SETTLEMENT

44. The provisions of this CAFO shall apply to and be binding on EPA and on Respondent, its officers, directors, successors, and assigns.

45. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in this CAFO and that the CAFO states a claim upon which relief can be granted against Respondent. For the purposes of this proceeding, Respondent waives any defenses it might have as to jurisdiction and venue and, without admitting or denying EPA's factual or legal allegations of violation herein, consents to the issuance of this CAFO and to the payment of the civil penalty specified, below.

46. Respondent acknowledges that it has been informed of its right to request a hearing and hereby waives its right to request a judicial or administrative hearing on any issue of law or fact set forth in this CAFO. Respondent also waives its right to appeal the Final Order accompanying the Consent Agreement.

47. By signing this CAFO, Respondent certifies that it and products supplied by its vendors shall come into compliance no later than thirty (30) days from the effective

date of this CAFO with FIFRA and the FIFRA Regulations promulgated thereunder and that it will within such time fully address the violations alleged herein by EPA.

Respondent further certifies that it shall not distribute or sell any product that is in violation with FIFRA or the FIFRA Regulations promulgated thereunder during the 30-day period.

48. In light of the above, and taking into account the factors enumerated in Section 14(a) of FIFRA, the December 2009 FIFRA Enforcement Response Policy issued by the Waste and Chemical Enforcement Division of the EPA Headquarters Office of Enforcement and Compliance Assurance in Washington, D.C., the DCIA and Penalty Inflation Rule, and other factors as justice may require, EPA has determined that it is fair and appropriate that Respondent pay a civil penalty in the amount of seventy-five thousand nine hundred dollars (\$75,900) in settlement of the violations alleged herein.

49. Respondent shall pay the penalty of \$75,900 within thirty (30) days of the effective date of this CAFO in the manner described below:

- a. Payment shall be in a single payment of \$75,900 due within 30 calendar days of the effective date of this CAFO. If the due date for the payment falls on a weekend or federal holiday, then the due date is the next business day. The date the payment is made is considered to be the date processed by U.S. Bank, as described below. Payment must be received by 11:00 a.m. Eastern Standard time to be considered as received that day.
- b. The payment shall be made by remitting a check or making an electronic payment, as described below. The check or other payment shall designate the name and docket number of this case (*In the Matter of PetEdge, Inc., FIFRA-01-2015-0010*), be in the amount stated above, and be payable to "Treasurer, United States of America." The payment shall be remitted as follows:

If remitted by regular U.S. mail:

U.S. EPA
Fines and Penalties

Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

If remitted by any overnight commercial carrier:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, Missouri 63101

If remitted by wire transfer: Any wire transfer must be sent directly to the Federal Reserve Bank in New York City using the following information:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read "D 68010727
Environmental Protection Agency"

If remitted on-line with a debit card, credit card, or bank account transfer:

No user name, password, or account number is necessary for this option. On-line payment can be accessed via WWW.PAY.GOV, entering 1.1 in the form search box on the left side of the screen to access the EPA's Miscellaneous Payment Form, opening the form, following the directions on the screen and, after selecting "submit data," entering the relevant debit card, credit card, or bank account information.

- c. At the time of payment, a copy of the check (or notification of other type of payment) shall also be sent to:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region I (Mail Code ORA 18-1)
5 Post Office Square, Suite 100
Boston, MA 02109-3912

and

Peter DeCambre

Senior Enforcement Counsel
U.S. EPA, Region 1
5 Post Office Square
Suite 100 (OES 04-1)
Boston, MA 02109-3912

50. The failure by Respondent to pay the penalty in full by the due date may subject Respondent to a civil action to collect the assessed penalty (with interest at current prevailing rates from the date of the Final Order), plus enforcement expenses and any nonpayment penalty. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States, as well as a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty (or any portion thereof) on the date it is due under this CAFO if such penalty (or portion thereof) is not paid in full by such due date. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b)(2). In addition, a penalty charge of six percent (6%) per year and an amount to cover the costs of collection will be assessed on any portion of the debt that remains delinquent more than ninety (90) days after payment is due. Should assessment of the penalty charge on the debt be required, it will be assessed as of the first day payment is due, under 31 C.F.R. § 901.9(d). In any action to compel payment of civil penalties owed under this CAFO, the validity, amount, and appropriateness of the penalty shall not be subject to review.

51. The civil penalty due and any interest, non-payment penalties, or charges that arise pursuant to this CAFO shall represent penalties assessed by EPA and shall not be deductible for the purposes of federal taxes. Accordingly, Respondent agrees to treat

all payments made pursuant to this CAFO as penalties within the meaning of Internal Revenue Service regulations, including 26 C.F.R. § 1.162-21, and further agrees not to use these payments in any way as, or in furtherance of, a tax deduction under federal, state, or local law.

52. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 14(a) of FIFRA for the specific violations alleged in Section IV of this CAFO. Compliance with this CAFO shall not be a defense to any action subsequently commenced pursuant to Federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with said laws and regulations.

53. This CAFO in no way relieves Respondent of any criminal liability, and EPA reserves all its other criminal and civil enforcement authorities, including the authority to seek injunctive relief and the authority to take any action to address imminent hazards.

54. This CAFO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state or local law.

55. Nothing in this CAFO shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondent's violation of this CAFO or of the statutes and regulations upon which this CAFO is based, or for Respondent's violation of any applicable provision of law.

56. Respondent's obligations under the CAFO shall end when Respondent has paid in full the scheduled civil penalty, paid any stipulated penalties, and submitted the documentation required by the CAFO.

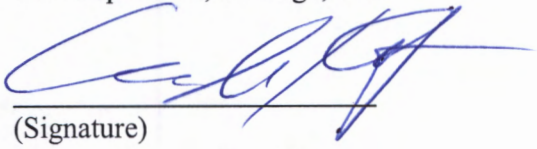
56. Respondent's obligations under the CAFO shall end when Respondent has paid in full the scheduled civil penalty, paid any stipulated penalties, and submitted the documentation required by the CAFO.

57. Each of the Parties shall bear its own costs and fees in this proceeding, including attorneys' fees, and specifically waives any right to recover such costs from the other party under the Equal Access to Justice Act, 5 U.S.C. § 504, or other applicable laws.

58. In accordance with 40 C.F.R. § 22.31(b), the effective date of this CAFO is the date on which it is filed with the Regional Hearing Clerk.

59. Each undersigned representative of the Parties certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this CAFO and to execute and legally bind that party to it.

For Respondent, PetEdge, Inc.:

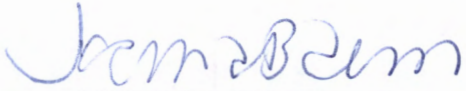


(Signature)

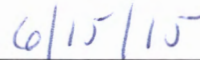
Andrew S. Katz, President

5/14/15
(Date)

For Complainant, United States Environmental Protection Agency:



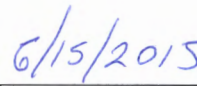
Joanna B. Jerison, Manager
Enforcement Legal Office
U.S. EPA - Region 1



(Date)



Peter DeCambre, Senior Enforcement Counsel
Regulatory Legal Office
U.S. EPA - Region 1

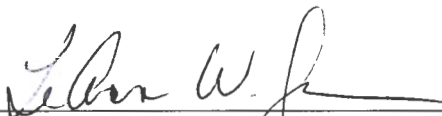


(Date)

FINAL ORDER

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. The Respondent, PetEdge, Inc., is hereby ordered to comply with the terms of the above Consent Agreement, effective on the date it is filed with the Regional Hearing Clerk.

6/17/15
(Date)



LeAnn W. Jensen
Acting Regional Judicial Officer

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1 (NEW ENGLAND)

In the Matter of:)
)
)

PetEdge, Inc.)
100 Cummings Center)
307B)
Beverly, MA 01915)

Docket No. FIFRA-01-2015-0010

Respondent.)

CERTIFICATE OF SERVICE

Proceedings under Section 14(a))
of the Federal Insecticide, Fungicide,)
and Rodenticide Act, as amended,)
7 U.S.C. Section 136l(a).)
_____)

I hereby certify that the foregoing Consent Agreement and Final Order ("CAFO") and associated cover letter to the Regional Hearing Clerk have been provided to the following persons, in the manner specified on the date noted below:

Original and one copy,
hand-delivered:

Wanda I. Santiago, Regional Hearing Clerk
U.S. Environment Protection Agency, Region I
5 Post Office Square, Suite 100 (ORA18-1)
Boston, MA 02109-3912

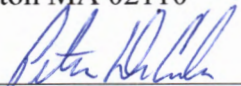
One copy by first class mail:

Andy Katz, President
PetEdge, Inc.
100 Cummings Center, S-307-B
Beverly, MA 01915

One copy by first class mail:

Anatoly M. Darov, P.E.
Burns & Levinson LLP
125 Summer Street
Boston MA 02110

Date: 6/18/2015



Peter DeCambre
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