



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

July 1, 2022

VIA EMAIL ONLY

Mr. Walt Liu
Vice President of Operations
ETi Solid State Lighting Inc.
720 Northgate Parkway
Wheeling, Illinois 60090

waltl@etissl.com

Consent Agreement and Final Order
In the Matter of ETi Solid State Lighting
Docket Number **FIFRA-05-2022-0014**

Mr. Liu:

Enclosed please find a copy of a fully executed Consent Agreement and Final Order in resolution of the above case. This document was filed on July 1, 2022 with the Regional Hearing Clerk.

The civil penalty in the amount of \$163,200 is to be paid in the manner described in paragraphs 51-52. Please be certain that the docket number is written on both the transmittal letter and on the check. Payment is due by within 30 calendar days of the filing date.

Thank you for your cooperation in resolving this matter.

Sincerely,

**ANNA
NGUYEN**

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NGUYEN
Date: 2022.06.21
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Anna Nguyen
Pesticides and Toxics Compliance Section

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	Docket No. FIFRA-05-2022-0014
)	
ETi Solid State Lighting Inc.)	Proceeding to Assess a Civil Penalty
Wheeling, IL)	Under Section 14(a) of the
)	Federal Insecticide, Fungicide, and
)	Rodenticide Act, 7 U.S.C. § 136l(a)
Respondent.)	
<hr/>)	

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 ETi Solid State Lighting Inc. (ETi), a company doing business at 720 Northgate Parkway, Wheeling, IL 60090.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the 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 (U.S.) 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. See also 19 C.F.R. § 12.1(b).

11. 19 C.F.R. § 12.112(a) states, in pertinent part, that an importer desiring to import devices into the U.S. shall submit to the 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.

12. 40 C.F.R. § 152.500 sets forth the requirements for devices under FIFRA including specifying that a device is subject to the requirements set forth in Section 7 of FIFRA and 40 C.F.R. Part 167.

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

14. 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.

15. Section 2(q)(1)(D), 7 U.S.C. § 136(q)(1)(D), defines the term “misbranded” to include a device that does not bear the registration number assigned under Section 7 of FIFRA, 7 U.S.C. § 136e, to each establishment in which the device was produced.

16. The term “device” is defined at Section 2(h) of FIFRA, 7 U.S.C. § 136(h) as any instrument or contrivance (other than a firearm) which is intended for trapping, destroying, repelling, or mitigating any pest.

17. The term “pest” is defined at 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. 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.

19. 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 shipment, or receive and (having so received) deliver or offer to deliver.

20. The term “importer” is defined at 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 the importer of record.

21. 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 \$21,805 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

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

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

Entry Number D20-88198983

24. On February 16, 2022, Respondent imported **UVC Round Highbay, Model Number 558041420** (Entry Number D20-88198983) into the U.S. through the Chicago, Illinois Port of Entry.

25. **UVC Round Highbay, Model Number 558041420** is a “device” as that term is defined in Section 2(h) of FIFRA.

26. Respondent did not submit a NOA to the EPA for this import shipment prior to the arrival of the shipment into the U.S.

Entry Number D20-88198967

27. On February 21, 2022, Respondent imported the following products (Entry Number D20-88198967) into the U.S. through the Chicago, Illinois Port of Entry.

- a. **AquaSolvo Commercial Eco Disinfectant Generator, Model Number ASE-00BL08Pro**
- b. **Wall-Mounted Air Sterilizer, Model Number CAMPA-20WH16Pro**
- c. **AquaSolvo Commercial Eco Air Sterilizer, Model Number AAHE-120WH03Pro**
- d. **Eco Disinfectant Generator, Model Number ASE-00WH07**
- e. **AquaSolvo Air Sterilizer with Humidifier, Model Number AAE-50WB05 and AAE-50WN05**
- f. **AquaSolvo Air Sterilizer, Model Number AAE-30WN06 and AAE-30WB06**

28. Each product listed in the previous paragraph is a “device” as that term is defined in Section 2(h) of FIFRA.

29. Respondent did not submit the NOAs to the EPA for this import shipment prior to the arrival of the shipment into the U.S.

Entry Number D20-88205044

30. On April 10, 2022, Respondent imported the following products (Entry Number D20-88205044) into the United States through the Chicago, Illinois Port of Entry.

- a. **Plasma Air Disinfection 12” Plasma Universal Ceiling Mount, Model Number 55905100**
- b. **Plasma Air Disinfection 8” Canless Downlight, Model Number 559011010**
- c. **Plasma Air Disinfection 12” Flush Mount, Model Number 559031110**

31. Each product listed in the previous paragraph is a “device” as that term is defined in Section 2(h) of FIFRA.

32. At the time of import of these devices, the labeling on all three devices did not bear the EPA Establishment Number that was assigned under Section 7 of FIFRA, 7 U.S.C. § 136e, of the establishment which the devices were produced.

33. Therefore, all three devices were “misbranded” as that term is defined in Section 2(q)(1)(D) of FIFRA.

34. All three devices were being held for distribution/shipment and were offered for delivery, and therefore were “distributed or sold” within the meaning of Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg).

35. Respondent did not submit the NOAs to the EPA for this import shipment prior to the arrival of the shipment into the U.S.

Entry Number D20-88209038

36. On April 12, 2022, Respondent imported the following products (Entry Number D20-88209038) into the United States through the Chicago, Illinois Port of Entry.

- a. **Air Duct Germicidal Fixture, Model Number 558142000**

- b. **UVC 8” Round Recessed Downlight w/ Integral J-Box, Model Number 558021410**
- c. **UVC 2x4 Flat Panel, Model Number 558071410**

37. Each product listed in the previous paragraph is a “device” as that term is defined in Section 2(h) of FIFRA.

38. Respondent did not submit the NOAs to the EPA for this import shipment prior to the arrival of the shipment into the U.S.

Entry Number D20-88207172

39. On April 2, 2022, Respondent imported **UVC 2x4 Flat Panel, Model Number 558071410** (Entry Number D20-88207172) into the U.S. through the Chicago, Illinois Port of Entry.

40. **UVC 2x4 Flat Panel, Model Number 558071410** is a “device” as that term is defined in Section 2(h) of FIFRA.

41. Respondent did not submit a NOA to the EPA for this import shipment prior to the arrival of the shipment into the U.S.

Counts 1 through 14

42. The preceding paragraphs are incorporated by reference.

43. Respondent’s failure to submit NOAs to the EPA for each of the pesticide devices contained in Entry Numbers D20-88198983, D20-88198967, D20-88205044, D20-88209038, and D2088207172, prior to the arrival of the shipments into the U.S. constitutes fourteen separate violations of Section 12(a)(2)(N) of FIFRA.

44. Respondent’s violation of Section 12(a)(2)(N) of FIFRA on fourteen separate occasions subjects Respondent to the issuance of an Administrative Complaint assessing a separate civil penalty for each occasion under Section 14(a) of FIFRA.

Counts 15 through 17

45. The preceding paragraphs are incorporated by reference.

46. On April 10, 2022, Respondent imported a shipment containing misbranded devices, **Plasma Air Disinfection 12” Plasma Universal Ceiling Mount Model Number 559051000**, **Plasma Air Disinfection 8” Canless Downlight Model Number 559011010**, and **Plasma Air Disinfection 12” Flush Mount Model Number 559031110**, and distributed or sold the misbranded devices within the meaning of Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg).

47. Each of the Respondent’s three distributions or sales of the misbranded devices, **Plasma Air Disinfection 12” Plasma Universal Ceiling Mount Model Number 559051000**, **Plasma Air Disinfection 8” Canless Downlight Model Number 559011010**, and **Plasma Air Disinfection 12” Flush Mount Model Number 559031110**, is a violation of Section 12(a)(1)(F) of FIFRA.

48. Respondent’s violation of Section 12(a)(1)(F) of FIFRA on three separate occasions subjects Respondent to the issuance of an Administrative Complaint assessing a separate civil penalty for each occasion under Section 14(a) of FIFRA.

Civil Penalty and Other Relief

49. 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 \$163,200. In determining the penalty amount, Complainant considered the appropriateness of the penalty to the size of Respondent’s business and the effect on Respondent’s ability to continue in business. Complainant also considered EPA’s FIFRA Enforcement Response Policy, dated December 2009.

50. Complainant agrees that the appropriate penalty to settle this action is \$163,200.

51. Within 30 days after the effective date of this CAFO, Respondent must pay a \$163,200 civil penalty for the FIFRA violations. Respondent must pay the penalty by electronic funds transfer, payable to the “Treasurer, United States of America,” and sent to:

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 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"

In the comment or description field of the electronic funds transfer, state “ETi Solid State Lighting Inc.” and the docket number of this CAFO. To pay on-line, go to www.pay.gov. Use the Search Public Forms option on the tool bar and enter SFO 1.1 in the search field. Open the form and complete the required fields. In the comment or description field of the electronic funds transfer, state “ETi Solid State Lighting Inc.” and the docket number of this CAFO.

52. Respondent must send a notice of payment that states Respondent’s name and the case docket number to EPA at the following addresses when it pays the penalty:

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604
R5hearingclerk@epa.gov

Anna Nguyen (ECP-17J)
Pesticides and Toxics Compliance Section
U.S. EPA, Region 5
nguyen.anna@epa.gov

Nidhi K. O’Meara
Office of Regional Counsel
U.S. EPA, Region 5
Omeara.nidhi@epa.gov

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

54. If Respondent does not pay the civil penalty in a timely manner, EPA may refer the matter to the Attorney General who will recover such amount by action in the appropriate United States district court under Section 14(a)(5) of FIFRA, 7 U.S.C. § 136l(a)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

55. 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

56. The parties consent to service of this CAFO by e-mail at the following valid e-mail address: Nidhi O'Meara at omeara.nidhi@epa.gov (for Complainant), and Ashley Shaw at ashleyshaw@ashleyshawconsulting.com (for Respondent). Respondent understands that the CAFO will become publicly available upon filing.

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

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

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

60. This CAFO is a “final order” for purposes of EPA’s Enforcement Response Policy for FIFRA.

61. The terms of this CAFO bind Respondent, its successors, and assigns.

62. 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.

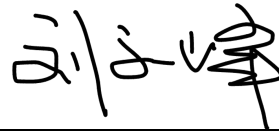
63. Each party agrees to bear its own costs and attorney’s fees, in this action.

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

**In the Matter of:
ETi Solid State Lighting Inc.**

6/17/2022

Date



Walt Liu, Vice President of Operations

**In the Matter of:
ETi Solid State Lighting Inc.**

United States Environmental Protection Agency, Complainant

**MICHAEL
HARRIS**  Digitally signed by
MICHAEL HARRIS
Date: 2022.06.24
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Michael D. Harris
Division Director
Enforcement & Compliance Assurance Division

In the Matter of:
ETi Solid State Lighting Inc.
Docket No. FIFRA-05-2022-0014

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: 2022.06.27
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Ann L. Coyle
Regional Judicial Officer
United States Environmental Protection Agency
Region 5

Consent Agreement and Final Order
In the Matter of: ETi Solid State Lighting Inc.
Docket Number: **FIFRA-05-2022-0014**

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing Consent Agreement and Final Order, docket number **FIFRA-05-2022-0014**, which was filed on **July 1, 2022**, in the following manner to the following addressees:

Copy by E-mail to
Attorney for Complainant:

Nidhi O'Meara
Omeara.Nidhi@epa.gov

Copy by E-mail to
Attorney for Respondent:

Ashley Shaw
ashleyshaw@ashleyshawconsulting.com

Copy by E-mail to
Regional Judicial Officer:

Ms. Ann Coyle
coyle.ann@epa.gov

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5