



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. §§ 136-136y, and the regulations promulgated thereunder.

#### **Statutory and Regulatory Background**

##### ***Misbranding***

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

11. Section 2(q)(1)(A) of FIFRA, 7 U.S.C. § 136(q)(1)(A), defines a pesticide as “misbranded” if its label, or labeling accompanying it, bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular.

12. 40 C.F.R § 156.10(a)(5)(v) provides the following example of a statement or representation in the labeling which constitutes misbranding: any statement directly or indirectly implying that the pesticide or device is recommended or endorsed by any agency of

the Federal Government.

13. Section 2(q)(1)(D) of FIFRA, 7 U.S.C. § 136(q)(1)(D), defines a pesticide as “misbranded” if its label does not bear the registration number assigned under Section 7 of FIFRA, 7 U.S.C. § 136e, to the establishment in which it was produced.

14. 40 C.F.R § 156.10(a)(1)(v) states that every pesticide product shall bear a label containing the information specified by FIFRA and the regulations in 40 C.F.R Part 156, including that the label must show clearly and prominently the producing establishment number as prescribed in 40 C.F.R § 156.10(f).

15. Section 2(q)(1)(E) of FIFRA, 7 U.S.C. § 136(q)(1)(E), defines a pesticide as “misbranded” if any word, statement, or other information required by or under authority of FIFRA, Subchapter II, to appear on the label or labeling is not prominently placed thereon to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

16. 40 C.F.R. § 156.64(a) states, in pertinent part, that each pesticide product must bear on the front panel a signal word, reflecting the highest Toxicity Category to which the product is assigned by any of the five routes of exposure in 40 C.F.R. § 156.62.

17. 40 C.F.R § 156.64(b)(3) states that in no case may a product bear different signal words on different parts of the label.

18. 40 C.F.R § 156.140(a)(4) states, in pertinent part, that pesticides packaged in nonrefillable containers are required to include on the label or container a lot number, or other code used by the registrant or producer to identify the batch of the pesticide product which is distributed and sold.

### ***Recordkeeping***

19. Section 12(a)(2)(B)(i) of FIFRA, 7 U.S.C. § 136j(a)(2)(B)(i), states, in relevant part, that it is unlawful for any person to refuse to prepare, maintain, or submit any records required by or under Section 8 of FIFRA, 7 U.S.C. § 136f.

20. Pursuant to Section 8 of FIFRA, 7 U.S.C. § 136f, EPA promulgated the regulations at 40 C.F.R. Part 169. See 45 Fed. Reg. 54336, 54337 (Aug. 1980).

21. 40 C.F.R. § 169.2(a) states, in relevant part, that all producers of pesticides shall maintain records showing, among other things, an EPA Registration Number.

### ***Definitions***

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

23. Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), defines the term “distribute or sell” 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.”

24. Section 2(t) of FIFRA, 7 U.S.C. § 136(t), defines the term “pest” 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 which the Administrator [of the EPA] declares to be a pest under Section 25(c)(1) of FIFRA, 7 U.S.C. § 136w(c)(1).

25. Pursuant to Sections 2 through 35 of FIFRA, 7 U.S.C. §§ 136-136y, EPA promulgated the regulations at 40 C.F.R. Part 152. See 53 Fed. Reg. 15975 (May 1988).

26. Under 40 C.F.R. § 152.5(a) states that an organism is declared to be a pest under circumstances that make it deleterious to man or the environment, if it is any vertebrate animal other than man.

27. Section 2(u) of FIFRA, 7 U.S.C. § 136(u), defines the term “pesticide” as, among other things, “any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.” *See also* 40 C.F.R. § 152.3.

28. The term “pesticide product” means “a pesticide in the particular form (including composition, packaging, and labeling) in which the pesticide is, or is intended to be, distributed or sold. The term includes any physical apparatus used to deliver or apply the pesticide if distributed or sold with the pesticide.” 40 C.F.R. § 152.3.

29. Section 2(w) of FIFRA, 7 U.S.C. § 136(w), defines the term “producer” as, “the person who manufactures, prepares, compounds, propagates, or processes any pesticide or device or active ingredient used in producing a pesticide.”

30. Section 2(dd) of FIFRA, 7 U.S.C. § 136(dd), defines the term “establishment” as “any place where a pesticide or device or active ingredient used in producing a pesticide is produced, or held, for distribution or sale.”

31. Section 2(p)(1) of FIFRA, 7 U.S.C. § 136(p)(1), defines a “label” as “written, printed, or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers.”

32. Section 2(p)(2) of FIFRA, 7 U.S.C. § 136(p)(2), defines “labeling” as “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.”

33. The Administrator of EPA may assess a civil penalty against any registrant, commercial applicator, wholesaler, dealer, retailer, 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 6, 2023, pursuant to Section 14(a)(1) of FIFRA, 7 U.S.C. § 136/(a)(1), and 40 C.F.R. Part 19.

### **Factual Allegations and Alleged Violation**

#### ***General Allegations***

34. Respondent is a corporation and a “person” as that term is defined at Section 2(s) of FIFRA, 7 U.S.C. § 136(s).

35. At all times relevant to this CAFO, Respondent owned or operated a place of business located at 4400 Carnegie Avenue, Cleveland, Ohio, EPA Establishment Number 61311-OH-1 (the Facility).

36. On or about November 9, 2021, two inspectors employed with the Ohio Department of Agriculture (ODA) conducted an inspection at the Facility (the Inspection).

37. As part of the Inspection, among other things, the inspector took statements and photographs, and collected various records for Guard Alaska Bear Repellent (EPA Reg. No. 61311-5), which was produced at the Facility at the time of the Inspection.

38. During the Inspection, the inspectors observed and collected labels and labeling, including the exterior box and leaflet included with the container, for Guard Alaska Bear Repellent (EPA Reg. No. 61311-5).

39. In a letter dated February 15, 2023, Respondent stated that the label and labeling

collected during the Inspection was a true and accurate representation of labels and labeling used on quantities of Guard Alaska Bear Repellent (EPA Reg. No. 61311-5), item code 00153, distributed or sold from February 27, 2021 through November 4, 2021.

40. According to the label affixed to containers of Guard Alaska Bear Repellent (EPA Reg. No. 61311-5) and associated labeling, Guard Alaska Bear Repellent (EPA Reg. No. 61311-5) is intended to deter bears which are attacking or appear likely to attack humans.

41. Bears are nonhuman vertebrate animals deleterious to humans and are therefore “pests” under 40 C.F.R. § 152.5(a).

42. Guard Alaska Bear Repellent (EPA Reg. No. 61311-5) is intended for preventing, destroying, repelling, or mitigating bears and is therefore a “pesticide” under 7 U.S.C. § 136(u).

43. Guard Alaska Bear Repellent (EPA Reg. No. 61311-5) is in the particular form (including composition, packaging, and labeling) in which it is, or is intended to be, distributed or sold and is therefore a “pesticide product” under 40 C.F.R. § 152.3.

44. At all times relevant to this CAFO, Respondent manufactured Guard Alaska Bear Repellent (EPA Reg. No. 61311-5) and is therefore a “producer” under 7 U.S.C. § 136(w).

45. Respondent’s Facility is, and at all times relevant to this CAFO was, a place where a pesticide product was produced for distribution or sale and is an “establishment” as defined at Section 2(dd) of FIFRA, 7 U.S.C. § 136(dd).

***Counts 1-20: Distribution or Sale of Misbranded Pesticide Product***

46. Complainant incorporates paragraphs 1 - 45 of this CAFO, as if set forth in this paragraph.

47. The label affixed to containers of Guard Alaska Bear Repellent (EPA Reg. No.

61311-5) distributed or sold from February 27, 2021 through November 4, 2021, as shown in Appendix A, specified that the containers were nonrefillable.

48. The label affixed to containers of Guard Alaska Bear Repellent (EPA Reg. No. 61311-5) distributed or sold from February 27, 2021 through November 4, 2021, as shown in Appendix A, did not include a batch or lot code as required by 40 C.F.R. § 156.140(a)(4) for nonrefillable containers, and therefore Guard Alaska Bear Repellent (EPA Reg. No. 61311-5) was misbranded under 7 U.S.C. § 136(q)(1)(E).

49. The label affixed to containers of Guard Alaska Bear Repellent (EPA Reg. No. 61311-5) distributed or sold from February 27, 2021 through November 4, 2021, as shown in Appendix A, did not contain a producing establishment registration number, as required by 40 C.F.R. § 156.10(a)(1)(v), and therefore Guard Alaska Bear Repellent (EPA Reg. No. 61311-5) was misbranded under 7 U.S.C. § 136(q)(1)(D).

50. Labeling included with containers of Guard Alaska Bear Repellent (EPA Reg. No. 61311-5) distributed or sold from February 27, 2021 through November 4, 2021, as shown in Appendix A, bore the signal words “caution” and “danger” on different parts of the labeling in violation of 40 C.F.R. § 156.64(b)(3), and therefore, Guard Alaska Bear Repellent (EPA Reg. No. 61311-5) was misbranded under 7 U.S.C. § 136(q)(1)(E).

51. Labeling included with containers of Guard Alaska Bear Repellent (EPA Reg. No. 61311-5) distributed or sold from February 27, 2021 through November 4, 2021, as shown in Appendix A, contained false or misleading statements implying that the pesticide is recommended or endorsed by an agency of the Federal Government as described by 40 C.F.R. § 156.10(a)(5)(v). Specifically, the labeling stated the product was an “EPA approved bear



spray.” Therefore, Guard Alaska Bear Repellent (EPA Reg. No. 61311-5) was misbranded under 7 U.S.C. § 136(q)(1)(A).

52. Respondent distributed or sold to persons the pesticide product Guard Alaska Bear Repellent (EPA Reg. No. 61311-5), item code 00153, on at least twenty separate occasions between February 27, 2021 through November 4, 2021, as identified in Appendix A.

53. Respondent’s distribution or sale to persons of the misbranded pesticide product Guard Alaska Bear Repellent (EPA Reg. No. 61311-5) on at least twenty separate occasions constitutes twenty separate unlawful acts pursuant to Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), and subjects Respondent to the assessment of a civil penalty under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

***Count 21: Failure to Maintain Production Records***

54. Complainant incorporates paragraphs 1 – 45 of this CAFO as though set forth in this paragraph.

55. During the Inspection, the inspector collected production records for Guard Alaska Bear Repellent (EPA Reg. No. 61311-5) produced on or about May 26, 2021.

56. Respondent’s production records for production occurring on or about May 26, 2021 for Guard Alaska Bear Repellent (EPA Reg. No. 61311-5) failed to identify Guard Alaska Bear Repellent’s EPA Registration Number as required by C.F.R. § 169.2(a).

57. Respondent’s refusal to prepare and maintain production records that include the EPA Registration Number for Guard Alaska Bear Repellent (EPA Reg. No. 61311-5) as required by or under the regulations promulgated under Section 8 of FIFRA, 7 U.S.C. § 136f, constitutes an unlawful act pursuant to Section 12(a)(2)(B)(i) of FIFRA, 7 U.S.C. § 136j(a)(2)(B)(i), and

subjects Respondent to the assessment of a civil penalty under Section 14(a) of FIFRA, 7 U.S.C. § 136/(a).

**Civil Penalty**

58. Pursuant to Section 14(a)(4) of FIFRA, 7 U.S.C. § 136/(a)(4), Complainant determined that an appropriate civil penalty to settle this action is **\$10,000**. In determining the penalty amount, Complainant considered the appropriateness of the penalty to the size of the 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.

59. Within 30 days after the effective date of this CAFO, Respondent must pay a **\$10,000** civil penalty for the FIFRA violations by electronic funds transfer, payable to "Treasurer, United States of America," and sent to:

Federal Reserve Bank of New York  
ABA No. 021030004  
Account No. 68010727  
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 Mace Security International, Inc. and the docket number of this CAFO.

60. 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

Elyse Voyer ORC (C-14J)  
Office of Regional Counsel  
U.S. EPA, Region 5  
voyer.elyse@epa.gov

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

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

63. 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**

64. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: voyen.elyse@epa.gov (for Complainant), and rsg@kjk.com (for Respondent). Respondent understands that the CAFO will become publicly available upon filing.

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

66. 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.

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

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

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

70. 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.

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

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

**In the Matter of:  
Mace Security International, Inc.**

*11-27-2023*

Date



Sanjay Singh  
Chief Executive Officer  
Mace Security International, Inc.

**United States Environmental Protection Agency, Complainant**

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Michael D. Harris  
Director  
Enforcement and Compliance Assurance Division

**In the Matter of:  
Mace Security International, Inc.  
Docket No.: FIFRA-05-2024-0004**

**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.

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

**Appendix A – Distribution Summary**

Product Name	Item Code	Quantity	Order Date	Invoice Number	Sales Order
Guard Alaska Bear Repellent	0015	18	2/24/2021	1302816	033992
Guard Alaska Bear Repellent	0015	10	2/25/2021	1293437	033996
Guard Alaska Bear Repellent	0015	20	3/5/2021	1293945	034026
Guard Alaska Bear Repellent	0015	20	3/5/2021	1295427	034027
Guard Alaska Bear Repellent	0015	48	4/16/2021	1297815	034210
Guard Alaska Bear Repellent	0015	10	6/3/2021	1302349	034416
Guard Alaska Bear Repellent	0015	50	6/14/2021	1304233	034444
Guard Alaska Bear Repellent	0015	30	6/29/2021	1305381	034508
Guard Alaska Bear Repellent	0015	40	7/12/2021	1310675	034553
Guard Alaska Bear Repellent	0015	30	7/23/2021	1307016	E00257
Guard Alaska Bear Repellent	0015	10	8/3/2021	1307912	E00258
Guard Alaska Bear Repellent	0015	36	8/16/2021	1310610	034794
Guard Alaska Bear Repellent	0015	100	8/31/2021	1314139	E00263
Guard Alaska Bear Repellent	0015	20	9/1/2021	1313625	034901
Guard Alaska Bear Repellent	0015	20	9/8/2021	1313911	E00265
Guard Alaska Bear Repellent	0015	60	9/8/2021	1314138	E00265
Guard Alaska Bear Repellent	0015	60	9/17/2021	1312512	E00270
Guard Alaska Bear Repellent	0015	60	9/21/2021	1314301	E00275
Guard Alaska Bear Repellent	0015	40	9/21/2021	1314302	E00275
Guard Alaska Bear Repellent	0015	4	9/27/2021	1313258	035000