



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

August 2, 2022

VIA EMAIL ONLY

T.F.I. Company Inc
c/o Mr. Steve Weber
Partner
Parker Poe
620 South Tryon Street, Suite 800
Charlotte, North Carolina 28202

stevenweber@parkerpoe.com

Consent Agreement and Final Order
In the Matter of T.F.I. Company Inc
Docket Number **FIFRA-05-2022-0018**

Mr. Weber:

Enclosed please find a copy of a fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. This document was filed on August 2, 2022 with the Regional Hearing Clerk.

The civil penalty in the amount of \$52,200.00 is to be paid in the manner described in paragraphs 31-32 of the CAFO.

Thank you for your cooperation in resolving this matter.

Sincerely,

ABIGAIL
WESLEY

Digitally signed by
ABIGAIL WESLEY
Date: 2022.07.27
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Abigail Wesley
Enforcement Officer
Pesticides and Toxics Compliance Section

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:)	Docket No. FIFRA-05-2022-0018
)	
T.F.I. Company Inc,)	Proceeding to Assess a Civil Penalty
Scarborough, Ontario, Canada)	Under Section 14(a) of the
)	Federal Insecticide, Fungicide, and
In care of its U.S. Agent,)	Rodenticide Act, 7 U.S.C. § 136l(a)
REP Solutions LLC,)	
Cypress, Texas)	
)	
)	
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 T.F.I. Company Inc (TFI), a corporation doing business at 746 Warden Avenue, Suite # 16, Toronto, Ontario, M1L 4A2, Canada, in care of its U.S. agent, REP Solutions, LLC, a corporation doing business at 13923 Connor Park Dr., Cypress, TX 77429.

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 and alleged violations 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 there under by the Secretary of the Treasury in consultation with the Administrator of EPA. These regulations are found at 19 C.F.R. Part 12.110 *et seq.* 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 pesticides into the U.S. shall submit to the EPA, prior to the arrival of the shipment into the U.S., a Notice of Arrival of Pesticides (NOA) on EPA Form 3540-1 for each pesticide.

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 distributor to fail to file reports required by 7 U.S.C. Title 7, Chapter 6, Subchapter II.

13. 19 C.F.R. § 141.18 states, in pertinent part, that a nonresident corporation may not enter merchandise into the U.S. for consumption unless it has a resident agent authorized to accept service of process against the nonresident corporation.

14. The term “person” means “any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.” 7 U.S.C. § 136(s).

15. 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.

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. A “pest” is 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 EPA declares to be a pest under Section 25(c)(1) of FIFRA, 7 U.S.C. § 136(t).

18. 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 \$20,528 for each offense that occurred after November 2, 2015 and assessed before 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

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

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

21. REP Solutions, LLC, is the resident agent for Respondent, pursuant to 19 C.F.R. § 141.18.

22. Respondent, at all times relevant to this CAFO, was importing pesticide devices into the U.S.

23. The Respondent imported the following pesticide devices into the United States, under Entry Number SCS-08100888, which arrived into the U.S. through the Detroit, Michigan Port of Entry on or about March 8, 2022:

- a. Respicaire CG MicroClean 95 Electronic Air Cleaner 16" x 20" x 1" and 16" x 25" x 1";
- b. Respicaire Media Pack-3 Pair 16" x 20" x 1", Respicaire Media Pack-3 Pair 16" x 20" x 1", 16" x 25" x 1" and 20" x 25" x 1";
- c. Replacement UV Lamp for Air Sterilizer Pro, for 18W, 9" Sleeveless and for 36W, 16" Sleeveless;
- d. Respicaire OXY 7 UV Lamp 7" CS Color Screen Model;
- e. MoldMiser Max 16" UVC High Temperature Model UV Lamp;
- f. Respicaire OdorMiser DTX 9" Carbon Matrix & PCO, HT Model UV Lamp, DTX 16" Carbon Matrix & PCO Model UV Lamp, DTX 9" Carbon Matrix & PCO Programmable LCD Model UV Lamp and DTX 16" Carbon Matrix & PCO Programmable LCD Model UV Lamp;
- g. Respicaire Oxy 4 UV 7" HT High Temp Model UV Lamp;
- h. Respicaire Ultra Clean 99 Hybrid Electronic Air Cleaner High Temp - 120V - 16" x 25" x 7"; 20" x 25" x 7"; 16" x 25" x 7" and 20" x 25" x 7"; and
- i. Respicaire Ultra Clean 99 Replacement Media Cartridge - 16" x 25" and 20" x 25"

24. All of the products listed in the above paragraph are devices, as defined in Section 2(h) of FIFRA.

25. Respondent did not submit a separate NOA to the EPA for all 9 devices contained in entry number SCS-08100888 prior to the arrival of devices into the U.S. Respondent subsequently submitted separate NOAs for the devices in this entry number and the NOAs were accepted by the EPA.

Counts 1 through 9

26. The preceding paragraphs are incorporated by reference.

27. Respondent's failure to submit nine separate NOAs to the EPA for each of the nine pesticide devices contained in Entry Number SCS-08100888, prior to the arrival of the nine pesticide devices into the U.S., constitutes nine separate and distinct violations of Section 12(a)(2)(N) of FIFRA.

28. Respondent's violations 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 for each of the twenty-one violations.

Civil Penalty and Other Relief

29. Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), requires the Administrator to consider the size of the business of the person charged, the effect on the person's ability to continue in business, and the gravity of the violation, when assessing an administrative penalty under FIFRA.

30. Based on an evaluation of the facts alleged in this CAFO, the factors in Section 14(a)(4) of FIFRA and EPA's Enforcement Response Policy for the Federal Insecticide, Fungicide, and Rodenticide Act, dated December 2009, Complainant has determined the appropriate penalty to settle this action is \$52,200.

31. Within 30 days after the effective date of this CAFO, Respondent must pay a \$52,200 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 "T.F.I Company Inc, in care of its U.S. Agent, REP Solutions LLC" 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 "T.F.I Company Inc, in care of its U.S. Agent, REP Solutions LLC" and the docket number of this CAFO.

32. 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
R5hearingclerk@epa.gov

Abigail Wesley
wesley.abigail@epa.gov

Nidhi K. O'Meara
omeara.nidhi@epa.gov

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

34. 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.

35. 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

Consistent with the Standing Order Authorizing E-Mail Service of Orders and Other Documents Issued by the Regional Administrator or Regional Judicial Officer under the Consolidated Rules, dated March 27, 2015, the parties consent to service of this CAFO by e-mail at the following valid e-mail addresses for their respective representatives: Ms. Nidhi O'Meara at omeara.nidhi@epa.gov (attorney for Complainant), and Mr. Steven D. Weber at steveweber@parkerpoe.com (attorney for Respondent). The parties waive their right to service by the methods specified in 40 C.F.R. § 22.6.

36. This CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts alleged in this CAFO.

37. 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.

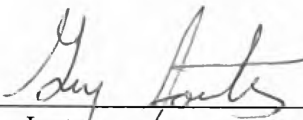
38. This CAFO does not affect Respondent's responsibility to comply with FIFRA and other applicable federal, state, and local laws.

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

40. The terms of this CAFO bind Respondent, its successors, and assigns.
41. 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.
42. Each party agrees to bear its own costs and attorney's fees, in this action.
43. This CAFO constitutes the entire agreement between the parties.

**In the Matter of:
T.F.I. Company Inc, in care of its U.S. Agent, REP Solutions LLC, Respondent**

7-20-20
Date



Greg Joutras
REP Solutions LLC,
U.S. Agent for T.F.I. Company Inc

**In the Matter of:
T.F.I. Company Inc, in care of its U.S. Agent, REP Solutions LLC, Respondent**

United States Environmental Protection Agency, Complainant

**MICHAEL
HARRIS**

Digitally signed by
MICHAEL HARRIS
Date: 2022.07.29
13:22:51 -05'00'

Michael D. Harris, Director
Enforcement & Compliance Assurance Division

In the Matter of:
T.F.I. Company Inc, in care of its U.S. Agent, REP Solutions LLC, Respondent
Docket No. FIFRA-05-2022-0018

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: 2022.08.01
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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: T.F.I Company, Inc
Docket Number: **FIFRA-05-2022-0018**

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, docket number **FIFRA-05-2022-0018**, which was filed on **August 2, 2022**, in the following manner to the following addressees:

Copy by E-mail to
Attorney for Complainant: Ms. Nidhi O'Meara
omeara.nidhi@epa.gov

Copy by E-mail to
Respondent: Mr. Steven D. Weber
steveweber@parkerpoe.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