



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

JUL 29 2015

REPLY TO THE ATTENTION OF:

LC- 8J

**CERTIFIED MAIL: No.7011 1150 0000 2643 8586**  
**RETURN RECEIPT REQUESTED**

E. Chase Dressman / Attorney  
Taft Stettinius & Hollister LLP  
425 Walnut Street, Suite 1800  
Cincinnati, Ohio 45202-3957

Consent Agreement and Final Order In the Matter of  
Mason Chemical Company Docket No. FIFRA-05-2015-0044

Mr. Dressman:

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 July 29, 2015 with the Regional Hearing Clerk.

The civil penalty in the amount of \$100,336 is to be paid in the manner described in paragraphs 116 and 117. Please be certain that the docket number is written on both the transmittal letter and on the check.

Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "E. Calvo".

Estrella Calvo  
Pesticides and Toxics Compliance Section

Enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

In the Matter of:	)	Docket No. FIFRA-05-2015-0044
	)	
Mason Chemical Company,	)	Proceeding to Assess a Civil Penalty
Arlington Heights, Illinois	)	Under Section 14(a) of the Federal
	)	Insecticide, Fungicide, and Rodenticide
Respondent.	)	Act, 7 U.S.C. § 136l(a)

Consent Agreement and Final Order Commencing and Concluding the Proceeding

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 Land and Chemicals Division, U.S. Environmental Protection Agency, Region 5.
3. Respondent is Mason Chemical Company, a corporation doing business in the State of Illinois.
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 conditions 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 legal conclusions 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 in compliance with FIFRA regarding the violations alleged in this CAFO.

**Statutory and Regulatory Background**

10. Pursuant to FIFRA, the term "person" means any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not. Section 2(s) of FIFRA, 7 U.S.C. § 136(s).

11. The term "distribute or sell" means 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. Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg); and 40 C.F.R. § 152.3.

12. The term "pesticide" means 1) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest; and 2) any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant. Section 2(u) of FIFRA, 7 U.S.C. § 136(u); and 40 C.F.R. § 152.3.

13. The term "pest" means 1) any insect, rodent, nematode, fungus, weed, or 2) any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism

which EPA declares to be a pest under Section 25(c)(1) of FIFRA. Section 2(t) of FIFRA, 7 U.S.C. § 136(t).

14. The term "registrant" means a person who has registered any pesticide under the provisions of FIFRA. Section 2(y) of FIFRA, 7 U.S.C. § 136(y).

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

16. A pesticide is "adulterated" if its strength or purity falls below the professed standard of quality as expressed on its labeling under which it is sold. Section 2(c)(1) of FIFRA, 7 U.S.C. § 136(c)(1).

17. A pesticide is "misbranded" if its labeling bears any statement, design or graphic representation relative thereto or to its ingredients which is false or misleading in any particular. Section 2(q)(1)(A) of FIFRA, 7 U.S.C. § 136(q)(1)(A).

18. A pesticide is "misbranded" if the labeling accompanying it does not contain directions for use which are necessary for effecting the purpose for which the product is intended and if complied with, together with any requirements imposed under Section 3(d) of FIFRA, 7 U.S.C. § 136a(d), are adequate to protect health and the environment. Section 2(q)(1)(F) of FIFRA, 7 U.S.C. § 136(q)(1)(F).

19. A pesticide is "misbranded" if the label does not contain a warning or caution statement which may be necessary and if complied with, together with any requirements imposed under Section 3(d) of FIFRA, 7 U.S.C. § 136a(d), is adequate to protect health and the environment. Section 2(q)(1)(G) of FIFRA, 7 U.S.C. § 136(q)(1)(G).

20. A registrant may distribute or sell his registered product under another person's

name and address instead of (or in addition to) his own. Such distribution or sale is termed "supplemental distribution" and any product so distributed or sold is referred to as a "distributor product." 40 C.F.R. §152.132.

21. In supplemental distribution, the distributor is considered an agent of the registrant for all intents and purposes under FIFRA. 40 C.F.R. §152.132.

22. In supplemental distribution, both the registrant and the distributor may be held liable for violations pertaining to the distributor product. 40 C.F.R. §152.132.

23. Supplemental distribution is permitted upon notification to EPA, if certain conditions are met. 40 C.F.R. §152.132.

24. A condition of supplemental distribution is that the label of the distributor product is the same as that of the registered product, except for differences including: 1) the product name of the distributor product may be different (but may not be misleading); 2) the name and address of the distributor may appear instead of that of the registrant; 3) the registration number of the registered product must be followed by a dash, followed by the distributor's company number; 4) the establishment number must be that of the final establishment at which the product was produced; and 5) specific claims may be deleted, provided that no other changes are necessary. 40 C.F.R. §152.132(d).

25. The Administrator of EPA may assess a civil penalty against any registrant, wholesaler, dealer, retailer, other distributor who violates any provision of FIFRA of up to \$7,500 for each offense that occurred after January 12, 2009, 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**

**Mason Chemical Company**

26. At all times relevant to this CAFO, Respondent was a “person”, as defined at Section 2(s) of FIFRA, 7 U.S.C. § 136(s).
27. At all times relevant to this CAFO, Respondent was a person who had registered pesticides under the provisions of FIFRA.
28. At all times relevant to this CAFO, Respondent was a “registrant” as defined at Section 2(y) of FIFRA, 7 U.S.C. § 136(y).
29. At all times relevant to this CAFO, Respondent owned or operated a place of business at 721 W. Algonquin Road, Arlington Heights, Illinois.
30. On or about November 6, 2014, EPA issued a letter to Respondent, stating EPA’s intent to file an administrative complaint against Respondent relating to the violations alleged in this CAFO.

**Chemblend International, LLC**

31. At all times relevant to this CAFO, Chemblend International, LLC (Chemblend) was a limited liability company doing business in the State of Washington.
32. At all times relevant to this CAFO, Chemblend was a “person”, as defined at Section 2(s) of FIFRA, 7 U.S.C. § 136(s).
33. At all times relevant to this CAFO, Chemblend owned or operated a place of business at or about 4432 C Street NE, Auburn, Washington.
34. At all times relevant to this CAFO, Nyco Products Company (Nyco) was a corporation doing business in the state of Illinois.

35. At all times relevant to this CAFO, Nyco was a “person”, as defined at Section 2(s) of FIFRA, 7 U.S.C. § 136(s).

36. At all times relevant to this CAFO, Nyco owned or operated a place of business at or about 5332 Dansher Road, Countryside, Illinois.

37. At all times relevant to this CAFO, Nyco was an affiliate or member of Chemblend.

38. On April 10, 2014, an EPA inspector authorized to conduct inspections under FIFRA conducted an inspection at Nyco’s place of business at 5332 Dansher Road, Countryside, Illinois.

39. During the April 10, 2014 inspection, the inspector collected a label and sales records for the product “Neutral Q128”, EPA Registration Number (EPA Reg. No.) 10324-155-81357.

**Counts 1 to 9**  
**Illegal Distribution and Sale of Misbranded**  
**Neutral Q128**

40. Complainant realleges and incorporates herein by reference paragraphs 1 through 39.

41. During calendar years 2013 and 2014, “Maquat 128-NHQ” was a registered pesticide, EPA Reg. No. 10324-155.

42. During calendar years 2013 and 2014, “Maquat 128-NHQ” was a pesticide, as defined at Section 2(u) of FIFRA, 7 U.S.C. § 136(u).

43. At all times relevant to this CAFO, Respondent was the registrant of “Maquat 128-NHQ”.

44. On or about September 13, 2010, EPA accepted a label for “Maquat 128-NHQ” in connection with its registration.

45. During calendar years 2013 and 2014, a Notice of Supplemental Distribution of a Registered Pesticide Product dated May 28, 2008 allowed Chemblend to distribute "Maquat 128-NHQ" under the brand name, "Neutral Q128", EPA Reg. No. 10324-155-81357.

46. During calendar years 2013 and 2014, Nyco produced, distributed and sold "Neutral Q128" for Chemblend.

47. During calendar years 2013 and 2014, Nyco produced, distributed and sold "Neutral Q128" as an agent of Chemblend.

48. On at least the following 9 occasions in 2013 and 2014, Nyco distributed, sold, offered for sale, held for distribution, held for sale, held for shipment, shipped, delivered for shipment, released for shipment or received and (having so received) delivered or offered to deliver to persons the distributor product "Neutral Q128":

- a. Straight Bill of Lading dated October 21, 2013 (Order No. 300301)
- b. Straight Bill of Lading dated December 13, 2013 (Order No. 302034)
- c. Straight Bill of Lading dated December 13, 2013 (Order No. 302185)
- d. Picking Ticket with a pick date of December 16, 2013 (Pick No. 302368-00)
- e. Picking Ticket with a ship date of February 28, 2014 (Pick No. 304775-00)
- f. Straight Bill of Lading dated March 13, 2014 (Order No. 305149)
- g. Straight Bill of Lading dated March 19, 2014 (Order No. 305411)
- h. Picking Ticket with a ship date of March 25, 2014 (Pick No. 305586-00)
- i. Sample collected during the April 10, 2014 inspection

49. The September 13, 2010 EPA accepted label for "Maquat 128-NHQ" contained specific use directions for "ANIMAL PREMISE VIRUCIDAL\* PERFORMANCE", "FUNGICIDAL PERFORMANCE", "FUNGICIDAL ACTIVITY", and "MOLD AND



MILDEW CONTROL”.

50. On at least 9 occasions in 2013 and 2014, Nyco distributed or sold the distributor product “Neutral Q128” with a label or labeling that lacked specific use directions for:

- a. “ANIMAL PREMISE VIRUCIDAL\* PERFORMANCE”
- b. “FUNGICIDAL PERFORMANCE”
- c. “FUNGICIDAL ACTIVITY”
- d. “MOLD AND MILDEW CONTROL”.

51. On at least 9 occasions in 2013 and 2014, Nyco distributed or sold the distributor product “Neutral Q128” with a label or labeling that did not contain directions for use which are necessary for effecting the purpose for which the product is intended and if complied with, together with any requirements imposed under Section 3(d) of FIFRA, 7 U.S.C. § 136a(d), are adequate to protect health and the environment. Section 2(q)(1)(F) of FIFRA, 7 U.S.C. § 136(q)(1)(F).

52. The September 13, 2010 EPA accepted label for “Maquat 128-NHQ” contained an “ENVIRONMENTAL HAZARD” heading and statement.

53. On at least 9 occasions in 2013 and 2014, Nyco distributed or sold the distributor product “Neutral Q128” with a label that did not bear an “ENVIRONMENTAL HAZARD” heading or the required statement, “This product is toxic to fish.”

54. On at least 9 occasions in 2013 and 2014, Nyco distributed or sold the distributor product “Neutral Q128” with a label that did not contain warning or caution statements which may have been necessary and if complied with, together with any requirements imposed under Section 3(d) of FIFRA, 7 U.S.C. § 136a(d), were adequate to protect health and the environment. Section 2(q)(1)(G) of FIFRA, 7 U.S.C. § 136(q)(1)(G).

55. On at least 9 occasions in 2013 and 2014, Nyco distributed or sold the distributor product "Neutral Q128" with a label or labeling bearing the statement, "Environmental Solutions That Make Sense".

56. At all times relevant to this CAFO, EPA had not accepted the statement "Environmental Solutions That Make Sense" in connection with the registration of "Maquat 128-NHQ".

57. On at least 9 occasions in 2013 and 2014, Nyco distributed or sold the distributor product "Neutral Q128" with labeling bearing a statement, design, or graphic representation relative thereto or to its ingredients which was false or misleading. Section 2(q)(1)(A) of FIFRA, 7 U.S.C. § 136(q)(1)(A).

58. Each of the 9 distributions or sales set forth in paragraph 48, above, was an unlawful act under Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

59. Respondent is subject to the assessment of a civil penalty of up to \$7,500 for each of the 9 unlawful acts set forth in paragraphs 40 through 58, above, under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

**Crown Chemical, Inc.**

60. At all times relevant to this CAFO, Crown Chemical, Inc. (Crown Chemical) was a corporation doing business in the State of Illinois.

61. At all times relevant to this CAFO, Crown Chemical was a "person", as defined at Section 2(s) of FIFRA, 7 U.S.C. § 136(s).

62. At all times relevant to this CAFO, Crown Chemical owned or operated a place of business at or about 4701 West 136<sup>th</sup> Street, Crestwood, Illinois.

63. On or about April 15, 2014, an inspector employed by the Illinois Department of

Agriculture and authorized to conduct inspections under FIFRA conducted an inspection at Crown Chemical's place of business at 4701 West 136<sup>th</sup> Street, Crestwood, Illinois.

64. During the April 15, 2014 inspection, the inspector collected a label and sales records for the distributor product "Guardian Neutral Disinfectant-Detergent", EPA Reg. No. 10324-113-35772.

**Counts 10-13**  
**Illegal Distribution and Sale of Misbranded**  
**Guardian Neutral Disinfectant-Detergent**

65. Complainant realleges and incorporates herein by reference paragraphs 1-30 and 60-64.

66. During calendar year 2014, "Maquat 64 MN" was a registered pesticide, EPA Reg. No. 10324-113.

67. During calendar year 2014, "Maquat 64 MN" was a pesticide, as defined at Section 2(u) of FIFRA, 7 U.S.C. § 136(u).

68. At all times relevant to this CAFO, Respondent was the registrant of "Maquat 64 MN".

69. On or about September 17, 2009 and August 31, 2012, EPA accepted labels for "Maquat 64 MN" in connection with its registration.

70. During calendar year 2014, a Notice of Supplemental Distribution of a Registered Pesticide Product dated June 2, 2008 allowed Crown Chemical to distribute "Maquat 64 MN" under the brand name, "Guardian Neutral Disinfectant-Detergent", EPA Reg. No. 10324-113-35772.

71. On at least 4 occasions in 2014, Crown Chemical distributed, sold, offered for sale, held for distribution, held for sale, held for shipment, shipped, delivered for shipment, released

for shipment or received and (having so received) delivered or offered to deliver to persons the distributor product "Guardian Neutral Disinfectant-Detergent":

- a. Straight Bill of Lading (Cust. Po. No. 031914)
- b. Straight Bill of Lading (Cust. Po. No. 0021073)
- c. Straight Bill of Lading (Cust. Po. No. MD0401)
- d. Sample collected during the April 15, 2014 inspection

72. The September 17, 2009 and August 31, 2012 EPA accepted labels for "Maquat 64 MN" contained the warning or caution statement, "PELIGRO. SI NO PUEDE LEER EN INGLES, PREGUNTE A SU SUPERVISOR SOBRE LAS INSTRUCCIONES DE USO APROPRIADAS ANTES DE TRABAJAR CON ESTE PRODUCTO."

73. On at least 4 occasions in 2014, Crown Chemical distributed or sold the distributor product "Guardian Neutral Disinfectant-Detergent" with a label or labeling that did not bear the warning or caution statement, "PELIGRO. SI NO PUEDE LEER EN INGLES, PREGUNTE A SU SUPERVISOR SOBRE LAS INSTRUCCIONES DE USO APROPRIADAS ANTES DE TRABAJAR CON ESTE PRODUCTO."

74. On at least 4 occasions in 2014, Crown Chemical distributed or sold the distributor product "Guardian Neutral Disinfectant-Detergent" with a label that did not contain warning or caution statements which may have been necessary and if complied with, together with any requirements imposed under Section 3(d) of FIFRA, 7 U.S.C. § 136a(d), were adequate to protect health and the environment. Section 2(q)(1)(G) of FIFRA, 7 U.S.C. § 136(q)(1)(G).

75. On at least 4 occasions in 2014, Crown Chemical distributed or sold the distributor product "Guardian Neutral Disinfectant-Detergent" with a label or labeling that stated or implied that the product is a mildewcide and not a mildewstat, as it contained the statement

“PREPARATION OF DISINFECTION/VIRUCIDAL\*/MILDEWCIDE USE SOLUTION”.

76. On at least 4 occasions in 2014, Crown Chemical distributed or sold the distributor product “Guardian Neutral Disinfectant-Detergent” with labels or labeling bearing a statement, design, or graphic representation relative thereto or to its ingredients which was false or misleading. Section 2(q)(1)(A) of FIFRA, 7 U.S.C. § 136(q)(1)(A).

77. Each of the 4 distributions or sales set forth in paragraph 71, above, was an unlawful act under Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

78. Respondent is subject to the assessment of a civil penalty of up to \$7,500 for each of the 4 unlawful acts set forth in paragraphs 65 through 77, above, under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

**National Chemical Laboratories, Inc.**

79. At all times relevant to this CAFO, National Chemical Laboratories, Inc. (National Chemical) was a corporation doing business in the State of Pennsylvania.

80. At all times relevant to this CAFO, National Chemical was a “person,” as defined at Section 2(s) of FIFRA, 7 U.S.C. § 136(s).

81. At all times relevant to this CAFO, National Chemical owned or operated a place of business at or about 401 North 10<sup>th</sup> Street, Philadelphia, Pennsylvania.

82. On or about February 27, 2014, an inspector employed by the Ohio Department of Agriculture and authorized to conduct inspections under FIFRA conducted an inspection at Roby Supply, 42 North Torrence Street, Dayton, Ohio.

83. During the February 27, 2014 inspection, the inspector collected a physical sample of and sales invoice for the distributor product “Bathroom Plus Non-Acid Disinfectant Bathroom Cleaner”, EPA Reg. No. 10324-85-2296.

84. The invoice 00208165 dated November 15, 2013 shows a shipment of the distributor product "Bathroom Plus Non-Acid Disinfectant Bathroom Cleaner" was sold by National Chemical to Roby Supply.

**Count 14**  
**Illegal Distribution and Sale**  
**of Adulterated Bathroom Plus Non-Acid Disinfectant Bathroom Cleaner**

85. Complainant realleges and incorporates herein by reference paragraphs 1-30 and 79-84.

86. During calendar years 2013 and 2014, "Maquat 86-M" was a registered pesticide, EPA Reg. No. 10324-85.

87. During calendar years 2013 and 2014, "Maquat 86-M" was a pesticide, as defined at Section 2(u) of FIFRA, 7 U.S.C. § 136(u).

88. At all times relevant to this CAFO, Respondent was the registrant of "Maquat 86-M".

89. During calendar years 2013 and 2014, a Notice of Supplemental Distribution of a Registered Pesticide Product dated February 26, 2008 allowed National Chemical to distribute "Maquat 86-M" under the brand name, "Bathroom Plus Non-Acid Disinfectant Bathroom Cleaner", EPA Reg. No. 10324-85-2296.

90. On or about February 18, 2010 EPA accepted an amended label for "Maquat 86-M" in connection with its registration.

91. The February 18, 2010 EPA accepted label for "Maquat 86-M" lists the percentage of quaternary ammonium compounds for "Bathroom Plus Non-Acid Disinfectant Bathroom Cleaner" is .086%.

92. The physical sample of "Bathroom Plus Non-Acid Disinfectant Bathroom Cleaner"

collected during the February 27, 2014 inspection consisted of .074% quaternary ammonium compounds.

93. On or about November 15, 2013, National Chemical distributed, sold, offered for sale, held for distribution, held for sale, held for shipment, shipped, delivered for shipment, released for shipment or received and (having so received) delivered or offered to deliver adulterated "Bathroom Plus Non-Acid Disinfectant Bathroom Cleaner" to Roby Supply.

94. The distribution or sale set forth in paragraph 92, above, was an unlawful act under Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

95. Respondent is subject to the assessment of a civil penalty of up to \$7,500 for the unlawful act set forth in paragraph 85 through 94, above, under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

**Ver-Tech, Inc.**

96. At all times relevant to this CAFO, Ver-Tech, Inc. (Ver-Tech) was a corporation doing business in the State of Minnesota.

97. At all times relevant to this CAFO, Ver-Tech was a "person", as defined at Section 2(s) of FIFRA, 7 U.S.C. § 136(s).

98. At all times relevant to this CAFO, Ver-Tech owned or operated a place of business at 6801 Bleck Drive, Rockford, Minnesota.

99. On or about February 28, 2013, an inspector employed by the Minnesota Department of Agriculture and authorized to conduct inspections under FIFRA conducted an inspection at Ver-Tech's place of business at 6801 Bleck Drive, Rockford, Minnesota.

100. During the February 28, 2013 inspection, the inspector collected a label and sales invoices for the distributor product "Dual Kleen", EPA Reg. No. 10324-63-70732.

Counts 15-19  
Illegal Distribution and Sale of Misbranded  
Dual Kleen

101. Complainant realleges and incorporates herein by reference paragraphs 1-30 and 96-100.

102. During calendar year 2013, "Maquat 10" was a registered pesticide, EPA Reg. No. 10324-63.

103. During calendar year 2013, "Maquat 10" was a pesticide, as defined at Section 2(u) of FIFRA, 7 U.S.C. § 136(u).

104. At all times relevant to this CAFO, Respondent was the registrant of "Maquat 10".

105. On or about December 2, 2010, EPA accepted an amended label for "Maquat 10" in connection with its registration.

106. During calendar year 2013, a Notice of Supplemental Distribution of a Registered Pesticide Product dated March 14, 2003 allowed Ver-Tech to distribute "Maquat 10" under the brand name, "Dual Kleen", EPA Reg. No. 10324-63-70732.

107. On at least the following 5 occasions in 2013, Ver-Tech distributed, sold, offered for sale, held for distribution, held for sale, held for shipment, shipped, delivered for shipment, released for shipment or received and (having so received) delivered or offered to deliver to persons the distributor product "Dual Kleen":

- a. Picking Slip with a ship date of February 14, 2013 (Order No. 00187650)
- b. Picking Slip with a ship date of February 18, 2013 (Order No. 00187688)
- c. Picking Slip with a ship date of February 18, 2013 (Order No. 00187698)
- d. Picking Slip with a ship date of February 19, 2013 (Order No. 00187720)
- e. Picking Slip with a ship date of February 22, 2013 (Order No. 00187740)



108. The December 2, 2010 EPA accepted label for “Maquat 10” contained the warning or caution statement, “PELIGRO. SI NO PUEDE LEER EN INGLES, PREGUNTE A SU SUPERVISOR SOBRE LAS INSTRUCCIONES DE USO APROPRIADAS ANTES DE TRABAJAR CON ESTE PRODUCTO.”

109. On at least 5 occasions in 2013, Ver-Tech distributed or sold the distributor product “Dual Kleen” with a label or labeling that did not bear the warning or caution statement, “PELIGRO. SI NO PUEDE LEER EN INGLES, PREGUNTE A SU SUPERVISOR SOBRE LAS INSTRUCCIONES DE USO APROPRIADAS ANTES DE TRABAJAR CON ESTE PRODUCTO.”

110. On at least 5 occasions in 2013, Ver-Tech distributed or sold to persons the distributor product “Dual Kleen” with a label that did not contain warning or caution statements which may have been necessary and if complied with, together with any requirements imposed under Section 3(d) of FIFRA, 7 U.S.C. § 136a(d), were adequate to protect health and the environment. Section 2(q)(1)(G) of FIFRA, 7 U.S.C. § 136(q)(1)(G).

111. On at least 5 occasions in 2013, Ver-Tech distributed or sold “Dual Kleen” with a label that stated that “Dual Kleen” could be used as a Non-Food Contact Sanitizer but its label or labeling did not contain certain directions for use or use sites for its use as a Non-Food Contact Sanitizer.

112. On at least 5 occasions in 2013, Ver-Tech distributed or sold “Dual Kleen” with a label that did not contain directions for use which are necessary for effecting the purpose for which the product is intended and if complied with, together with any requirements imposed under Section 3(d) of FIFRA, 7 U.S.C. § 136a(d), are adequate to protect health and the environment. Section 2(q)(1)(F) of FIFRA, 7 U.S.C. § 136(q)(1)(F).

113. Each of the 5 distributions or sales set forth in paragraph 106, above, was an unlawful act under Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

114. Respondent is subject to the assessment of a civil penalty of up to \$7,500 for each of the 5 unlawful acts set forth in paragraph 101 through 113, above, under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

#### Civil Penalty

115. 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 \$100,336. In determining the penalty amount, Complainant considered the appropriateness of the penalty to the size of 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.

116. Within 30 days after the effective date of this CAFO, Respondent must pay a \$100,336 civil penalty for the FIFRA violations. Respondent must pay the penalty by sending a cashier's or certified check, payable to the "Treasurer, United States of America," to:

[for checks sent by regular U.S. Postal Service mail]

U.S. EPA  
Fines and Penalties  
Cincinnati Finance Center  
Post Office Box 979077  
St. Louis, Missouri 63197-9000

[for checks sent by express mail]

U.S. Bank  
Government Lockbox 979077 U.S. EPA Fines and Penalties  
Contact: Natalie Pearson  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
St. Louis, Missouri 63101

The check must note the case title and the docket number of this CAFO. Alternatively, Respondent may pay the penalty by electronic funds transfer, payable to the "Treasurer, United States of America," and sent to:

[for electronic funds transfer]

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 Mason Chemical Company and the docket number of this CAFO.

117. A transmittal letter, stating, Respondent's name, the case title, Respondent's complete address and the case docket number must accompany the payment. Respondent must send a copy of the check and transmittal letter to:

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

Estrella Calvo (LC-8J)  
Pesticides and Toxics Compliance Section  
U.S. EPA, Region 5  
77 West Jackson Boulevard,  
Chicago, Illinois 60604

Kris Vezner (C-14J)  
Office of Regional Counsel  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

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

119. If Respondent does not pay the civil penalty timely, 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. § 136(a)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

120. 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**

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

122. 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.

123. This CAFO does not affect Respondent's responsibility to comply with FIFRA and

other applicable federal, state, and local laws.

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

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

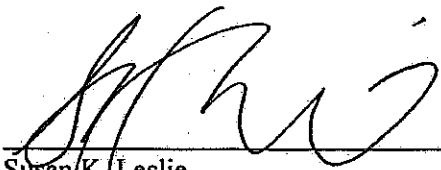
126. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

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

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


**Mason Chemical Company, Respondent**

7/6/15  
Date

  
\_\_\_\_\_  
Susan K. Leslie  
Secretary  
Mason Chemical Company

**United States Environmental Protection Agency, Complainant**

7/20/2015  
Date

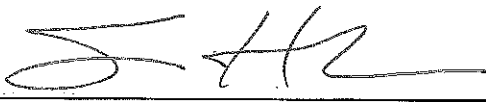
  
\_\_\_\_\_  
Margaret M. Guerriero  
Director  
Land and Chemicals Division

**In the Matter of:  
Mason Chemical Company  
Docket No. FIFRA-05-2015-0044**

**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.

7-24-2015  
Date

  
\_\_\_\_\_  
Susan Hedman  
Regional Administrator  
United States Environmental Protection Agency  
Region 5

In the matter of: Mason Chemical Company  
Docket Number: FIFRA-05-2015-0044

**CERTIFICATE OF SERVICE**

I certify that I served a true and correct copy of the foregoing *Consent Agreement and Final Order*, which was filed on July 29, 2015, in the following manner to the addressees:

Copy by Certified Mail  
Return-receipt:

E. Chase Dressman / Attorney  
Taft Stettinius & Hollister LLP  
425 Walnut Street, Suite 1800  
Cincinnati, Ohio 45202-3957

Copy by E-mail to  
Attorney for Complainant:

Kris Vezner  
[Vezner.kris@epa.gov](mailto:Vezner.kris@epa.gov)

Copy by E-mail to  
Regional Judicial Officer:

Ann Coyle  
[coyle.ann@epa.gov](mailto:coyle.ann@epa.gov)

Dated: July 29, 2015

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

CERTIFIED MAIL RECEIPT NUMBER(S): 7011 1150 0000 2643 8586