



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

DEC 03 2007

REPLY TO THE ATTENTION OF:  
LC-8J

CERTIFIED MAIL

Receipt No. 7001 0320 0006 0185 7941

Mr. Gary Preis  
Mason Chemical Company  
721 West Algonquin Road  
Arlington Heights, Illinois 60005

Consent Agreement and Final Order, Docket No. FIFRA 05-2007-0027

Dear Mr. Preis:

Enclosed please find a copy of a fully executed Consent Agreement and Final Order concerning violations of the Federal Insecticide Fungicide & Rodenticide Act (FIFRA), 7 § U.S.C.136 et seq., in resolution of the above case. This document was filed on December 3, 2007 with the Regional Hearing Clerk.

The civil penalty in the amount of \$39,600 is to be paid in the manner prescribed in paragraphs 10 and 11. Please be certain that the number **BD** 2750845P005 and the docket number are written on both the transmittal letter and on the check. Payment is due by January 3, 2008 (within 30 calendar days of the filing date).

Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in cursive script that reads "Joseph G. Lukascyk".

Joseph G. Lukascyk  
Pesticides and Toxics Compliance Section

Enclosures

cc: Marcy Toney, Regional Judicial Officer/C-14J (w/Encl.)  
Luis Oviedo, ORC/C-14J (w/Encl.)  
Eric Volck, Cincinnati Finance/MWD (w/Encl.)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

In the Matter of: )  
 )  
Mason Chemical Company )  
Arlington Heights, Illinois, )  
 )  
Respondent. )  
\_\_\_\_\_ )

Docket No. FIFRA 05-2007-0027  
Proceeding to Assess a Civil Penalty  
Under Section 14(a) of the Federal  
Insecticide, Fungicide, and Rodenticide  
Act, 7 U.S.C. § 136l(a)

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Consent Agreement and Final Order

Preliminary Statement

1. Complainant, the Director of the Land and Chemicals Division, United States Environmental Protection Agency (U.S. EPA), Region 5, brought this administrative action seeking a civil penalty under Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 136l(a).

2. On May 10, 2007, U.S. EPA filed the Complaint in this action against Respondent Mason Chemical Company. The Complaint alleges that Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), at its facility in Arlington Heights, Illinois by distributing or selling the misbranded pesticide products "Algae Trek," EPA Reg. No. 10324-15-38122, "Algae Check," EPA Reg. No 10324-43-38122, and "Algaecide Aqua Guard 50," EPA Reg. No. 10324-19-38122.

3. Respondent filed an Answer and requested a hearing under Section 14 of FIFRA, 7 U.S.C. § 136l, and 40 C.F.R. § 22.15.

Stipulations

4. Respondent admits the jurisdictional allegations in the Complaint and neither admits nor denies the factual allegations in the Complaint, other than those admitted in its Answer.

5. Respondent waives any right to contest the allegations in the Complaint and its right to appeal this Consent Agreement and Final Order (CAFO).

6. Respondent certifies that it is complying fully with FIFRA, 7 U.S.C. § 136 et seq. and the regulations at 40 C.F.R. § 152 et seq.

7. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

8. The parties agree that settling this action without further litigation, upon the terms of this CAFO, is in the public interest.

### Civil Penalty

9. In consideration of Respondent's good faith negotiation efforts and assurances that it is in compliance with FIFRA and the regulations promulgated thereunder, Complainant agrees to mitigate the proposed penalty of \$49,500.00 to \$39,600.00.

10. Within 30 days after the effective date of this CAFO, Respondent must pay the \$39,600.00 civil 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, Region 5  
P.O. Box 371531  
Pittsburgh, PA 15251-7531

[for checks sent by express mail]

Mellon Client Service Center  
Attn: Shift Supervisor  
Lockbox 371531  
500 Ross Street  
Pittsburgh, PA 15262 - 001

[The check must state: In the Matter of Mason Chemical Company, the docket number of this CAFO and the billing document number].

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

Regional Hearing Clerk (E-13J)  
U.S. EPA, Region 5  
77 West Jackson Blvd.  
Chicago, IL 60604

Joseph G. Lukascyk (LC-8J)  
U.S. EPA, Region 5  
77 West Jackson Blvd.  
Chicago, IL 60604

Luis Oviedo (C-14J)  
U.S. EPA, Region 5  
77 West Jackson Blvd.  
Chicago, IL 60604]

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

13. If Respondent does not pay the civil penalty timely, the U.S. EPA may refer this 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.

14. 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 overdue amount 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**

15. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in the Complaint.
16. This CAFO does not affect the right of the U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.
17. This CAFO does not affect Respondent's responsibility to comply with FIFRA and other applicable federal, state and local laws.
18. This CAFO is a "final order" for purposes of U.S. EPA's Enforcement Response Policy for FIFRA.
19. The terms of this CAFO bind Respondent, its successors, and assigns.
20. 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.
21. Each party agrees to bear its own costs and attorney's fees in this action.
22. This CAFO constitutes the entire agreement between the parties.

**Mason Chemical Company, Respondent**

October 30, 2007  
Date

  
\_\_\_\_\_  
~~Gary Preis~~, Controller  
Gary Preis

**United States Environmental Protection Agency, Complainant**

November 26, 2007  
Date

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

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**In the Matter of:**  
**Mason Chemical Company**  
**Docket No. FIFRA 05-2007-0027**

**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.

11/29/07  
Date

Walter W. Kovalich for  
Mary A. Gade  
Regional Administrator  
United States Environmental Protection Agency  
Region 5

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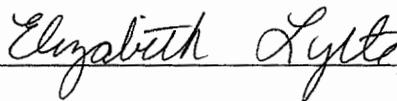
**CERTIFICATE OF SERVICE**

I hereby certify that the original signed copy of the Consent Agreement and Final Order in resolution of the civil administrative action involving Mason Chemical Company, was filed on December 3, 2007 with the Regional Hearing Clerk (E-13J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, and that I mailed by Certified Mail, Receipt No. 7001 0320 0006 0185 7941, a copy of the original to the Respondents:

Mr. Gary Preis  
Mason Chemical Company  
721 West Algonquin Road  
Arlington Heights, Illinois 60005

and forwarded copies (intra-Agency) to:

Marcy Toney, Regional Judicial Officer, ORC/C-14J  
Luis Oviedo, Counsel for Complainant/C-14J  
Eric Volck, Cincinnati Finance/MWD



Elizabeth Lytle  
Pesticides and Toxics Compliance Section  
U.S. EPA - Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590

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