



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

4APT-PTSB

**FEB 27 2007**

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Mr. Donald Hagan  
Hagan Ace Hardware  
3050 US 1 South  
Saint Augustine, FL 32086

SUBJ: Docket No. FIFRA-04-2007-3008(b)  
Hagan Ace Hardware

Dear Mr. Hagan:

Enclosed is a copy of the ratified Consent Agreement and Final Order (CAFO) in the above-referenced matter. The original CAFO has been filed with the Regional Hearing Clerk and served on the parties as directed in Section 22.6 of the Consolidated Rules of Practice, 40 CFR Part 22.

The Agency has received payment in the amount of \$3,000, as stated within the CAFO. Receipt of this payment concludes matters with the Agency.

Also, enclosed is a copy of the October 2001 *Enforcement Alert* titled "U.S. EPA Notifying Defendants of Securities and Exchange Commission's Environmental Disclosure Requirements." This document puts you on notice of your potential duty to disclose to the Securities and Exchange Commission (SEC) any environmental enforcement actions taken by the EPA. If you have any questions with regard to the SEC's environmental disclosure requirements, you may refer to the contact phone number on page three of the Notice.

Should you have any questions about your company's compliance status in the future, please do not hesitate to call me or Dawn Johnson at (404) 562-9017.

Sincerely,

A handwritten signature in cursive script that reads "Joanne Benante".

Joanne Benante  
Chief  
Pesticides and Toxic  
Substances Branch

Enclosures



## II. Preliminary Statements

3. The authority to take action under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), is vested in the Administrator of EPA. The Administrator of EPA has delegated this authority under FIFRA to the Regional Administrators by EPA Delegation 5-14, dated May 11, 1994.

4. Pursuant to 40 CFR § 22.5(c)(4) the following individual represents EPA in this matter and is authorized to receive service for EPA in this proceeding:

Ms. Dawn Johnson  
U.S. EPA – Region 4  
Atlanta Federal Center  
61 Forsyth Street  
Atlanta, Georgia 30303-8960  
(404) 562-9017.

5. Respondent is Hagan Ace Hardware, a Florida corporation, located at 3050 US 1 South, Saint Augustine, Florida 32086, 3033 A1A S, Saint Augustine, Florida 32080, and 141 Hwy 17 S, Palatka, Florida 32131.

6. Respondent is a "person" as defined by Section 2(s) of FIFRA, 7 U.S.C. § 136(s), and as such is subject to FIFRA and the regulations promulgated thereunder.

7. Respondent is a "producer" as defined by Section 2(w) of FIFRA, 7 U.S.C. § 136(w), and 40 CFR § 167.3.

8. Respondent's EPA Establishment Numbers are 055200-FL-01, 02 and 03.

9. Respondent's establishments at 3050 US 1 South, Saint Augustine, Florida 32086, 3033 A1A S, Saint Augustine, Florida 32080 and 141 Hwy 17 S, Palatka, Florida 32131 are registered with the Agency as pesticide-producing establishments.

10. Producers operating an establishment registered with EPA are required to submit to the Administrator of EPA an annual report which indicates the types and amounts of pesticides or active ingredients which they are currently producing, which they produced during the past year, and which they sold or distributed during the past year, pursuant to Section 7(c)(1) of FIFRA, 7 U.S.C. § 136e(c)(1), and the regulations promulgated at 40 CFR § 167.85.
11. Submittal of the annual report of pesticide-production for calendar year 2005 was due on or before March 1, 2006.
12. Respondent failed to submit the annual report on or before March 1, 2006.
13. Therefore, Respondent violated Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L).
14. Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), in conjunction with the Debt Collection Improvement Act of 1996, authorizes the assessment of a civil penalty.
15. Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a), requires EPA to consider the appropriateness of the assessed penalty to the size of business of the Respondent, the effect on Respondent's ability to continue in business, and the gravity of the violation.
16. The EPA proposes to assess a total civil penalty of \$3,000 against the Respondent for the above-described violation. Civil penalties under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), may be assessed by Administrative Order.

### III. Consent Agreement

17. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above, but neither admits nor denies any findings of fact or conclusion of law contained herein.

18. Respondent waives its right to a hearing on the allegations contained herein and its right to appeal the proposed final order accompanying the consent agreement.
19. Respondent consents to the assessment of and agrees to pay the civil penalty as set forth in this CAFO.
20. Respondent certifies that as of the date of its execution of this Consent Agreement and Final Order (CAFO), it is in compliance with all relevant requirements of FIFRA.
21. Respondent agrees to submit all future pesticide-production reports on or before the March 1<sup>st</sup> due date.
22. Compliance with this CAFO shall resolve the allegation of the violation contained herein. This CAFO shall not otherwise affect any liability of Respondent to the United States. Other than as expressed herein, neither EPA nor Complainant waives any right to bring an enforcement action against Respondent for violation of any federal or state statute, regulation or permit, to initiate an action for imminent and substantial endangerment, or to pursue criminal enforcement.
23. Complainant and Respondent agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of FIFRA.

#### IV. Final Order

24. Respondent agrees to send all future pesticide-production reports required under Section 7 of FIFRA, 7 U.S.C. § 136(e), by means of certified mail, return receipt requested, to the following address:

U.S. EPA - Region 4  
Sam Nunn Atlanta Federal Center  
PCB & Chemical Products  
Management Section  
61 Forsyth Street  
Atlanta, Georgia 30303-8960.

25. Respondent is assessed a civil penalty of THREE THOUSAND DOLLARS (\$3,000).
26. Payment shall be made within 30 days from the date that this CAFO is filed with the Regional Hearing Clerk.
27. Respondent shall pay the penalty either by (1) forwarding a cashier's or certified check, payable to the "Treasurer, United States of America," to the following address:

U.S. Environmental Protection Agency  
Cincinnati Accounting Operations  
Mellon Lockbox 371099M  
Pittsburgh, PA 15251-7099.

or (2) by wire transfer in US dollars to the following address:

Mellon Bank  
SWIFT address = MELNUS3P  
ABA 043000261  
Account 9109125  
22 Morrow Drive  
Pittsburgh, PA 15235.

**The check shall reference on its face "Docket No. FIFRA-04-2007-3008(b)."**

28. At the time of payment, Respondent shall send a separate copy of the check and a written statement that the payments is being made in accordance with this CAFO, to the following persons at the following addresses:

Regional Hearing Clerk  
U.S. EPA - Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street  
Atlanta, Georgia 30303-8960

Ms. Dawn Johnson  
Pesticide Management Section  
U.S. EPA - Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street  
Atlanta, Georgia 30303-8960

and

Ms. Saundi Wilson  
Office of Environmental Accountability  
U.S. EPA - Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street  
Atlanta, Georgia 30303-8960.

29. For the purposes of state and federal income taxation, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for any civil penalty payment made pursuant to this CAFO. Any attempt by Respondent to deduct any such payments shall constitute a violation of this CAFO.
30. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty from the date of entry of this CAFO, if the penalty is not paid by the date required. A charge will also be assessed to cover the administrative costs, both direct and indirect, of overdue debts. In addition, a late payment penalty charge shall be applied on any principle amount not paid within 90 days of the due date.
31. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
32. This CAFO shall be binding upon the Respondent, its successors and assigns.

33. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally bind that party to this CAFO.

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V. Effective Date

34. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

**AGREED AND CONSENTED TO:**

Hagan Ace Hardware

By: Annette Pennasar  
Name: Annette Pennasar  
Title: HEAD BOOKKEEPER

Date: 1/25/07

**U.S. Environmental Protection Agency**

By: Beverly H. Banister  
Beverly H. Banister, Director  
Air, Pesticides and Toxics  
Management Division  
61 Forsyth Street  
Atlanta, Georgia 30303-8960

Date: 2/13/07

**APPROVED AND SO ORDERED** this 27<sup>th</sup> day of Feb., 2007.

Susan B. Schub  
Susan B. Schub  
Regional Judicial Officer

CERTIFICATE OF SERVICE

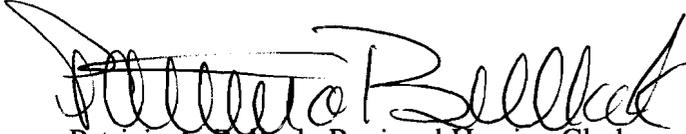
I hereby certify that I have this day served a true and correct copy of the foregoing Consent Agreement and Final Order, in the Matter of: Hagan Ace Hardware, Docket No. FIFRA-04-2007-3008(b), on the parties listed below in the manner indicated.

Dawn Johnson, 4APT-PTSB (Via EPA's internal mail)  
PCB & Chemical Products  
Management Section  
U.S. EPA - Region 4  
61 Forsyth Street  
Atlanta, GA 30303-8960

Alan E. Dion (Via EPA's internal mail)  
Office of Environmental Accountability  
U.S. EPA - Region 4  
61 Forsyth Street  
Atlanta, GA 30303-8960

Donald Hagan (Via Certified Mail - Return Receipt Requested)  
Hagan Ace Hardware  
3050 US 1 South  
Saint Augustine, FL 32086

Date: 2-27-07

  
Patricia A. Bullock, Regional Hearing Clerk  
United States Environmental  
Protection Agency, Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street  
Atlanta, GA 30303-8960

**EPA ACCOUNTS RECEIVABLE CONTROL NUMBER FORM**

**TO BE COMPLETED BY THE ORIGINATING OFFICE:**

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Saundi Wilson on 2/23/07  
(Name) (Date)

in the OEA, OATL at (404) 562-9504  
(Office) (Telephone Number)

Non-SF Judicial Order/Consent Decree  
USAO COLLECTS

Administrative Order/Consent Agreement  
FMO COLLECTS PAYMENT

SF Judicial Order/Consent Decree  
DOJ COLLECTS

Oversight Billing - Cost Package required:  
Sent with bill

Not sent with bill

Other Receivable

Oversight Billing - Cost Package not required

This is an original debt

This is a modification

PAYEE: Hagan Ace Hardware  
(Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 3000  
(If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: FIFRA 04 2007 3008(b)

The Site Specific Superfund Account Number: \_\_\_\_\_

The Designated Regional/Headquarters Program Office: \_\_\_\_\_

**TO BE COMPLETED BY LOCAL FINANCIAL MANAGEMENT OFFICE:**

The IFMS Accounts Receivable Control Number is: \_\_\_\_\_ Date \_\_\_\_\_

If you have any questions, please call: Peggy Whitney of the Financial Management Section at: (404) 562-8238.

**DISTRIBUTION:**

A. **JUDICIAL ORDERS:** Copies of this form with an attached copy of the front page of the **FINAL JUDICIAL ORDER** should be mailed to:

- |  |   |
|--|---|
| 1. Debt Tracking Officer<br>Environmental Enforcement Section<br>Department of Justice RM 1647<br>P.O. Box 7611, Benjamin Franklin Station<br>Washington, D.C. 20044 | 2. Originating Office (EAD)<br>3. Designated Program Office |
|--|---|

B. **ADMINISTRATIVE ORDERS:** Copies of this form with an attached copy of the front page of the Administrative Order should be to:

- |  |   |
|--|---|
| 1. Originating Office<br>2. Regional Hearing Clerk | 3. Designated Program Office<br>4. Regional Counsel (EAD) |
|--|---|