



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG.11
2011 SEP 30 P 2:23
REGIONAL HEARING
CLERK

SEP 29 2011

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Laura Lutz, President
Safe Air, Corp.
64 Clark Street
Manasquan, New Jersey 08736

Re: In the Matter of Safe Air, Corp.
Docket No. FIFRA-02-2011-5105

Dear Ms. Lutz:

Enclosed is the Complaint and Notice of Opportunity for Hearing and supporting documents, in the above-referenced proceeding. This Complaint alleges violations of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

You have the right to a formal hearing to contest any of the allegations in the Complaint and/or to contest the penalty proposed in the Complaint.

If you wish to contest the allegations or the penalty proposed in the Complaint, you must file an Answer, within **thirty (30)** days of your receipt of the enclosed Complaint, to the United States Environmental Protection Agency's (EPA) Regional Hearing Clerk at the following address:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, New York 10007-1866

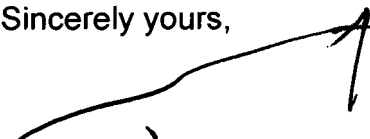
If you do not file an Answer within thirty (30) days of receipt of this Complaint and have not obtained a formal extension for filing an Answer from the Regional Judicial Officer, a default order may be entered against you, and the entire proposed penalty may be assessed without further proceedings.

Whether or not you request a formal hearing, you may request an informal conference with EPA to discuss any issues relating to the alleged violations and the amount of the proposed penalty. EPA encourages all parties against whom it files a Complaint to pursue the possibility of a settlement by participating in an informal conference with EPA. However, a request for an informal conference **does not** substitute for a written Answer, affect what you may choose to say in a written Answer, or extend the thirty (30) days by which you must file an Answer to request a hearing.

The EPA encourages the use of Supplemental Environmental Projects, where appropriate, as part of any settlement. I am enclosing a brochure on "EPA's Supplemental Environmental Projects (SEP) Policy." Please note that SEPs are only available as part of a negotiated settlement and will not be available if this case is resolved by formal adjudication.

If you have any questions or wish to schedule an informal settlement conference, please contact the attorney whose name is listed in the Complaint.

Sincerely yours,



Dore LaPosta, Director
Division of Enforcement and Compliance Assistance

Enclosures

cc: Karen Maples, Regional Hearing Clerk (w/o enclosures)

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2**

-----X
In the Matter of :
 :
 :
Safe Air, Corp, :
 :
 :
Respondent. :
 :
Proceeding Under the Federal :
Insecticide, Fungicide, and :
Rodenticide Act, as amended. :
-----X

COMPLAINT AND NOTICE OF
OPPORTUNITY FOR HEARING

Docket No. FIFRA-02-2011-5105

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2011 SEP 30 P 2:23
REGIONAL HEARING
CLERK

1. This Complaint and Notice of Opportunity for Hearing (Complaint) is filed pursuant to Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (“FIFRA” or the “Act”), as amended, 7 U.S.C. § 1361(a), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Suspension of Permits (“Consolidated Rules of Practice” or “CROP”), 40 C.F.R. Part 22.
2. The Complainant, Director of the Division of Enforcement and Compliance Assistance, Region 2, United States Environmental Protection Agency (“EPA”), has been duly delegated the authority to institute this action.
3. Respondent is Safe Air, Corp. (hereinafter alternatively referred to as “Safe Air,” or “Respondent.”)
4. Respondent is a for-profit corporation operating in the State of New Jersey.
5. Respondent has been, and continues to be, a “person” as defined by FIFRA Section 2(s), 7 U.S.C. Section 136(s), and as such is subject to FIFRA and the regulations promulgated thereunder.
6. Respondent owns and operates a facility located at 56 Clark Road, Manasquan, New Jersey, hereinafter “Respondent’s facility.”
7. Section 2(u) of FIFRA, 7 U.S.C. § 136(u), defines the term “pesticide” as, among other things, “(1) any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pest.”

8. Section 2(mm)(1) of FIFRA, 7 U.S.C. § 136(mm)(1), defines the term “antimicrobial pesticide” as, among other things, “a pesticide that (A) is intended to- (i) disinfect, sanitize, reduce, or mitigate growth or development of microbiological organisms.”

9. Pursuant to Section 3 of FIFRA, 7 U.S.C. § 136a, all pesticides intended for distribution or sale must be registered with EPA.

10. As part of its business, Respondent distributes and has distributed Zimek brand products, including, but not limited to, the Rapid Decontamination and Disinfecting System for Room and Vehicle Application and accessories for this system (“Zimek Fogging Systems”).

11. With the Zimek Fogging Systems described in paragraph 10, above, Respondent has sold pesticide products including, but not limited to, Sporicidin (EPA Reg. No. 8383-3), Zimek QD (EPA Reg. No. 70263-6-81632), and Zimek D&I Plus (EPA Reg. No. 70263-3-81632).

12. Respondent is a “distributor or seller” within the meaning of Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg).

13. Respondent is a “dealer,” or “other distributor” within the meaning of Section 14(a) (1) of FIFRA, 7 U.S.C. § 136l(a) (1).

14. On or about December 9, 2010, duly authorized EPA inspectors conducted an inspection at Respondent’s facility (“December inspection”).

15. The December inspection was conducted pursuant to and in accordance with the provisions of Section 9(a)(1) of FIFRA, 7 U.S.C. § 136g(a)(1).

16. As a result of the December inspection, EPA obtained documentation of Respondent’s distribution and/or sale of Zimek Fogging Systems.

17. As a result of the December inspection, EPA obtained documentation of Respondent’s distribution and/or sale of EPA-registered pesticide products.

18. As a result of the December inspection, EPA obtained documentation of claims promulgated by Respondent on behalf of the Zimek fogging systems with respect to the use of EPA-registered products in such systems.

19. Specifically, Respondent recommended the application of EPA-registered pesticide products via Zimek fogging systems as a means of disinfecting ambulances and emergency vehicles.

20. On or about May 12, 2011, duly authorized inspectors conducted an inspection of the records of Zimek, Inc. (“Zimek inspection”).

21. The Zimek inspection was conducted pursuant to and in accordance with the provisions of Section 9(a)(1) of FIFRA, 7 U.S.C. § 136g(a)(1).

22. As a result of the Zimek inspection, EPA obtained additional documentation of Respondent's distribution and/or sale of Zimek Fogging Systems.

23. As a result of the Zimek inspection, EPA obtained additional documentation of Respondent's distribution and/or sale of EPA-registered pesticide products.

24. As a result of the Zimek inspection, EPA obtained additional documentation of claims promulgated by Respondent concerning the use of EPA-registered pesticide products in Zimek fogging systems.

25. Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), provides it shall be unlawful for any person to distribute or sell to any person any registered pesticide if any claims made for it as a part of its distribution or sale substantially differ from any claims made for it as a part of its registration.

Counts 1-12

26. Complainant realleges each allegation contained in Paragraphs 1 through 25, inclusive, as if fully set forth herein.

27. Zimek QD (EPA Reg. No. 70263-6-81632) is a supplemental registration or distributor product of Microban QGC (EPA Reg. No. 70385-6), an antimicrobial pesticide.

28. Both Microban QGC and Zimek QD are antimicrobial pesticides as defined by FIFRA.

29. The label submitted by the registrant of Microban QGC is the only EPA-registered label for Microban QGC and any distributor products supplementally registered under that basic product.

30. Pursuant to 40 C.F.R. § 152.132(d)(5), the supplemental registrant of a distributor product may omit specific claims, pests, or sites of applications from the EPA-registered label of the basic product.

31. Supplemental registrants may not add claims, pests, or sites of applications not approved for use on the EPA-registered label of the basic product.

32. The primary registrant has not submitted to EPA for registration a label for the basic product, Microban QGC, bearing directions for disinfection as a fog or "dry mist" to the interior of ambulances or other vehicles.

33. No label for the basic product, Microban QGC, bearing directions for disinfection as a fog or “dry mist” to the interior of ambulances or other vehicles has been accepted for registration by EPA.

34. The label of Zimek QD omits ambulances as a site of application for the product by any method.

35. Between September 2007 and September 2009, Respondent sold Zimek QD to the following customers:

Counts	Safe-Air Invoice	Client Name	Date Shipped
1	96931	FEMA Mt. Weather	9/27/07
2	97017	FEMA Mt. Weather	3/3/08
3	97028	Okaloosa County Sheriff's Office	4/8/08
4	97145	Hialeah FD	10/28/08
5	97175	Reedy Creek Improvement District	12/17/08
6	97239	City of Port Orange	4/15/09
7	97240	CFRTA – Lynx	5/5/09
8	97242	Collier County EMS	4/29/09
9	91246	MONOC	5/5/09
10	97268	Coastal Health Brevard	6/5/09
11		Howell Township	8/27/09
12	97327	VA FCS	9/24/09

36. Upon information and belief, as an element of each of the sales listed in the table above, Respondent represented that Zimek QD can be dispersed via Zimek Fogging Systems to disinfect ambulances and other vehicles.

37. Upon information and belief, Respondent sold Zimek QD to the customers listed in paragraph 35, above, for the express purpose of use as a disinfectant dispersed via Zimek Fogging Systems in ambulances and other vehicles.

38. Each of Respondent's sales of Zimek QD is a separate violation of Section 12(a)(1)(B) of FIFRA, 7 U.S.C. 136j(a)(1)(B).

Counts 13-27

39. Complainant realleges each allegation contained in Paragraphs 1 through 38, inclusive, as if fully set forth herein.

40. Sporicidin (EPA Reg. No. 8383-3) is an antimicrobial pesticide as defined by

FIFRA.

41. The registrant of Sporicidin has not submitted to EPA for registration a label for the product bearing directions for disinfection as a fog or “dry mist” to the interior of ambulances or other vehicles.

42. No label for Sporicidin bearing directions for disinfection as a fog or “dry mist” to the interior of ambulances or other vehicles has been accepted for registration by EPA.

43. Between August 2008 and December 2010, Respondent sold Sporicidin to the following customers:

Counts	Safe-Air Invoice	Client Name	Date Shipped
13		Reggie Smith Roadrunner RV	8/29/2008
14	97239	City of Port Orange	4/29/2009
15	91246	MONOC	5/5/09
16	97240	CFRTA – Lynx	5/5/09
17	97268	Coastal Health Brevard	6/5/09
18	97281	Collier County EMS	7/29/09
19	97327	VA FCS	9/24/09
20		UMDNJ	10/22/09
21	97375	Shirley (NY) Community Ambulance	11/23/09
22	97405	CFRTA-Lynx	1/4/10
23	97495	CFRTA-Lynx	7/6/10
24	97517	Volusia County	8/19/10
25	97542	Ft. Detrick FD	9/21/10
26		Okeechobee	12/17/10
27		Ocean City (NJ) FD	12/17/10

44. Upon information and belief, as an element of each of the sales listed in the table above, Respondent represented that Sporicidin can be dispersed via Zimek Fogging Systems to disinfect ambulances and other vehicles.

45. Upon information and belief, Respondent sold Sporicidin to the customers listed in paragraph 43, above, for the express purpose of use as a disinfectant dispersed via Zimek Fogging Systems in ambulances and other vehicles.

46. Each of Respondent’s sales of Sporicidin is a separate violation of Section 12(a)(1)(B) of FIFRA, 7 U.S.C. 136j(a)(1)(B).

Counts 28-30

47. Complainant realleges each allegation contained in Paragraphs 1 through 46,

inclusive, as if fully set forth herein.

48. Zimek D&I Plus (EPA Reg. No. 70263-3-81632) is a supplemental registration or distributor product of Microban X-580 Institutional Spray PLUS (EPA Reg. No. 70263-3) (hereinafter "Microban X-580"), an antimicrobial pesticide.

49. Both Microban X-580 and Zimek D&I Plus are antimicrobial pesticides as defined by FIFRA.

50. The label submitted by the registrant of Microban X-580 is the only EPA-registered label for Microban X-580 and any distributor products supplementally registered under that basic product.

51. The primary registrant has not submitted to EPA for registration a label for the basic product, Microban X-580, bearing directions for disinfection as a fog or "dry mist" to the interior of ambulances or other vehicles.

52. No label for the basic product, Microban X-580, bearing directions for disinfection as a fog or "dry mist" to the interior of ambulances or other vehicles has been accepted for registration by EPA.

53. Between March 2008 and July 2009, Respondent sold Zimek D&I Plus to the following customers:

Counts	Safe-Air Invoice	Client Name	Date shipped
28		New Mill, Inc.	03/7/08
29	97240	CFRTA-Lynx	5/5/09
30	97280	Coastal Health Brevard	7/28/09

54. Upon information and belief, as an element of each of the sales listed in the table above, Respondent represented that Zimek D&I Plus can be dispersed via Zimek Fogging Systems to disinfect ambulances and other vehicles.

55. Upon information and belief, Respondent sold Zimek D&I Plus to the customers listed in paragraph 55, above, for the express purpose of use as a disinfectant dispersed via Zimek Fogging Systems in ambulances and other vehicles.

56. Each of Respondent's sales of Zimek D&I Plus are violations of Section 12(a)(1)(B) of FIFRA, 7 U.S.C. 136j(a)(1)(B).

PROPOSED CIVIL PENALTY

The proposed civil penalty has been determined in accordance with Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), as amended, which authorizes the assessment of a civil penalty of up to \$5,000 for each violation of “any provision of” subchapter II of FIFRA, 7 U.S.C. §§ 136 - 136y. The statutory maximum assessment per violation was raised to \$6,500 for the period March 15, 2004 through January 12, 2009. Effective after January 12, 2009, the statutory maximum is raised to \$7,500.

For purposes of determining the amount of any penalty to be assessed, Section 14 of FIFRA requires that EPA “shall consider the appropriateness of such penalty to 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.” Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4).

To develop the proposed penalty in this Complaint, Complainant has taken into account the particular facts and circumstances of this case, to the extent known at the time of its filing, with specific reference to EPA’s “FIFRA Enforcement Response Policy [for] The Federal Insecticide, Fungicide and Rodenticide Act,” dated December 2009 (hereinafter referred to as the “ERP”). A copy of the ERP is available upon request or may be obtained from the Internet at this address: <http://cfpub.epa.gov/compliance/resources/policies/civil/fifra/>. This guidance policy provides rational, consistent and equitable calculation methodologies for applying the statutory penalty criteria enumerated above to particular cases.

Complainant proposes, subject to receipt and evaluation of further relevant information, that Respondent be assessed the following civil penalties for the violations alleged in this Complaint:

Sale/distribution of pesticide products with claims made differing from registration	
20 counts @ \$5,670 per violation.....	\$ 113,400
10 counts @ \$1417.50 per violation	\$ 14,175
Total	\$ 127,575

PROCEDURES GOVERNING THIS ADMINISTRATIVE LITIGATION

The rules of procedure governing this civil administrative litigation have been set forth in 64 Fed. Reg. 40138 (July 23, 1999), entitled, “CONSOLIDATED RULES OF PRACTICE GOVERNING THE ADMINISTRATIVE ASSESSMENTS OF CIVIL PENALTIES, ISSUANCE OF COMPLIANCE OR CORRECTIVE ACTION ORDERS, AND THE REVOCATION, TERMINATION OR SUSPENSION OF PERMITS,” and are codified at 40 C.F.R. Part 22 (2010). A copy of these rules accompanies this “Complaint and Notice of Opportunity for Hearing” (hereinafter referred to as the “Complaint”).

A. Answering the Complaint

Where Respondent intends to contest any material fact upon which the Complaint is based, to contend that the proposed penalty is inappropriate or to contend that Respondent is entitled to judgment as a matter of law, Respondent must file with the Regional Hearing Clerk of EPA, Region 2, both an original and one copy of a written Answer to the Complaint. (40 C.F.R. § 22.15(a)) An Answer must be filed within 30 days after service of a Complaint. The address of the Regional Hearing Clerk of EPA, Region 2, is:

**Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th floor
New York, N.Y. 10007-1866**

Respondent shall also then serve one copy of the Answer to the Complaint upon Complainant and any other party to the action. (40 C.F.R. § 22.15(a))

Respondent's Answer to the Complaint must clearly and directly admit, deny, or explain each of the factual allegations that are contained in the Complaint and with regard to which Respondent has any knowledge. (40 C.F.R. § 22.15(b)) Where Respondent lacks knowledge of a particular factual allegation and so states in its Answer, the allegation is deemed denied. (40 C.F.R. § 22.15(b)) The Answer shall also set forth: (1) the circumstances or arguments that are alleged to constitute the grounds of defense, (2) the facts that Respondent disputes (and thus intends to place at issue in the proceeding), and (3) whether Respondent requests a hearing. (40 C.F.R. § 22.15(b))

Respondent's failure affirmatively to raise in the Answer facts that constitute or that might constitute the grounds of its defense may preclude Respondent, at a subsequent stage in this proceeding, from raising such facts and/or from having such facts admitted into evidence at a hearing.

B. Opportunity to Request a Hearing

If requested by Respondent in its Answer, a hearing upon the issues raised by the Complaint and Answer may be held. (40 C.F.R. § 22.15(c)) If, however, Respondent does not request a hearing, the Presiding Officer (as defined in 40 C.F.R. § 22.3) may hold a hearing if the Answer raises issues appropriate for adjudication. (40 C.F.R. § 22.15(c))

Any hearing in this proceeding will be held at a location determined in accordance with 40 C.F.R. § 22.35(b). A hearing of this matter will be conducted in accordance with the

applicable provisions of the Administrative Procedure Act, 5 U.S.C. §§ 551-59, and the procedures set forth in Subpart D of 40 C.F.R. Part 22.

C. Failure to Answer

If Respondent fails in its Answer to admit, deny, or explain any material factual allegation contained in the Complaint, such failure constitutes an admission of the allegation. (40 C.F.R. § 22.15(d)) If Respondent fails to file a timely (*i.e.* in accordance with the 30-day period set forth in 40 C.F.R. § 22.15(a)) Answer to the Complaint, Respondent may be found in default upon motion. (40 C.F.R. § 22.17) Default by Respondent constitutes, for purposes of the pending proceeding only, an admission of all facts alleged in the Complaint. (40 C.F.R. § 22.17(a)) Following a default by Respondent for a failure to timely file an Answer to the Complaint, any order issued therefor shall be issued pursuant to 40 C.F.R. § 22.17(c).

Any penalty assessed in the default order shall become due and payable by Respondent without further proceedings 30 days after the default order becomes final pursuant to 40 C.F.R. § 22.27(c). (40 C.F.R. § 22.17(d)) If necessary, EPA may then seek to enforce such final order of default against Respondent, and to collect the assessed penalty amount, in federal court.

D. Exhaustion of Administrative Remedies

Where Respondent fails to appeal an adverse initial decision to the Environmental Appeals Board pursuant to 40 C.F.R. § 22.30, and that initial decision thereby becomes a final order pursuant to the terms of 40 C.F.R. § 22.27(c), Respondent waives its right to judicial review. (40 C.F.R. § 22.27(d)).

In order to appeal an initial decision to the Agency's Environmental Appeals Board [EAB; see 40 C.F.R. § 1.25(e)], Respondent must do so within 30 days after the initial decision is served. (40 C.F.R. § 22.30(a)) Pursuant to 40 C.F.R. § 22.7(c), where service is effected by mail, "five days shall be added to the time allowed by these [rules] for the filing of a responsive document." Note that the 45-day period provided for in 40 C.F.R. § 22.27(c) (discussing when an initial decision becomes a final order) does not pertain to or extend the time period prescribed in 40 C.F.R. § 22.30(a) for a party to file an appeal to the EAB of an adverse initial decision.

INFORMAL SETTLEMENT CONFERENCE

Whether or not Respondent requests a formal hearing, EPA encourages settlement of this proceeding consistent with the provisions of the Act and its applicable regulations (40 C.F.R. § 22.18(b)). At an informal conference with representative(s) of Complainant, Respondent may comment on the charges made in this Complaint, and Respondent may also provide whatever additional information that it believes is relevant to the disposition of this matter, including: (1) actions Respondent has taken to correct any or all of the violations herein alleged, (2) any information relevant to Complainant's calculation of the proposed penalty, (3) the effect the proposed penalty would have on Respondent's ability to continue in business, and (4) any other special facts or circumstances Respondent wishes to raise.

Complainant has the authority to modify the amount of the proposed penalty, where appropriate, to reflect any settlement agreement reached with Respondent or any relevant information previously not known to Complainant, or to dismiss any or all of the charges if Respondent can demonstrate that the relevant allegations are without merit and that no cause of action as herein alleged exists. Respondent is referred to 40 C.F.R. § 22.18.

Any request for an informal conference or any questions that Respondent may have regarding this complaint should be directed to:

Naomi Shapiro
Assistant Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th floor
New York, N.Y. 10007-1866
212-637-3221

The parties may engage in settlement discussions irrespective of whether Respondent has requested a hearing (40 C.F.R. § 22.18(b)(1)). Respondent's requesting a formal hearing does not prevent it from also requesting an informal settlement conference; the informal conference procedure may be pursued simultaneously with the formal adjudicatory hearing procedure. A request for an informal settlement conference constitutes neither an admission nor a denial of any of the matters alleged in the Complaint. Complainant does not deem a request for an informal settlement conference as a request for a hearing as specified in 40 C.F.R. §22.15(c).

A request for an informal settlement conference does not affect Respondent's obligation to file a timely Answer to the Complaint pursuant to 40 C.F.R. § 22.15. No penalty reduction, however, will be made simply because an informal settlement conference is held.

Any settlement that may be reached as a result of an informal settlement conference shall be embodied in a written consent agreement (40 C.F.R. § 22.18(b)(2)). In accepting the Consent Agreement, Respondent waives its right to contest the allegations in the Complaint and waives its right to appeal the Final Order that is to accompany the Consent Agreement (40 C.F.R. § 22.18(b)(2)). In order to conclude the proceeding, a Final Order ratifying the

parties' agreement to settle will be executed (40 C.F.R. § 22.18(b)(3)).

Respondent's entering into a settlement through the signing of such Consent Agreement and its complying with the terms and conditions set forth in the Consent Agreement terminate this administrative litigation and civil proceedings arising out of the allegations made in the Complaint. Respondent's entering into a settlement does not extinguish, waive, satisfy or otherwise affect its obligation and responsibility to comply with all applicable statutory and regulatory requirements, and to maintain such compliance.

RESOLUTION OF THIS PROCEEDING WITHOUT HEARING OR CONFERENCE

Instead of filing an Answer, Respondent may choose to pay the total amount of the proposed penalty within 30 days after receipt of the Complaint, provided that Respondent files with the Regional Hearing Clerk, Region 2 (at the New York address noted above), a copy of the check or other instrument of payment (40 C.F.R. § 22.18(a)). A copy should also be provided to the EPA Assistant Regional Counsel identified on the previous page. Such payment shall be made by cashier's or certified check or by electronic fund transfer (EFT). If the payment is made by check, then the check shall be made payable to the "Treasurer, United States of America," and shall be mailed to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

The check shall be identified with a notation listing the name of the matter (In the Matter of Safe Air Corporation) and the Docket Number (FIFRA-02-2011-5105).

If Respondent chooses to make the payment by EFT, then Respondent shall provide the following information to its remitter bank:

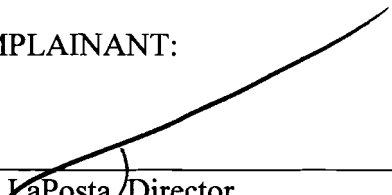
- 1) Amount of Payment
- 2) SWIFT address: FRNYUS33, 33 Liberty Street, New York, NY 10045
- 3) Account Code for Federal Reserve Bank of New York receiving payment: 68010727
- 4) Federal Reserve Bank of New York ABA routing number: 021030004
- 5) Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"
- 6) I/M/O Safe Air Corporation
- 7) Case Number: FIFRA-02-2011-5105

Pursuant to 40 C.F.R. § 22.18(a)(3), if Respondent elects to pay the full amount of the penalty proposed in the Complaint within 30 days of receiving the Complaint, then, upon EPA's receipt of such payment, the Regional Administrator of EPA, Region 2 (or, if designated, the Regional Judicial Officer), shall issue a Final Order. Issuance of this Final Order terminates this

administrative litigation and the civil proceedings arising out of the allegations made in the Complaint. Further, pursuant to 40 C.F.R. § 22.18(a)(3), the making of such payment by Respondent shall constitute a waiver of Respondent's right both to contest the allegations made in the Complaint and to appeal said Final Order to federal court. Such payment does not extinguish, waive, satisfy or otherwise affect Respondent's obligation and responsibility to comply with all applicable regulations and requirements, and to maintain such compliance.

Dated: SEPTEMBER 29, 2011
New York, New York

COMPLAINANT:



Dore LaPosta, Director
Division of Enforcement and
Compliance Assistance
U.S. EPA, Region 2

TO: Laura Lutz, President
Safe Air, Corp.
64 Clark Street
Manasquan, New Jersey 08736

CERTIFICATE OF SERVICE

This is to certify that I have this day caused to be mailed a copy of the foregoing Complaint, bearing docket number **FIFRA-02-2011-5105**, and a copy of the Consolidated Rules of Practice, 40 C.F.R. Part 22, by certified mail, return receipt requested, to:

Laura Lutz, President
Safe Air, Corp.
64 Clark Street
Manasquan, New Jersey 08736

I hand-carried the original and a copy of the foregoing Complaint to the office of the Regional Hearing Clerk, United States Environmental Protection Agency, Region 2.

Dated: SEP 30, 2011
New York, New York

Mildred N. Bag
z