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U.S. EPA REGION 5
HEARING CLERK

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:	)	**Docket No. CAA-05-2025-0007**
	)	
Pest Fog Sales Corp.	)	**Proceeding to Assess a Civil Penalty**
Corpus Christi, Texas	)	**Under Section 113(d) of the Clean Air Act,**
	)	**42 U.S.C. § 7413(d)**
Respondent.	)	
_____	)	

Consent Agreement and Final Order

A. Preliminary Statement

1. This is an administrative penalty assessment proceeding commenced and concluded under Section 113(d) of the Clean Air Act (the CAA), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b)and 22.18(b) 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. §§ 22.1(a)(2), 22.13(b) and 22.18(b).

2. Complainant is the U.S. Environmental Protection Agency (EPA). The EPA Administrator has delegated the authority to settle civil administrative penalty proceedings under Section 113(d) of the CAA to the Division Director of the Region 5 Enforcement and Compliance Assurance Division.

3. Respondent is Pest Fog Sales Corp. (Pest Fog), a corporation doing business in Texas. Respondent is a "person," as defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

4. The EPA and Respondent agree that settling this action is in the public interest and consent to the entry of this Consent Agreement and Final Order (CAFO) pursuant to 40 C.F.R. § 22.18(b)(2) and (3) without the adjudication of any issues of law or fact.

5. Respondent agrees to comply with the terms of this CAFO.

B. Jurisdiction

6. The alleged violations in this CAFO are pursuant to Section 113(a)(3)(A) of the CAA.

7. The EPA and the United States Department of Justice have jointly determined that this matter, although it involves alleged violations that occurred more than one year before the initiation of this proceeding, is appropriate for an administrative penalty assessment. 42 U.S.C. § 7413(d); 40 C.F.R. § 19.4.

8. On May 30, 2024, the EPA issued to Respondent a Finding of Violation, providing notice to Respondent that the EPA found Respondent committed the alleged violations described in Section E of this CAFO and providing Respondent an opportunity to confer with the EPA. On May 30, 2024, representatives of Respondent and the EPA conferred regarding the May 30, 2024 FOV.

9. The Regional Judicial Officer of Region 5 is authorized to ratify the Consent Agreement memorializing the settlement between the EPA and Respondent and to issue the attached Final Order. 40 C.F.R. §§ 22.4(b) and 22.18(b).

C. Statutory and Regulatory Background

10. The Production and Consumption Controls for the Protection of Stratospheric Ozone, at 40 C.F.R. Part 82, Subpart A, apply to any person that produces, transforms, destroys, imports or exports a controlled substance or imports or exports a controlled product. 40 C.F.R. § 82.1(b).

11. 40 C.F.R. § 82.3 defines "Person" as any individual or legal entity, including an individual, corporation, partnership, association, state, municipality, political subdivision of a state, Indian tribe; any agency, department, or instrumentality of the United States; and any officer, agent, or employee thereof.

12. 40 C.F.R. § 82.3, defines "Import" as to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into any place subject to the jurisdiction of the United States

whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States, with exemptions not relevant here.

13. 40 C.F.R. § 82.3 defines "Importer" as any person who imports a controlled substance or a controlled product into the United States. "Importer" includes the person primarily liable for the payment of any duties on the merchandise or an authorized agent acting on his or her behalf. The term also includes, as appropriate:

(1) The consignee;

(2) The importer of record;

(3) The actual owner; or

(4) The transferee, if the right to draw merchandise in a bonded warehouse has been transferred.

14. 40 C.F.R. § 82.3 defines "Controlled substance" as any substance listed in appendix A or appendix B to [Subpart A], whether existing alone or in a mixture, but excluding any such substance or mixture that is in a manufactured product other than a container used for the transportation or storage of the substance or mixture. Thus, any amount of a listed substance in appendix A or appendix B to this subpart that is not part of a use system containing the substance is a controlled substance. If a listed substance or mixture must first be transferred from a bulk container to another container, vessel, or piece of equipment in order to realize its intended use, the listed substance or mixture is a "controlled substance." . . . Controlled substances are divided into two classes, Class I in appendix A to [Subpart A], and Class II listed in appendix B to [Subpart A]. Class I substances are further divided into eight groups, Group I, Group II, Group III, Group IV, Group V, Group VI, Group VII, and Group VIII, as set forth in appendix A to [Subpart A].

15. Appendix A to Subpart A lists methyl bromide as a Class I, Group VI controlled substance.

16. 40 C.F.R. § 82.3 defines "Distributor of methyl bromide" as the person directly selling a class I, Group VI controlled substance to an applicator.

17. 40 C.F.R. § 82.3 defines "Applicator" as the person who applies methyl bromide.

18. 40 C.F.R. § 82.3 defines "Quarantine applications" as, with respect to class I, Group VI controlled substances, treatments to prevent the introduction, establishment and/or spread of quarantine pests (including diseases), or to ensure their official control, where:

> (1) Official control is that performed by, or authorized by, a national (including state, tribal or local) plant, animal or environmental protection or health authority;
>
> (2) quarantine pests are pests of potential importance to the areas endangered thereby and not yet present there, or present but not widely distributed and being officially controlled. This definition excludes treatments of commodities not entering or leaving the United States or any State (or political subdivision thereof).

19. 40 C.F.R. § 82.3 defines "Preshipment applications" as, with respect to class I, Group VI controlled substances, those non-quarantine applications applied within 21 days prior to export to meet the official requirements of the importing country or existing official requirements of the exporting country. Official requirements are those which are performed by, or authorized by, a national plant, animal, environmental, health or stored product authority.

20. 40 C.F.R. § 82.3 defines "Critical use allowance (CUA)" as the privilege granted by [Subpart A] to produce or import one (1) kilogram of methyl bromide for an approved critical use during the specified control period. A person's critical use allowances are the total of the allowances obtained under § 82.8(c) as may be modified under § 82.12 (transfer of allowances).

21. 40 C.F.R. § 82.3 defines "Essential-Use Allowances" as the privileges granted by § 82.4(n) to produce class I substances, as determined by allocation decisions made by the Parties to the

Montreal Protocol and in accordance with the restrictions delineated in the Clean Air Act Amendments of 1990.

22. 40 C.F.R. § 82.4(d) states, effective January 1, 1996, for any class I, Group I, Group II, Group III, Group IV, Group V, or Group VII controlled substances, and effective January 1, 2005, for any class I, Group VI controlled substance, and effective August 18, 2003, for any class I, Group VIII controlled substance, no person may import (except for transhipments or heels), at any time in any control period, (except for controlled substances that are transformed or destroyed) in excess of the amount of unexpended essential use allowances or exemptions, or in excess of unexpended critical use allowances, for that substance held by that person under the authority of this subpart at that time for that control period. Every kilogram of excess importation (other than transhipments or heels) constitutes a separate violation of this subpart. It is a violation of this subpart to obtain unused class I controlled substances under the general laboratory exemption in excess of actual need and to recycle that material for sale into other markets.

23. 40 C.F.R. § 82.8(c) states, effective January 1, 2005, critical use allowances are apportioned as set forth in paragraph (c)(1) of this section for the exempted production and import of class I, Group VI controlled substances specifically for those approved critical uses listed in appendix L to this subpart for the applicable control period. Every kilogram of production and import in excess of the total number and type of unexpended critical use allowances held for a particular type of use constitutes a separate violation of this subpart.

24. 40 CFR 82.13(g)(1), requires any importer of a class I controlled substance (including used, recycled and reclaimed controlled substances) to maintain the following records:

> (i) The quantity of each controlled substance imported, either alone or in mixtures, including the percentage of each mixture which consists of a controlled substance;

(ii) The quantity of those controlled substances imported that are used (including recycled or reclaimed) and, where applicable, the information provided with the petition as under paragraph (g)(2) of [section 82.13];

(iii) The quantity of controlled substances other than transhipments or used, recycled or reclaimed substances imported for use in processes resulting in their transformation or destruction and quantity sold for use in processes that result in their destruction or transformation;

(iv) The date on which the controlled substances were imported;

(v) The port of entry through which the controlled substances passed;

(vi) The country from which the imported controlled substances were imported;

(vii) The commodity code for the controlled substances shipped, which must be one of those listed in Appendix K to this subpart;

(viii) The importer number for the shipment;

(ix) A copy of the bill of lading for the import;

(x) The invoice for the import;

(xi) The quantity of imports of used, recycled, or reclaimed class I controlled substances;

(xii) The U.S. Customs entry number;

(xiii) Dated records documenting the sale or transfer of controlled substances for use in processes resulting in transformation or destruction;

(xiv) Copies of IRS certifications that the controlled substance will be transformed or destruction verifications that it will be destroyed (as in § 82.13(k));

(xv) Dated records of the quantity of controlled substances imported for an essential use; and

(xvi) Copies of certifications that imported controlled substances are being purchased for essential laboratory and analytical uses (defined at appendix G of this subpart) or being purchased for eventual sale to laboratories that certify that controlled substances are for essential laboratory and analytical uses (defined at appendix G of this subpart).

(xvii) Dated records of the quantity of methyl bromide imported for quarantine and preshipment applications and quantity sold for quarantine and preshipment applications;

(xviii) Written certifications that quantities of methyl bromide imported solely for quarantine and preshipment applications were purchased by distributors or applicators to be used only for quarantine and preshipment applications in accordance with the definitions in this subpart; and

(xix) Written verifications from a U.S. purchaser that methyl bromide imported solely for quarantine and preshipment applications, if exported, will be exported solely for quarantine and preshipment applications upon receipt of a certification in accordance with the definitions of this subpart and requirements in paragraph (h) of this section.

(xx) For methyl bromide, dated records such as invoices and order forms, of the quantity of controlled substances imported for critical use, specifying quantities dedicated for pre-plant use and quantities dedicated for post-harvest use, and the quantity sold for critical use, specifying quantities dedicated for pre-plant use and quantities dedicated for post-harvest use; and

(xxi) Written certifications that quantities of methyl bromide imported for critical use were purchased by distributors, applicators, or approved critical users to be used or sold only for critical use in accordance with the definitions and prohibitions in this subpart. Certifications must be maintained by an importer for a minimum of three years.

25. 40 CFR 82.13(g)(4) requires, for each quarter, except as specified below, every importer of a class I controlled substance (including importers of used, recycled or reclaimed controlled substances) to submit to the Administrator a report containing the following information:

(i) Summaries of the records required in paragraphs (g)(1) (i) through (xvi) of [section 82.13] for the previous quarter;

(ii) The total quantity imported in kilograms of each controlled substance for that quarter;

(iii) The quantity of those controlled substances imported that are used controlled substances.

(iv) The levels of import (expended consumption allowances before January 1, 1996) of controlled substances for that quarter and totaled by chemical for the control-period-to-date;

(vii) [Reserved]

(viii) The amount of controlled substances imported for use in processes resulting in their transformation or destruction;

(ix) The amount of controlled substances sold or transferred during the quarter to each person for use in processes resulting in their transformation or eventual destruction;

(x) The amount of controlled substances sold or transferred during the quarter to each person for an essential use;

(xi) [Reserved]

(xii) Internal Revenue Service Certificates showing that the purchaser or recipient of imported controlled substances intends to transform those substances or destruction verifications (as in § 82.13(k)) showing that purchaser or recipient intends to destroy the controlled substances; and

(xiii) The certifications from essential-use allowance holders stating that the controlled substances were purchased solely for specified essential-uses and will not be resold or used in manufacturing; and the certifications from distributors of laboratory supplies that the controlled substances were purchased solely for eventual sale to laboratories that certify the controlled substances are for essential laboratory and analytical uses (defined at appendix G of this subpart), or if sales are made directly to laboratories, certifications from laboratories that the controlled substances will only be used for essential laboratory and analytical uses (defined at appendix G of this subpart) and will not be resold or used in manufacturing.

(xiv) In the case of laboratory essential uses, a certification from distributors of laboratory supplies that controlled substances were purchased for sale to laboratory customers who certify that the substances will only be used for laboratory applications and will not be resold or used in manufacturing; and

(xv) The amount of methyl bromide sold or transferred during the quarter to a person other than the importer solely for quarantine and preshipment applications;

(xvi) A list of the quantities of methyl bromide exported by the importer and or by other U.S. companies, to a Party to the Protocol that will be used solely for quarantine and preshipment applications and therefore were not imported expending consumption allowances; and

(xvii) For quarantine and preshipment applications of methyl bromide in the United States or by a person of another Party, one copy of a certification that the material will be used only for quarantine and preshipment applications in accordance with the definitions in this subpart from each recipient of the material and a list of additional quantities shipped to that same person for the quarter.

(xviii) For critical uses of methyl bromide, importers shall report annually the amount of critical use methyl bromide owned by the reporting entity, specifying quantities dedicated for pre-plant use and quantities dedicated for post-harvest use, as well as quantities held by the reporting entity on behalf of another entity, specifying quantities dedicated for pre-plant use and quantities dedicated for post-harvest use along with the name of the entity on whose behalf the material is held.

(xix) Importers shall report annually the amount of methyl bromide produced or imported prior to the January 1, 2005, phaseout date owned by the reporting entity, as well as quantities held by the reporting entity on behalf of another entity, specifying the name of the entity on whose behalf the material is held.

D. Stipulated Facts

26. Pest Fog is a fumigant supply business located at 3049 Cabaniss Road, Corpus Christi, Texas, that, among other things, imports and sells methyl bromide and is therefore subject to requirements at 40 C.F.R. §§ 82.4 and 82.13.

27. On the following dates, Pest Fog imported the listed quantities of methyl bromide:

Entry Number	Quantity Imported (kg)	Importation Date
8GP00069757	20,740	08/02/2020
8GP00088831	20,740	10/09/2020
MK855385557	8,724	11/13/2020
8GP00112110	20,740	12/28/2020
90602962063	14,000	04/27/2021
90603012637	14,000	06/04/2021
90603037089	14,000	06/25/2021
90603037048	14,000	06/26/2021
90603095566	14,000	08/13/2021
90603108708	14,000	08/20/2021
90603223903	14,000	11/13/2021
90603411607	14,000	03/25/2022
90603460646	14,000	04/30/2022
90603547335	14,000	07/10/2022
90603560627	14,000	07/23/2022
90603569487	14,000	08/08/2022

90603652580	14,000	09/25/2022
90603712038	14,000	11/12/2022
90603810931	14,000	02/01/2023
90603860027	14,000	03/16/2023
90603899264	14,000	04/19/2023
90603941397	14,000	05/25/2023
90603945836	14,000	05/31/2023
90604001605	14,000	07/19/2023

28. From at least August 2, 2020, to July 19, 2023, Pest Fog failed to submit quarterly reports to the Administrator of EPA as required under 40 CFR § 82.13(g)(4).

29. In shipment MK855385557, listed above, Pest Fog imported 8,724 kg of methyl bromide, in excess of unexpended essential use allowances or exemptions, or in excess of unexpended critical use allowances.

E. Allegations

30. By failing to submit quarterly reports to the Administrator of EPA from at least August 2, 2020, through July 19, 2023, Pest Fog violated the requirements of 40 CFR § 82.13(g)(4) on at least 24 occasions.

31. By importing 8,724 kg of methly bromide in excess of unexpended essential use allowances or exemptions, or in excess of unexpended critical use allowances, Pest Fog violated 40 C.F.R. § 82.4(d).

F. Terms of Consent Agreement

32. For the purposes of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:

    a. admits to the jurisdictional allegations in this CAFO;

    b. neither admits nor denies the allegations stated in Section E of this CAFO;

    c. consents to the assessment of a civil penalty as stated below;

    d. consents to any conditions specified in this CAFO;

    e. waives any right to contest the allegations set forth in Section E of this CAFO; and

    f. waives its right to appeal this CAFO.

33. For the purposes of this proceeding, Respondent:

    a. agrees this CAFO states a claim upon which relief may be granted against Respondent;

    b. acknowledges this proceeding constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement actions;

    c. waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this CAFO, including any right of judicial review under Section 307(b)(1) of the Clean Air Act, 42 U.S.C. § 7607(b)(1);

    d. waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c);

    e. waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the Final Order accompanying the Consent Agreement; and

    f. waives any rights it may possess at law or in equity to challenge the authority of the EPA to bring a civil action in a United States District Court to compel compliance with the CAFO, and to seek an additional penalty for noncompliance, and agrees that federal law shall govern in any such civil action.

34. Based on analysis of the factors specified in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), the facts of this case, and Pest Fog's cooperation and prompt return to compliance, the EPA has determined that an appropriate civil penalty to settle this action is $116,826.

35. Respondent agrees to pay a civil penalty in the amount of $116,826 ("Assessed Penalty") within thirty (30) days after the date the Final Order ratifying this Consent Agreement is filed with the Regional Hearing Clerk ("Filing Date").

36. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website: https://www.epa.gov/financial/makepayment. For additional instructions see: https://www.epa.gov/financial/additional-instructions-making-payments-epa.

37. When making a payment, Respondent shall:

a. Identify every payment with Respondent's name and the docket number of this CAFO, CAA-05-2025-0007,

b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve proof of such payment to the following person(s):

Regional Hearing Clerk (E-19J)
U.S. Environmental Protection Agency, Region 5
r5hearingclerk@epa.gov

Air Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency, Region 5
R5airenforcement@epa.gov

Sophie Grueterich
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
grueterich.sophie@epa.gov

U.S. Environmental Protection Agency
Cincinnati Finance Center
Via electronic mail to:
CINWD_AcctsReceivable@epa.gov

"Proof of payment" means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent's name.

38. Interest, Charges, and Penalties on Late Payments. Pursuant to 42 U.S.C. § 7413(d)(5), 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay the full amount of the Assessed Penalty per this CAFO, the entire unpaid balance of the Assessed Penalty and all accrued interest shall become immediately owing, and the EPA is authorized to recover the following amounts.

a. Interest. Interest begins to accrue from the Filing Date. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. Per 42 U.S.C. § 7413(d)(5), interest will be assessed pursuant to 26 U.S.C. § 6621(a)(2), that is, the IRS standard underpayment rate, equal to the Federal short-term rate plus 3 percentage points.

b. Handling Charges. The United States' enforcement expenses including, but not limited to, attorneys' fees and costs of handing collection.

c. Late Payment Penalty. A ten percent (10%) quarterly non-payment penalty.

39. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this CAFO, the EPA may take additional actions. Such actions the EPA may take include, but are not limited to, the following.

a. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14.

b. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H.

c. Suspend or revoke Respondent's licenses or other privileges or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, per 40 C.F.R. § 13.17.

d. Request that the Attorney General bring a civil action in the appropriate district court to enforce the Final Order and recover the full remaining balance of the

Assessed Penalty, in addition to interest and the amounts described above, per 42 U.S.C. § 7413(d)(5). In any such action, the validity, amount, and appropriateness of the Assessed Penalty and Final Order shall not be subject to review.

40. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.

41. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Agreement shall not be deductible for purposes of federal taxes.

42. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service ("IRS") annually, a completed IRS Form 1098-F ("Fines, Penalties, and Other Amounts") with respect to any court order or settlement agreement (including administrative settlements), that require a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, $50,000 for the payor's violation of any law or the investigation or inquiry into the payor's potential violation of any law, including amounts paid for "restitution or remediation of property" or to come "into compliance with a law." EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number ("TIN"), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. In order to provide EPA with sufficient information to enable it to fulfill these obligations, EPA herein requires, and Respondent herein agrees, that:

a. Respondent shall complete an IRS Form W-9 ("Request for Taxpayer Identification Number and Certification"), which is available at https://www.irs.gov/pub/irs-pdf/fw9.pdf;

b. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent's correct TIN or that Respondent has applied and is waiting for issuance of a TIN;

c. Respondent shall email its completed Form W-9 to EPA's Cincinnati Finance Center at wise.milton@epa.gov, on or before the date that Respondent's penalty payment is due, pursuant to Paragraph 35 of the CAFO, or within 7 days should the order become effective between December 15 and December 31 of the calendar year. EPA recommends encrypting IRS Form W-9 email correspondence.

d. In the event that Respondent has certified in its completed IRS Form W-9 that it does not yet have a TIN but has applied for a TIN, Respondent shall provide EPA's Cincinnati Finance Center with Respondent's TIN, via email, within five (5) days of Respondent's receipt of a TIN issued by the IRS.

43. By signing this CAFO, Respondent consents to the release of any information in this CAFO to the public and agrees this CAFO does not contain business information that is entitled to confidential treatment under 40 C.F.R. Part 2.

44. By signing this CAFO, the undersigned representative of the EPA and the undersigned representative of Respondent each certify that they are fully authorized to execute and enter into the terms and conditions of this CAFO and have the legal capacity to bind the party they represent to this CAFO.

45. By signing this CAFO, Respondent certifies the information it has supplied concerning this matter was at the time of submission true, accurate, and complete for each such submission, response, and statement. Respondent acknowledges that, under 18 U.S.C. § 1001, there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information.

46. Each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding, except in the case of a civil action brought by the Attorney General of the United States to recover unpaid penalties as described above.

G. Effect of Consent Agreement and Final Order

47. The parties consent to service of this CAFO by e-mail at the following e-mail addresses: grueterich.sophie@epa.gov (for the EPA), and dbarre@albmlaw.com (for Respondent).

48. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts specifically alleged in this CAFO.

49. This CAFO constitutes the entire agreement and understanding of the parties and supersedes any prior agreements or understandings, whether written or oral, among the parties with respect to this matter.

50. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of both parties and approval of the Regional Judicial Officer.

51. The provisions of this CAFO shall apply to and be binding upon Respondent and its officers, directors, authorized representatives, successors, and assigns.

52. Any violation of this CAFO may result in a civil judicial action for an injunction or civil penalties of up to $124,426 per day per violation, or both, as provided in Section 113(b) of the CAA, 42 U.S.C. § 7413(b), and 40 C.F.R. § 19.4, as well as criminal sanctions as provided in Section 113(c) of the CAA, 42 U.S.C. § 7413(c). The EPA may use any information submitted under this CAFO in an administrative, civil judicial, or criminal action.

53. Nothing in this CAFO relieves Respondent of the duty to comply with all applicable provisions of the CAA and other federal, state, or local laws or statutes, nor does it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor is it a ruling on, or determination of, any issue related to any federal, state, or local permit.

54. Nothing in this CAFO limits the power of the EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.

55. The EPA reserves the right to revoke this CAFO and settlement penalty if and to the extent that the EPA finds, after signing this CAFO, that any information provided by Respondent was materially false or inaccurate at the time such information was provided to the EPA, and to assess and collect any civil penalties permitted by statute for any violation described herein. The EPA will give Respondent written notice of its intent to revoke this CAFO, which will not be effective until received by Respondent.

H. Effective Date

56. This CAFO will be effective on the date of filing with the Regional Hearing Clerk. Upon filing, the EPA will transmit a copy of the filed CAFO to Respondent.

Pest Fog Sales Corp., Respondent

7/8/25
Date

William A. Cohen
President, Director, and Registered Agent

United States Environmental Protection Agency, Complainant

MICHAEL HARRIS

Digitally signed by MICHAEL HARRIS
Date: 2025.07.16 10:45:30 -05'00'

Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 5

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: 2025.07.17 09:48:53 -05'00'

_____ _____

Date

Ann L. Coyle
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 5