

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

FILED

Dec 22, 2025

1:55 pm

U.S. EPA REGION 4
HEARING CLERK

In the Matter of:

PreVasive USA, LLC

Docket No. FIFRA-04-2025-3012(b)

Respondent.

CONSENT AGREEMENT

I. NATURE OF ACTION

1. This is an administrative penalty assessment proceeding brought under Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA or the Act), as amended, 7 U.S.C. § 136l(a), and Sections 22.13(b) and 22.18 of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, as codified at Title 40 of the Code of Federal Regulations (C.F.R.) Part 22.
2. This Consent Agreement and the attached Final Order shall collectively be referred to as the CAFO.
3. Having found that settlement is consistent with the provisions of FIFRA and applicable regulations, the Parties have agreed to settle this action pursuant to 40 C.F.R. § 22.18 and consent to the entry of this CAFO without adjudication of any issues of law or fact herein.

II. PARTIES

4. Complainant is the Director of the Enforcement and Compliance Assurance Division, United States Environmental Protection Agency (EPA or Agency), Region 4, who has been delegated the authority on behalf of the Administrator of the EPA to enter into this CAFO pursuant to 40 C.F.R. Part 22 and Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).
5. Respondent is PreVasive USA, LLC (PreVasive), a limited liability company doing business in the State of Georgia. This proceeding pertains to Respondent's facility located at 3643 Explorer Trail, Oakwood, Georgia 30566 (Facility).

III. GOVERNING LAW

6. The term "label" is defined in Section 2(p)(1) of FIFRA, 7 U.S.C. § 136(p)(1), to mean the written, printed, or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers.
7. The term "labeling" is defined in Section 2(p)(2) of FIFRA, 7 U.S.C. § 136(p)(2), to mean all labels and all other written, printed, or graphic matter: (a) accompanying the pesticide or device at any time; or (b) to which reference is made on the label or in literature accompanying the pesticide or device.
8. The term "person" is defined in Section 2(s) of FIFRA, 7 U.S.C. § 136(s), to mean any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.
9. The term "pest" is defined in Section 2(t) of FIFRA, 7 U.S.C. § 136(t), to mean any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other microorganism (except viruses, bacteria, or other microorganisms on or in living man or other living animals) which the Administrator declares to be a pest under Section 25(c)(1) of FIFRA, 7 U.S.C. § 136w(c)(1).
10. Pursuant to 40 C.F.R. § 152.5(d), an organism is declared to be a pest under circumstances that make it deleterious to man or the environment, if it is: any fungus, bacterium, virus, prion, or other microorganism, except for those on or in living man or other living animals and those on or in processed food or processed animal feed, beverages, drugs (as defined in Section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. § 321(g)(1)), or cosmetics (as defined in Section 201(i) of the FFDCA, 21 U.S.C. § 321(i)).
11. The term "pesticide" is defined in Section 2(u) of FIFRA, 7 U.S.C. § 136(u), to mean any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest. Pursuant to 40 C.F.R. § 152.15, the term "pesticide" is further defined to mean any substance (or mixture of substances) intended for a pesticidal purpose.
12. Pursuant to 40 C.F.R. § 152.15, no person may distribute or sell any pesticide product that is not registered under the Act, except as provided in 40 C.F.R. §§ 152.20, 152.25, and 152.30.
13. Pursuant to 40 C.F.R. § 152.15, a substance is considered to be intended for a pesticidal purpose, and thus to be a pesticide requiring registration, if:
 - (a) The person who distributes or sells the substance claims, states, or implies (by labeling or otherwise);
 - (1) That the substance (either by itself or in combination with any other substance) can or should be used as a pesticide; or
 - (2) That the substance consists of or contains an active ingredient and that it can be used to manufacture a pesticide; or
 - (b) The substance consists of or contains one or more active ingredients and has no significant commercially valuable use as distributed or sold other than

(1) Use for pesticidal purpose (by itself or in combination with any other substance);
(2) Use for manufacture of a pesticide; or
(c) The person who distributes or sells the substance has actual or constructive knowledge that the substance will be used, or is intended to be used, for a pesticidal purpose.

14. The term “to distribute or sell” is defined in Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), to mean 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.

15. Pursuant to 40 C.F.R. § 152.3, “distribute or sell,” and other grammatical variations of the term such as “distributed or sold” and “distribution or sale,” is further defined to mean the acts of distributing, selling, offering for sale, holding for sale, shipping, holding for shipment, delivering for shipment, or receiving and (having so received) delivering or offering to deliver, or releasing for shipment to any person in any State.

16. Pursuant to Section 3 of FIFRA, 7 U.S.C. § 136a, pesticides that are sold or distributed in the United States are required to be registered with the EPA.

17. Pursuant to Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), it is unlawful for any person to distribute or sell to any person any pesticide that is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

18. Pursuant to 40 C.F.R. §§ 152.132(a)-(d), the 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 and sale is termed “supplemental distribution” and the product is referred to as a “distributor product.” The distributor is considered an agent of the registrant for all intents and purposes under the Act and both the registrant and the distributor may be held liable for violations pertaining to the distributor product. Supplemental distribution is permitted upon notification to the Agency if all the following conditions are met:

- (a) The registrant has submitted to the Agency for each distributor product a statement signed by both the registrant and the distributor listing the names and addresses of the registrant and the distributor, the distributor’s company number, the additional brand name(s) to be used, and the registration number of the registered product.
- (b) The distributor product is produced, packaged, and labeled in a registered establishment operated by the same producer (or under contract in accordance with 40 C.F.R. § 152.30) who produces, packages, and labels the registered product.
- (c) The distributor product is not repackaged (remains in the producer’s unopened container).
- (d) The label of the distributor product is the same as that of the registered product, except that:
 - (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 (obtainable from the Agency).

upon request);

(4) The establishment registration 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.

19. Pursuant to 40 C.F.R. § 167.3, “pesticidal product” means a pesticide, active ingredient, or device.

20. As set forth in 40 C.F.R. § 168.22(a), FIFRA Sections 12(a)(1) (A) and (B) make it unlawful for any person to “offer for sale” any pesticide if it is unregistered, or if claims made for it as part of its distribution or sale differ substantially from any claim made for it as part of the statement required in connection with its registration under FIFRA Section 3. The EPA interprets these provisions as extending to advertisements in any advertising medium to which pesticide users or the general public have access.

21. Section 14(a) of FIFRA, 7 U.S.C. § 136(a), in conjunction with 40 C.F.R. Part 19, Adjustments of Civil Monetary Penalties for Inflation, authorizes the assessment of a civil penalty for violations of the Act.

IV. FINDINGS OF FACT

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

23. On September 20, 2023, October 4, 2023, March 3, 2024, and March 29, 2024, the EPA performed a review of the Respondent’s official webpage located at <https://prevasive.com> (Respondent’s website). At the time of the review, Respondent’s website included a link to an affiliate website at <https://prevasiveproducts.com> (Affiliate website).

24. During the September 20, 2023, review of the Affiliate website, the EPA observed the OXYdiff product being advertised. The label displayed on the Affiliate website for the OXYdiff product had the statement “distributed by PreVasive” and included the registration number “EPA Reg. No. 58300-27-91628,” indicating that the product was a distributor product for the registered pesticide HyCide (EPA Reg. No. 58300-27).

25. During the October 4, 2023, review of the Affiliate website, the EPA observed the following claims for OXYdiff: “COVID-19 is caused by Sars-CoV-2. OXYdiff Disinfectant kills similar viruses and therefore can be used against Sars-CoV-2 when used in accordance with the directions for use against Canine Parvovirus on hard, nonporous surfaces.” These claims do not appear on the EPA approved label for the registered product HyCide (EPA Reg. No. 58300-27).

26. During the October 4, 2023, review of the Affiliate website, the EPA observed OXYdiff’s Safety Data Sheet, which is considered labeling. The Safety Data Sheet included the following instructions: “Activation of OXYdiff occurs by pouring the entire contents of the OXYdiff 4 fl. oz. bottle in a gallon of water to achieve a 99:1 mixed ratio and agitating the combined solution for 15 seconds. OXYdiff is Ready-to-Use post-Activation.” These instructions do not match the instructions on the label for the registered product HyCide (EPA Reg. No. 58300-27).

27. During the March 3, 2024, review of the Affiliate website, the EPA observed the product OXYdiff being offered for sale and available for purchase using an “add-to-cart” button.
28. Pursuant to 40 C.F.R. §§ 152.132(d), the label of a distributor product must be the same as that of the registered product. The claims for OXYdiff found on the Affiliate website and the directions for use found on the OXYdiff Safety Data Sheet differ from those found on the registered pesticide. As such, OXYdiff does not qualify as a distributor product under 40 C.F.R. § 152.132 because it is being offered for sale by Respondent with claims and directions for use that differ from those found on the label of the registered pesticide, HyCide. Therefore, OXYdiff is an unregistered pesticide pursuant to Section 3 of FIFRA.
29. During the March 29, 2024, review of the Affiliate website, the EPA observed the product PreVasive BHP Industrial Strength being offered for sale and available for purchase using an “add-to-cart” button. The website included the following claims for the product:
 - “Revolutionize the way you clean with BHP Supermax for all-in-one mold, algae, mildew stain removal and surface protection;” and
 - “BHP Supermax is a revolutionary cleaner that uses a proprietary Nano-Zinc antimicrobial technology to help protect surfaces from future contamination...”
30. The claims made for PreVasive BHP Industrial Strength on the Affiliate website show that the product is intended for a pesticidal purpose; therefore, the product is a pesticide pursuant to 40 C.F.R. § 152.15 and Section 2(u) of FIFRA that must be registered under Section 3 of FIFRA in order to be sold or distributed, unless it qualifies for an exemption from registration.
31. Based on a review of the EPA’s Pesticide Product Labeling System, PreVasive BHP Industrial Strength is not a registered pesticide.

V. ALLEGED VIOLATIONS

32. The EPA alleges that Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by distributing or selling the unregistered pesticides OXYdiff and PreVasive BHP Industrial Strength, as outlined in Section IV of this CAFO.

VI. STIPULATIONS

33. The issuance of this CAFO simultaneously commences and concludes this proceeding. *See* 40 C.F.R. § 22.13(b).
34. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:
 - (a) admits that the EPA has jurisdiction over the subject matter alleged in this CAFO;
 - (b) neither admits nor denies the factual allegations set forth in Section IV (Findings of Facts) of this CAFO;
 - (c) consents to the assessment of a civil penalty as stated below;

- (d) consents to the conditions specified in this CAFO;
- (e) waives any right to contest the alleged violations of law set forth in Section V (Alleged Violations) of this CAFO; and
- (f) waives its rights to appeal the Final Order accompanying this CAFO.

35. For the purpose of this proceeding, Respondent:

- (a) agrees that this CAFO states a claim upon which relief may be granted against Respondent;
- (b) acknowledges that this CAFO constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement actions;
- (c) waives any right 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 such noncompliance, and agrees that federal law shall govern in any such civil action;
- (d) by executing this CAFO, certifies to the best of its knowledge that Respondent is currently in compliance with all relevant requirements of FIFRA and its implementing regulations, and that all violations alleged herein, which are neither admitted nor denied, have been corrected;
- (e) waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to EPA officials where the purpose of such discussion, memorandum, or communication is to persuade such official to accept or issue this CAFO;
- (f) 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 this Consent Agreement; and
- (g) agrees to comply with the terms of this CAFO.

36. In accordance with 40 C.F.R. § 22.5, the individuals named in the Certificate of Service are authorized to receive service related to this proceeding and the Parties agree to receive service by electronic means.

VII. TERMS OF PAYMENT

37. Based on Respondent's substantiated ability to pay claim, Respondent consents to the payment of a civil penalty, which was calculated in accordance with the Act, in the amount of **TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500.00)**, which is to be paid within thirty (30) days of the Effective Date of this CAFO.

38. Respondent shall pay the civil penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the following EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions, see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>. In addition, Respondent shall identify every payment with Respondent's name and the docket number of this CAFO, Docket No. **FIFRA-04-2025-3012(b)**.

39. Respondent shall send proof of payment within twenty-four (24) hours of payment of the civil penalty, to:

Regional Hearing Clerk
R4_Regional_Hearing_Clerk@epa.gov

and

Deborah Ortiz
Chemical Safety and Land Enforcement Branch
Enforcement and Compliance Assurance Division
ortiz.deborah@epa.gov

and

U.S. Environmental Protection Agency
Cincinnati Finance Center
CINWD_AcctsReceivable@epa.gov

40. "Proof of payment" means, as applicable, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer, and/or any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with Respondent's name and Docket No. **FIFRA-04- 2025-3012(b)**.

41. Interest, Charges, and Penalties on Late Payments. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay any portion of the civil penalty, interest, or other charges and penalties per this CAFO, the entire unpaid balance of the civil penalty and all accrued interest shall become immediately due and owing, and the EPA is authorized to recover the following amounts.

(a) Interest. Interest will begin to accrue from the Effective Date of this CAFO. If the civil penalty is paid in full within thirty (30) days of the Effective Date of this CAFO, interest is waived. However, if the civil penalty is not paid in full within thirty (30) days of the Effective Date of this CAFO, interest will continue to accrue until any unpaid portion of the civil penalty as well as any interest, penalties, and other charges are paid in full. To protect the interests of the United States, the rate of interest is set at the IRS standard underpayment rate, as any lower rate would fail to provide Respondent adequate incentive for timely payment.

- (b) Handling Charges. Respondent will be assessed monthly a charge to cover the EPA's costs of processing and handling overdue debts.
- (c) Late Payment Penalty. A late payment penalty of six percent (6%) per annum will be assessed monthly on all debts, including any portion of the civil penalty, interest, penalties, and other charges that remain delinquent more than ninety (90) days.

42. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the civil 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 (see 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 (see 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 the EPA or engaging in programs the EPA sponsors or funds (see 40 C.F.R. § 13.17); and/or
- (d) request that the Attorney General bring a civil action in the appropriate district court to recover the amount assessed pursuant to Section 14(a)(5) of FIFRA, 7 U.S.C. § 1361(a)(5).

43. Allocation of Payments. Pursuant to 31 C.F.R. §901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of a 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 civil penalty amount.

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

VIII. EFFECT OF CAFO

45. In accordance with 40 C.F.R. § 22.18(c), Respondent's full compliance with this CAFO shall only resolve Respondent's liability for federal civil penalties for the violations and facts specifically alleged above.

46. In accordance with 40 C.F.R. § 22.18(c), full payment of the civil penalty, as provided in Section VII (Terms of Payment), shall satisfy the requirements of this CAFO; but shall not in any case affect the right of the EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

47. Any violation of this CAFO may result in a civil judicial action for civil penalties as provided in Section 14(a) of the Act, 7 U.S.C. § 136(a), as well as criminal sanctions as provided in Section 14(b) of the Act, 7 U.S.C. § 136(b). The EPA may use any information submitted under this CAFO in an administrative, civil judicial, or criminal action.
48. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of FIFRA and other federal, state, or local laws or statutes, nor shall it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit, except as expressly provided herein.
49. Nothing herein shall be construed to limit the power of the EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent hazard as provided under the Act.
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 successors and assigns. Respondent shall direct its officers, directors, employees, agents, trustees, and authorized representatives to comply with the provisions of this CAFO.
52. Any change in the legal status of Respondent, or change in ownership, partnership, corporate or legal status relating to the Facility, will not in any way alter Respondent's obligations and responsibilities under this CAFO.
53. By signing this Consent Agreement, Respondent acknowledges that this CAFO will be available to the public and agrees that this CAFO does not contain any confidential business information or personally identifiable information.
54. By signing this Consent Agreement, the Complainant and the undersigned representative of Respondent each certify that he or she is fully authorized to execute and enter into the terms and conditions of this CAFO and has the legal capacity to bind the party he or she represents to this CAFO.
55. By signing this Consent Agreement, both Parties agree that each party's obligations under this CAFO constitute sufficient consideration for the other party's obligations.
56. By signing this Consent Agreement, Respondent certifies that the information it has supplied concerning this matter was at the time of submission, and continues to be, true, accurate, and complete for each such submission, response, and statement. Respondent acknowledges that there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.
57. 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. If such false or inaccurate material was provided, the EPA reserves the right to assess and collect any and all civil penalties for any violation described herein. The EPA shall give Respondent notice of its intent to revoke, which shall not be effective until received by Respondent in writing.

58. It is the intent of the Parties that the provisions of this CAFO are severable. If any provision or authority of this CAFO or the application of this CAFO to any party or circumstances is held by any judicial or administrative authority to be invalid or unenforceable, the application of such provisions to other parties or circumstances and the remainder of the CAFO shall remain in force and shall not be affected thereby.
59. Unless specifically stated otherwise in this CAFO, each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.

IX. EFFECTIVE DATE

60. This CAFO shall become effective upon execution of the Final Order by the Regional Judicial Officer on the date of filing with the Regional Hearing Clerk.

Remainder of Page Intentionally Left Blank

Complainant and Respondent will Each Sign on Separate Pages

The foregoing Consent Agreement In the Matter of **PreVasive USA, LLC**, Docket Number **FIFRA-04-2025-3012(b)**, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:


Signature

12-9-25
Date

Printed Name: Brian Brosdahl

Title: CEO

Address: 176 Enterprise Dr., #2
Pendergrass, GA 30567

The foregoing Consent Agreement In the Matter of **PreVasive USA, LLC**, Docket Number **FIFRA-04-2025-3012(b)**, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR COMPLAINANT:

Keriema S. Newman
Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 4

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

In the Matter of:

PreVasive USA, LLC

Docket No. **FIFRA-04-2025-3012(b)**

Respondent.

FINAL ORDER

The Regional Judicial Officer is authorized to ratify this Consent Agreement which memorializes a settlement between Complainant and Respondent. 40 C.F.R. §§ 22.4(b) and 22.18(b)(3). The foregoing Consent Agreement is, therefore, hereby approved, ratified, and incorporated by reference into this Final Order in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22.

Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Final Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

BEING AGREED, IT IS SO ORDERED.

Regional Judicial Officer

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order, in the Matter of **PreVasive USA, LLC** Docket No. **FIFRA-04-2025-3012(b)**, were filed and copies of the same were emailed to the Parties as indicated below.

Via email to all Parties at the following email addresses:

To Respondent: Brian Brosdahl
Chief Executive Officer
PreVasive USA, LLC
brian@prevasive.com
(651) 261-4279

Graham McKinnon
Partner
Fox, Chandler, Homans, Hicks & McKinnon, LLP
graham@tfchh.com
(770) 534-7386

To EPA: Deborah Ortiz
Physical Scientist
ortiz.deborah@epa.gov
(404) 562-8230

Joshua Lee
Attorney
Lee.Joshua@epa.gov
(404) 562-9255

Regional Hearing Clerk
R4_Regional_Hearing_Clerk@epa.gov