

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4

FILED

May 06, 2025

6:14 am

U.S. EPA REGION 4  
HEARING CLERK

In the Matter of:

Valent U.S.A. LLC,

Respondent.

Docket No. FIFRA-04-2024-3025(b)

**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* (Consolidated Rules), 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 Valent U.S.A. LLC (Valent), a limited liability company based in the State of

California. This proceeding pertains to Respondent's importation of pesticide products through the port of Savannah, Georgia between the dates of August 9, 2024, and September 17, 2024.

### 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. 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.
11. Pursuant to 40 C.F.R. § 152.3, the term "pesticide product" is defined to mean a pesticide in the particular form (including composition, packaging, and labeling) in which the pesticide is, or is intended to be, distributed or sold.
12. The term "registrant" is defined in Section 2(y) of FIFRA, 7 U.S.C. § 136(y), to mean a person who has registered any pesticide pursuant to the provisions of the Act.
13. 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.
14. Pursuant to 40 C.F.R. § 152.3, "distribute or sell" 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.
15. Pursuant to 40 C.F.R. § 152.50, each application for pesticide registration must include draft labeling which will be reviewed for adequacy pursuant to 40 C.F.R. § 152.108. Pursuant to 40 C.F.R. § 152.112(f), the EPA will approve a registration application if, in part, the EPA has determined that the product is not misbranded as that term is defined in Section 2(q) of FIFRA and 40 C.F.R. Part 156, and that its labeling and packaging comply with the applicable requirements of



FIFRA and 40 C.F.R. Parts 152, 156, and 157.

16. Pursuant to 40 C.F.R. § 152.130(a), a registrant may distribute or sell a registered pesticide product with the composition, packaging, and labeling currently approved by the EPA.
17. Pursuant to 40 C.F.R. § 152.130(c), if the registered product labeling is amended on the initiative of the registrant by submission of an application for amended registration, the registrant may distribute or sell the product under the previously approved labeling for a period of 18 months after approval of the revision, unless an order subsequently issued by the Agency under Sections 6 or 13 of FIFRA, 7 U.S.C. § 136d or 136k, provides otherwise.
18. Pursuant to 40 C.F.R. § 156.10(a)(1)(viii), every pesticide product shall bear a label containing directions for use as prescribed in 40 C.F.R. § 156.10(i).
19. Pursuant to 40 C.F.R. § 156.10(i)(2)(ix), the directions for use shall include specific directions concerning the storage, residue removal, and disposal of the pesticide and its container.
20. Pursuant to Section 2(q)(1)(E) of FIFRA, 7 U.S.C. § 136(q)(1)(E), a pesticide is “misbranded” if any word, statement, or other information required by or under authority of the Act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.
21. Pursuant to Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), it is unlawful for any person to distribute or sell to any person any pesticide that is misbranded.
22. Pursuant to Section 17(c) FIFRA, 7 U.S.C. § 136o(c), and 19 C.F.R. § 12.112, an importer (or its agent) desiring to import pesticides or pesticide devices into the United States must submit to the EPA Administrator a Notice of Arrival of Pesticides and Devices (NOA) [EPA Form 3540-1] prior to the arrival of the shipment(s) into the United States, or may file an electronic alternative to the Notice of Arrival with the filing of entry documentation via the U.S. Customs and Border Protection’s (CBP) Automated Commercial Environment (ACE) Data Processing System.
23. Section 14(a) of FIFRA, 7 U.S.C. § 136l(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 FACTS**

24. 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.
25. On or around August 14, 2024, Geodis USA, Inc. (Geodis), the licensed customs broker for Valent, filed an electronic alternative to the NOA using CBP’s ACE Data Processing System for importation of a shipment of the pesticide product Ethaboxam Technical (EPA Reg. No. 59639-185). The shipment arrived at the Port of Savannah, Georgia (Port Code 1703) under Entry Number 113-33068052 on or around August 9, 2024, and included 160 drums of Ethaboxam Technical with



each drum weighing 50 kilograms.

26. On or about August 14, 2024, the EPA requested that the importer, Valent, via their broker, Geodis, ensure that all entry documentation, including labels or labeling on the pesticide, is uploaded to CBP's Document Image System (DIS) for the EPA's review of the NOA.
27. On or about August 20, 2024, Geodis uploaded the documentation to DIS for review. On or about August 20, 2024, after reviewing the documents, the EPA requested that Valent review the label and any labeling (e.g. manuals, booklets, inserts) that had been uploaded to DIS to ensure that they are true and complete copies of what is affixed to and/or accompanying the pesticide product.
28. On or about August 30, 2024, Valent confirmed via email that the label and labeling provided were true and complete copies of what was affixed to and/or had accompanied the pesticide product. In this email, Valent also noted that the drums in the shipment of Ethaboxam Technical in Entry Number 113-33068052 were labeled with an older version of the EPA-approved label which did not include revised storage and disposal language. Specifically, the label version affixed to the product did not contain the following recycling statement: "Recycling. Once cleaned, some agricultural plastic pesticide containers can be taken to a container collection site or picked up for recycling. To find the nearest site, contact your chemical dealer or manufacturer, or contact the Ag Container Recycling Council (ACRC) at 877-9522272 (toll free) or [www.acrecycle.org](http://www.acrecycle.org)." Additionally, the label contained the outdated container handling statement: "Offer liners and fiber drum for recycling if available or dispose of in a sanitary landfill or by incineration" instead of the new container handling statement: "Offer liners and fiber drum for recycling if available or dispose of in a sanitary landfill or by other procedures allowed by State and local authorities."
29. Additionally, Valent advised the EPA that a second shipment of the same product, Ethaboxam Technical, bearing the same label that was on drums in the first shipment, was expected to make entry into the United States on or about September 17, 2024, under Entry Number 113-33268082, although Geodis had not yet formally filed the entry documentation.
30. On or about August 30, 2024, the EPA reviewed the label provided by Valent and confirmed that it was the older version of the label approved by the EPA on February 10, 2021, and that the label was missing a recycling statement within the storage and disposal section which was approved in a voluntary label amendment on January 12, 2023.
31. Pursuant to 40 C.F.R 152.130(c), Valent was authorized to distribute or sell the pesticide product Ethaboxam Technical under the label approved on February 10, 2021, for a period of 18 months after approval of the most recent revision of the label which was approved on January 12, 2023. Therefore, the last date the product could have been distributed or sold with the previously approved label was July 12, 2024.
32. On or around September 4, 2024, Geodis filed an electronic alternative to the NOA in the ACE System for the importation of the second shipment of 160 drums of Ethaboxam Technical (EPA Reg. No. 59639-185), with each drum weighing 50 kilograms. The shipment arrived at the Port of Savannah, Georgia under Entry Number 113-33268082 on or around September 17, 2024.
33. Based on the EPA's review of the label and labeling of the drums in the second shipment of

Ethaboxam Technical, the EPA determined that the shipment was misbranded in the same way as the drums in the first shipment described in Paragraph 28 in that the drums did not bear the currently approved label and were missing approved storage and disposal language.

34. The drums of the pesticide product Ethaboxam Technical imported into the United States as described above were misbranded because they did not bear the current EPA-approved label, and because the label affixed to the drums was missing required storage and disposal language.

## **V. ALLEGED VIOLATIONS**

35. The EPA alleges that Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), by importing and thereby distributing or selling the misbranded pesticide, Ethaboxam Technical, on at least two occasions, as described in Section IV above, and is therefore subject to the assessment of a civil penalty under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

## **VI. STIPULATIONS**

36. Pursuant to 40 C.F.R. § 22.13(b), the issuance of this CAFO simultaneously commences and concludes this proceeding.
37. 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.
38. 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) 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;
- (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 this Consent Agreement;
- (f) 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; and
- (g) agrees to comply with the terms of this CAFO.

39. 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

40. Respondent consents to the payment of a civil penalty, which was calculated in accordance with the Act, in the amount of **NINE THOUSAND, ONE HUNDRED AND EIGHTY DOLLARS (\$9,180.00)**, which is to be paid within thirty (30) days of the Effective Date of this CAFO.
41. 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-04-2024-3025(b)**.
42. Respondent shall send proof of payment electronically, within twenty-four (24) hours of payment of the civil penalty, to:

Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 4  
R4\_Regional\_Hearing\_Clerk@epa.gov

and

Seth Ramsay  
U.S. Environmental Protection Agency, Region 4  
ramsay.seth@epa.gov

and

U.S. Environmental Protection Agency  
Cincinnati Finance Center  
CINWD\_AcctsReceivable@epa.gov

43. "Proof of payment" means, as applicable, a copy of the check, confirmation of credit card or debit card payment, 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 Respondent's name and Docket No. **FIFRA-04-2024-3025(b)**.
44. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to remit the civil penalty as agreed to herein, the EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the costs of processing and handling the delinquent claim. Accordingly, the EPA may require Respondent to pay the following amounts on any amount overdue:
- (a) Interest. Interest will begin to accrue on the civil penalty from the Effective Date of this CAFO. If the civil penalty is paid 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 on any unpaid portion until the unpaid portion of the civil penalty and accrued interest are paid. Interest will be assessed at the rate of the United States Treasury tax and loan rate, as established by the Secretary of the Treasury, in accordance with 31 U.S.C. § 3717(a)(1), 31 C.F.R. § 901.9(b), and 40 C.F.R. § 13.11(a).
  - (b) Non-Payment Penalty. On any portion of a civil penalty more than ninety (90) days past due, Respondent must pay a non-payment penalty of not more than six percent (6%) per annum, which will accrue from the date the penalty payment became due and is not paid, as provided in 31 U.S.C. § 3717(e)(2) and 31 C.F.R. § 901.9(d). This non-payment penalty is in addition to charges which accrue or may accrue under subparagraphs (a) and (c) and will be assessed monthly. See 40 C.F.R. § 13.11(c).
  - (c) Monthly Handling Charge. Respondent must pay a late payment handling charge to cover the administrative costs of processing and handling the delinquent claim, based on either actual or average cost incurred. See 31 C.F.R. § 901.9(c) and 40 C.F.R. § 13.11(b). Administrative costs will be assessed monthly throughout the period the debt is overdue except as provided by 40 C.F.R. § 13.12.
45. If Respondent fails to timely pay any portion of the penalty assessed under this CAFO, the EPA may:
- (a) refer the debt to a credit reporting agency or a collection agency pursuant to Section 14(a) of FIFRA, 7 U.S.C. § 136/(a) (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 to, or held by the United States for, a person to satisfy the debt the



person owes the 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. § 136/(a)(5).

46. Penalties paid pursuant to this CAFO shall not be deductible for purposes of federal taxes.

### **VIII. EFFECT OF CAFO**

- 47. 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.
- 48. 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.
- 49. 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.
- 50. 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.
- 51. 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.
- 52. 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.
- 53. 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, as appropriate.



54. Any change in the legal status of Respondent will not in any way alter Respondent's obligations and responsibilities under this CAFO.
55. 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.
56. By signing this Consent Agreement, the Complainant and the undersigned representative of Respondent each certify that one is fully authorized to execute and enter into the terms and conditions of this CAFO and has the legal capacity to bind the party one represents to this CAFO.
57. 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.
58. 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.
59. 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.
60. 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.
61. 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**


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

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**Complainant and Respondent will Each Sign on Separate Pages]**

The foregoing Consent Agreement, In the Matter of **Valent U.S.A. LLC**, Docket Number **FIFRA-04-2024-3025(b)**, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:

  
Signature \_\_\_\_\_ Date April 16, 2025

Printed Name: Edmund Baumgartner

Title: VP, General Counsel

Address: 4600 Norris Canyon Rd.  
San Ramon CA 94582



The foregoing Consent Agreement, In the Matter of **Valent U.S.A. LLC**, Docket Number **FIFRA-04-2024-3025(b)**, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR COMPLAINANT:

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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:

**Valent U.S.A. LLC,**

Respondent.

Docket No. **FIFRA-04-2024-3025(b)**

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.**

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Tanya Floyd  
Regional Judicial Officer



### CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order, In the Matter of **Valent U.S.A. LLC**, Docket No. **FIFRA-04-2024-3025(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: Edmund Baumgartner, Esq.  
General Counsel  
Valent U.S.A. LLC  
ted.baumgartner@valent.com  
(224) 234-3114

Amy Symonds, Esq.  
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asymonds@crowell.com  
(202) 624-2536

To EPA: Seth Ramsay  
Case Development Officer  
ramsay.seth@epa.gov  
(404) 562-9053

Roberto Buso  
Attorney Advisor  
buso.roberto@epa.gov  
(404) 562-8530

Robert Caplan  
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caplan.robert@epa.gov  
(404) 562-9520

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Shannon L. Richardson, Regional Hearing Clerk  
R4\_Regional\_Hearing\_Clerk@epa.gov