



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

APR 02 2014

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Mr. Ronald Hampton  
President  
Hampton Manufacturing, Inc.  
121 Bethea Road, Suite 301  
Fayetteville, Georgia 30214

Re: Hampton Manufacturing, Inc.  
Ratified Consent Agreement and Final Order  
Docket No. FIFRA-04-2014-3003(b)

Dear Mr. Hampton:

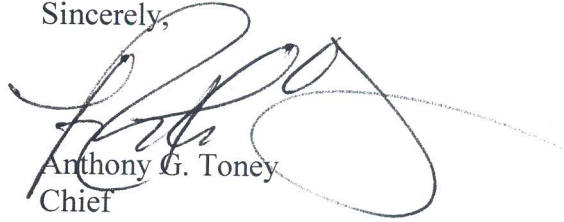
Enclosed is a copy of the ratified Consent Agreement and Final Order (CAFO) in the above-referenced matter. The original CAFO has been filed with the Regional Hearing Clerk and served on the parties as directed in Section 22.6 of the Consolidated Rules of Practice, 40 C.F.R. Part 22.

Please refer to Section V of the CAFO for penalty information and payment requirements. To ensure proper processing, the Respondent name and Docket Number for this case, identified above and in the CAFO, should be noted on any cashier's or certified check submitted in payment of the penalty.

Also enclosed is a copy of a document entitled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts you on notice of your potential duty to disclose to the Securities and Exchange Commission any environmental enforcement actions taken by the U.S. Environmental Protection Agency. Where used in the document "SEC" refers to the Securities and Exchange Commission.

Should you have any questions about this matter or your compliance status in the future, please contact Ms. Molly Miller of the EPA Region 4 staff at (404) 562-9684

Sincerely,

A handwritten signature in black ink, appearing to read 'Anthony G. Toney', with a large, sweeping flourish extending to the right.

Anthony G. Toney  
Chief  
Pesticides and Toxic  
Substances Branch

Enclosures

cc: Georgia Department of Agriculture

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA, GEORGIA

RECEIVED  
EPA REGION IV  
2014 APR -2 PM 4: 10  
HEARING CLERK

**In the Matter of:**

Hampton Manufacturing, Inc.

Respondent.

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)  
) **Docket No.:** FIFRA-04-2014-3002(b)  
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**CONSENT AGREEMENT AND FINAL ORDER**

**I. Nature of the Action**

1. This is a civil penalty proceeding pursuant to Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, 7 U.S.C. § 136l(a) (FIFRA), and pursuant to the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. Part 22. Complainant is the Director of the Air, Pesticides and Toxics Management Division, United States Environmental Protection Agency, Region 4. Respondent is Hampton Manufacturing, Inc.
2. The authority to take action under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), is vested in the Administrator of the EPA. The Administrator of the EPA has delegated this authority under FIFRA to the EPA Region 4 by EPA Delegation 5-14, dated May 11, 1994. The Regional Administrator, Region 4, has redelegated this authority to the Director, Air, Pesticides and Toxics Management Division, by EPA Region 4 Delegation 5-14, dated September 7, 2005. Pursuant to that Delegation, the Director of the Air, Pesticides and Toxics Management Division has the authority to commence an

enforcement action as the Complainant in this matter, and has the authority to sign Consent Agreements memorializing settlements between the EPA and Respondents.

3. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 C.F.R. § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

## **II. Preliminary Statements**

4. Pursuant to 40 C.F.R. § 22.5(c)(4) the following individual is authorized to receive service for the EPA in this proceeding:

Molly Miller  
Pesticides Section  
U.S. EPA - Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960  
(404) 562-9684.

5. Respondent is Hampton Manufacturing, Inc., a division of Ron S. Hampton Enterprises, Inc., a Georgia corporation.
6. Respondent is a "person" as defined by Section 2(s) of FIFRA, 7 U.S.C. § 136(s), and as such is subject to FIFRA and the regulations promulgated thereunder.

## **III. Specific Allegations**

7. On or about February 18, 2013, inspectors authorized by the EPA inspected Respondent's facility located at 121 Bethea Road, Suite 301, Fayetteville, Georgia 30214. The facility is assigned EPA Establishment Number 65596-GA-001, and Respondent files annual production reports on EPA Form 3540-16.



8. On or about June 14, 2013, an inspector authorized by the EPA conducted an inspection at Atlanta Barber and Beauty Supply located at 186 Mitchell Street, Atlanta, Georgia.
9. The inspectors collected copies of invoices documenting that the Antibacterial H-42 Clean Clippers shipped from Hampton Manufacturing to Atlanta Barber and Beauty Supply on or about November 16, 2012.
10. As part of the above inspections, the inspectors collected physical samples of “Antibacterial H-42 Clean Clippers,” which is registered with the EPA under Registration Number (Reg. No.) 65596-1.
11. The inspectors documented “Antibacterial H-42 Clean Clippers” as being produced, distributed and/or sold by Respondent as defined in Sections 2(w) and 2(gg) of FIFRA.
12. Antibacterial H-42 Clean Clippers is a pesticide as defined in Section 2(u) of FIFRA, 7 U.S.C. § 136(u), which includes any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.
13. A pest is defined in Section 2(t) of FIFRA, 7 U.S.C. § 136(t), as any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism (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).
14. Respondent “distributes or sells” pesticides. The term “to distribute or sell” as defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), includes to distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, or release for shipment.
15. “Antibacterial H-42 Clean Clippers” is a pesticide registered for use against bacteria and HIV-1 (AIDS Virus) on cutting tools such as blades, shears, and manicure implements.

16. The registration documents and label accepted by the EPA for EPA Reg. No. 65596-1, state that it contains 1% of the active ingredient oPhenylphenol.
17. The sample of “Antibacterial H-42 Clean Clippers” collected during the February 18, 2013, inspection was tested by the EPA Laboratory using the “SOP ACB-ATP-6, Standard Operating Procedure for the Analysis of Phenols and Their Salts in Antimicrobial Products,” Version 1.3, dated March 9, 2012. Results showed that the product contained only 0.7% of the active ingredient oPenylphenol, which is below the lower certified limit that was established as part of the registration process.
18. The sample of “Antibacterial H-42 Clean Clippers” collected during the June 14, 2013, inspection was tested by the Georgia Department of Agriculture’s Tifton Laboratory on behalf of the EPA. Results dated June 21, 2013, showed that the product contained only 0.62% of the active ingredient oPenylphenol, which is below the lower certified limit that was established as part of the registration process.
19. Section 12(a)(1)(C) of FIFRA, 7 U.S.C. § 136j(a)(1)(C), states that it shall be unlawful for any person in any state to distribute or sell to any person any registered pesticide the composition of which differs at the time of its distribution or sale from its composition as described in the statement required in connection with its registration under Section 3.
20. Respondent distributed or sold Antibacterial H-42 Clean Clippers, EPA Reg. No. 65596-1, with the active ingredient oPenylphenol at an amount less than the stated 1%, on at least two occasions.
21. Therefore, Respondent violated Section 12(a)(1)(C) of FIFRA, 7 U.S.C. § 136j(a)(1)(C), on a least two occasions and is therefore subject to the assessment of civil penalties under Section 14 of FIFRA, 7 U.S.C. § 136l.

22. At the time of the above referenced inspections, certain labels for “Antibacterial H-42 Clean Clippers,” EPA Reg. No. 65596-1, failed to bear the current the EPA approved directions for use. Instead, the labels bore a heading “Directions for Spray” and text describing a spray method of application, which was not approved until July 18, 2013. Further, other labels bore a contact time of sixty seconds (one minute) rather than the contact time of ten minutes proposed by Respondent and approved by the EPA as the time required to kill all organisms listed on the label.
23. Section 2(q)(1)(A) of FIFRA, 7 U.S.C. § 136(q) states “a pesticide is misbranded if its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular.”
24. Pursuant to 40 C.F.R. § 152.130(a), a registrant may distribute or sell a registered product with the composition, packaging and labeling currently approved by the EPA.
25. Any “Antibacterial H-42 Clean Clippers,” EPA Reg. No. 65596-1, with a label bearing directions for use as a spray application that was sold or distributed prior to July 18, 2013, was misleading and therefore misbranded because those directions for use were not approved by the EPA until July 18, 2013.
26. Pursuant to Section 2(q)(1)(F) of FIFRA, 7 U.S.C. § 136(q)(1)(F), a pesticide is misbranded if the labeling accompanying it does not contain directions for use which are necessary for effecting the purposes for which the product is intended.
27. Further, any “Antibacterial H-42 Clean Clippers,” EPA Reg. No. 65596-1, bearing a label with a contact time of sixty seconds bore directions for use which were not adequate to kill all organisms listed on the label. The EPA accepted label has a contact time of ten minutes, which is the time necessary to kill bacteria as claimed according to documents submitted in connection with registration of this pesticide.



28. Under 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.
29. Respondent distributed or sold Antibacterial H-42 Clean Clippers, EPA Reg. No. 65596-1, with unapproved and therefore misleading directions for use on at least four occasions.
30. Respondent distributed or sold Antibacterial H-42 Clean Clippers, EPA Reg. No. 65596-1, with inadequate directions for use on at least two occasions.
31. Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), on at least six occasions and is therefore subject to the assessment of a civil penalty under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).
32. Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), in conjunction with the Debt Collection Improvement Act of 1996, authorizes the assessment of a civil penalty.
33. Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), requires the EPA to consider the appropriateness of the assessed penalty to the size of business of the Respondent, the effect on Respondent's ability to continue in business, and the gravity of the violation.
34. After consideration of the factors set forth in Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), the EPA proposes to assess a total civil penalty of **FIVE THOUSAND DOLLARS (\$5,000)** against the Respondent for the above-described violations. Civil penalties under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), may be assessed by Administrative Order.

#### **IV. Consent Agreement**

35. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the factual allegations set forth above.



36. Respondent waives its right to a hearing on the allegations contained herein and its right to appeal the proposed Final Order accompanying the Consent Agreement.
37. Respondent consents to the assessment of the penalty proposed by the EPA and agrees to pay the civil penalty as set forth in this CAFO.
38. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of FIFRA.
39. Compliance with this CAFO shall resolve the allegations of the violations contained herein. This CAFO shall not otherwise affect any liability of Respondent to the United States. Other than as expressed herein, neither the EPA nor Complainant waives any right to bring an enforcement action against Respondent for violation of any federal or state statute, regulation or permit, to initiate an action for imminent and substantial endangerment, or to pursue criminal enforcement.
40. Complainant and Respondent agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of FIFRA.

#### **V. Final Order**

41. Respondent is assessed a civil penalty of **FIVE THOUSAND DOLLARS (\$5,000)**. Four payments will be made to complete payment of the entire civil penalty including interest. The first installment is due within 30 days of the effective date of this CAFO. The subsequent three payments shall be due in quarterly intervals thereafter. Including the civil penalty and interest, the total amount that will be paid upon the completion of all

payments will be **FIVE THOUSAND EIGHTEEN DOLLARS and EIGHTY-FOUR CENTS (\$5,018.84)**. Respondent shall make payments in accordance with the following schedule:

<u>Payment Number</u>	<u>Payment Due Date</u>	<u>Payment Due</u>
1	within 30 days of filing of CAFO	\$ 1,254.71
2	June 30, 2014	\$ 1,254.71
3	September 30, 2014	\$ 1,254.71
4	December 30, 2014	\$ 1,254.71

Respondent shall remit the penalty by either a cashier's or certified check made payable to the "Treasurer, United States of America," and shall send the check by one of the methods below.

Address for payment submittal using the United States Postal Service (USPS) (excluding USPS overnight mail):

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

Address for payments by USPS overnight mail or other delivery service (e.g., Federal Express, United Parcel Service, DHL, etc.):

U.S. Bank  
Government Lockbox 979077  
U.S. EPA Fines & Penalties  
1005 Convention Plaza  
Mail Station SL-MO-C2-GL  
St. Louis, Missouri 63101  
Contact Number: (314) 425-1818.

**The check shall reference on its face the name of the Respondent and Docket Number of this CAFO.**

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

Regional Hearing Clerk  
U.S. EPA - Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960;

Molly Miller  
Pesticides Section  
U.S. EPA - Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960; and

Saundi J. Wilson  
Office of Environmental Accountability  
U.S. EPA - Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960.

43. If Respondent fails to make one of the installment payments in accordance with the schedule set forth above, and if such payment is not made within 30 days after the due date, that payment plus all subsequent payments (the entire unpaid balance) shall become immediately due and payable on the 31<sup>st</sup> day from such due date. In addition, Respondent shall be liable for and shall pay administrative handling charges and late payment penalty charges as described below in the event of any such failure or default.
44. Further, if Respondent fails to pay installment payments in accordance with the schedule set forth above, the EPA may refer the debt to a collection agency, a credit reporting agency, or to the Department of Justice for filing of a collection action in the appropriate United States District Court. In any such collection action, the validity, amount, and appropriateness of the assessed penalty and of this CAFO shall not be subject to review.
45. Notwithstanding Respondent's agreement to pay the assessed civil penalty in accordance with the installment schedule set forth above, Respondent may pay the entire civil penalty of **FIVE THOUSAND DOLLARS (\$5,000)** within 30 days of the effective date of this CAFO and, thereby, avoid the payment of interest pursuant to 40 C.F.R. § 13.11(a). In



interest accrued up to the date of such full payment.

46. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, the EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. In accordance with 40 C.F.R. § 13.11(a), interest on any civil penalty assessed in a CAFO begins to accrue on the date that a copy of the CAFO is mailed or hand-delivered to the Respondent. However, the EPA will not seek to recover interest on any amount of such civil penalty that is paid within 30 calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a). A charge will also be assessed to cover the administrative costs, both direct and indirect, of overdue debts. In addition, a late payment penalty charge shall be applied on any principal amount not paid within 90 days of the due date.
47. For the purposes of state and federal income taxation, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for any civil penalty payment made pursuant to this CAFO. Any attempt by Respondent to deduct any such payments shall constitute a violation of this CAFO.
48. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
49. This CAFO shall be binding upon the Respondent, its successors and assigns. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and hereby legally binds that party to it.

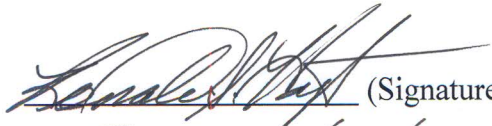
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**VI. Effective Date**

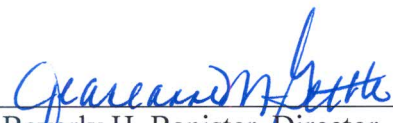
50. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

**AGREED AND CONSENTED TO:**


**Respondent:** Hampton Manufacturing, Inc.  
**Docket No.:** FIFRA-04-2014-3003(b)

By:  (Signature) Date: 03/05/14  
Name: Ronald S. Hampton (Typed or Printed)  
Title: President (Typed or Printed)

**Complainant:** U.S. Environmental Protection Agency

By:  Date: 3-24-14  
Beverly H. Banister, Director  
Air, Pesticides and Toxics  
Management Division

**APPROVED AND SO ORDERED** this 2<sup>nd</sup> day of April 2014.

  
Susan B. Schub  
Regional Judicial Officer

**CERTIFICATE OF SERVICE**

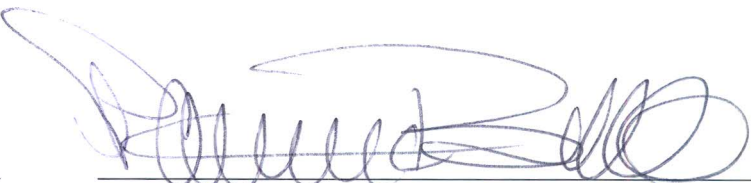
I hereby certify that on the date set out below, I filed the original and one copy of the foregoing Consent Agreement and Final Order and served a true and correct copy of the foregoing Consent Agreement and Final Order In the Matter Hampton Manufacturing, Inc., Docket Number: FIFRA-04-2014-3003(b), to the addressees listed below:

Mr. Ronald Hampton (via Certified Mail, Return Receipt Requested)  
President  
Hampton Manufacturing, Inc.  
121 Bethea Road, Suite 301  
Fayetteville, Georgia 30214

Molly Miller (via EPA's internal mail)  
Pesticides Section  
U.S. EPA Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303

Robert Caplan (via EPA's internal mail)  
Associate Regional Counsel  
Office of Environmental Accountability  
U.S. EPA Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303

Date: 4-2-14



Patricia A. Bullock, Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303  
(404) 562-9511