

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8**

**FILED**

**Oct 21, 2024**

**11:57 am**

**U.S. EPA REGION 8  
HEARING CLERK**

**IN THE MATTER OF:**

**Protekta Inc.**

**100 Bayview Circle Suite 100**

**Newport Beach, California 92660**

**Respondent.**

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**Docket No. FIFRA-08-2025-0002**

**CONSENT AGREEMENT**

**I. INTRODUCTION**

1. This is an administrative penalty assessment proceeding pursuant to sections 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 of Practice), as codified at 40 C.F.R. part 22.
2. The parties to this proceeding are the authorized representative of the U.S. Environmental Protection Agency, Complainant, and Protekta Inc., Respondent.
3. Respondent is a corporation organized under the laws of the State of Delaware.
4. Respondent owns and/or operates a pesticide production establishment at 100 Bayview Circle, Suite 100, Newport Beach, California, 92660-2963 (Establishment).
5. The parties, having agreed settlement of this action is in the public interest, consent to the entry of this consent agreement (Agreement) without adjudication of any issues of law or fact herein, and Respondent agrees to comply with the terms of this Agreement.

**II. JURISDICTION**

6. This Agreement is issued under the authority vested in the Administrator of EPA by section 14(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA, or the Act), 7 U.S.C. § 136l(a)(1). The undersigned EPA official has been delegated the authority to institute this action.

7. This proceeding is subject to the Consolidated Rules of Practice, under which this proceeding may be resolved by a final order from a regional judicial officer ratifying this Agreement. If issued, the final order will simultaneously commence and conclude this proceeding. 40 C.F.R. §§ 22.13(b) and 22.18(b).

### **III. GOVERNING LAW**

8. Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), provides that it shall be unlawful for any person in any State to distribute or sell to any person any pesticide that is misbranded.
9. Section 2(s) of FIFRA, 7 U.S.C. § 136(s), defines a “person” as “any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.”
10. Section 2(t) of FIFRA, 7 U.S.C. § 136(t), defines a “pest” 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 living 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).”
11. Section 2(u) of FIFRA, 7 U.S.C. § 136(u), defines a “pesticide” in part, as any “substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest[.]” *See, also*, 40 C.F.R. § 152.15.
12. Section 2(p)(1) of FIFRA, 7 U.S.C. § 136(p)(1), defines the term “label” as “the written, printed, or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers.”
13. Section 2(p)(2)(A) of FIFRA, 7 U.S.C. § 136(p)(2)(A), defines the term “labeling” as “all labels and all other written, printed, or graphic matter...accompanying the pesticide or device at any time.” Section 2(q)(1) of FIFRA, 7 U.S.C. § 136(q)(1), provides, among other things, that a pesticide is misbranded if . . . “(A) its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular[.]”

14. Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), defines the term “distribute or sell” 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...” *See, also*, 40 C.F.R. § 152.3.
15. The Administrator of the EPA may assess a civil penalty of up to \$24,255 against any registrant, commercial applicator, wholesaler, dealer, retailer, or other distributor who violates any provision of FIFRA for each offense that occurred after November 2, 2015. *See*, section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1); 40 C.F.R. Part 19; and the Civil Monetary Penalty Inflation Adjustment Rule at 88 Fed. Reg. 89309, 89312 (December 27, 2023).

#### IV. ALLEGATIONS OF FACTS AND LAW

16. At all times relevant to this Agreement, Respondent was a corporation and therefore a “person” as defined in section 2(s) of FIFRA, 7 U.S.C. § 136(s).
17. Respondent’s Establishment carries the EPA establishment registration number 75613-UT-1.
18. The pesticide Stalosan F is registered with the EPA with the EPA Registration Number 75613-2 and an EPA registered label.
19. On July 26, 2024, Respondent imported a shipment of Stalosan F into the port of Salt Lake City, Utah with entry number 9PM-41270903.
20. On July 26, 2024, Respondent imported a shipment of Stalosan F into the port of Salt Lake City, Utah with entry number 9PM-41269913.
21. As the importer of the shipments listed in paragraphs 19 and 20, above, and by doing business in the United States, Respondent is subject to the requirements of FIFRA and its implementing regulations.
22. The Stalosan F label imported in shipments with entry numbers 9PM-41270903 and 9PM-41269913 included the following language:
  - a. “33 LBS”
  - b. “Registered in the US Patent Office”
23. The EPA registered label for Stalosan F does not include this language.
24. Stalosan F is not 33 LBS.

25. Stalosan F is not Registered in the US Patent Office.
26. The language on the labeling of the Stalosan F in the shipments with entry numbers 9PM-41270903 and 9PM-41269913 bears statements which are false or misleading in any particular.
27. The importation of the Stalosan F in the shipments with entry numbers 9PM-41270903 and 9PM-41269913 is a distribution or sale pursuant to section 2(gg) of FIFRA, 7 U.S.C. § 136(gg).
28. Respondent's importation of the shipment of the Stalosan F in entry numbers 9PM-41270903 and 9PM-41269913 constitutes a violation of section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

#### **V. ALLEGED VIOLATIONS OF LAW**

29. Based on the facts set forth in section IV of this Agreement, EPA finds the Stalosan F in the shipments with entry numbers 9PM-41270903 and 9PM-41269913 is misbranded if pursuant to Section 2(q)(1)(A) of FIFRA, 7 U.S.C. § 136(q)(1)(A).
30. Based on the facts set forth in section IV of this Agreement, EPA finds Respondent distributed the Stalosan F in the shipments with entry numbers 9PM-41270903 and 9PM-41269913 in violation of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

#### **VI. TERMS OF AGREEMENT**

31. For the purposes of this proceeding, Respondent:
  - a. admits the jurisdictional allegations in this Agreement;
  - b. neither admits nor denies the alleged factual allegations in this Agreement;
  - c. consents to the assessment of a civil penalty as stated below;
  - d. acknowledges this Agreement constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement action; and
  - e. waives any right to contest the allegations in this Agreement and to appeal any final order ratifying this Agreement.

32. By signing this consent agreement, Respondent 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.
33. Section 14(a) of FIFRA, 7 U.S.C. § 1361(a), authorizes EPA to assess a civil penalty in this matter.
34. Based on the allegations above and having considered the appropriateness of the assessed penalty to Respondents' size of businesses, the effect on Respondent's ability to continue in business, and the gravity of the violation, as required by section 14(a)(4) of FIFRA, 7 U.S.C. § 1367(a)(4), Complainant has determined the civil administrative penalty amount agreed upon below is appropriate to settle this matter.
35. This Agreement applies to Respondent and its officers, directors, employees, agents, trustees, authorized representatives, successors, and assigns. Respondent must give written notice and a copy of this Agreement to any successors-in-interest prior to transfer of any interest in the facility. Any change in ownership or corporate control of Respondent, including but not limited to, any transfer of assets or real or personal property, shall not alter Respondent's responsibilities under this Agreement.
36. The undersigned representative of Respondent certifies he or she has authority to bind Respondent to this Agreement.
37. Except as qualified by paragraph 43, below, each party shall bear its own attorneys' fees, costs, and disbursements incurred in this proceeding.
38. The parties consent to service of this Agreement and any final order ratifying it by email at the following valid email addresses: eakins.shaula@epa.gov for Complainant; and aaron@protekta.com (Mr. Aaron Kaddie) for Respondent.

## **VII. TERMS OF PAYMENT**

39. Respondent agrees to pay a civil penalty in the amount of \$6,513.00 ("Assessed Penalty") within thirty (30) days after the date the Final Order ratifying this Agreement is filed with the Regional Hearing Clerk ("Filing Date").

40. 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>.
41. When making a payment, Respondent shall:
- a. Identify every payment with Respondent's name and the docket number that appears on the Final Order ratifying this Agreement,
  - b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve proof of such payment to the following persons:

Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 8  
1595 Wynkoop Street  
Denver, Colorado 80202-1129  
[R8\\_Hearing\\_Clerk@epa.gov](mailto:R8_Hearing_Clerk@epa.gov)

Christine Tokarz  
U.S. Environmental Protection Agency, Region 8  
1595 Wynkoop Street  
Denver, Colorado 80202-1129  
[tokarz.christine@epa.gov](mailto:tokarz.christine@epa.gov)

and

U.S. Environmental Protection Agency  
Cincinnati Finance Center  
Via electronic mail to:  
[CINWD\\_AcctsReceivable@epa.gov](mailto: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.

42. 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 the full amount of the Assessed Penalty per this Agreement, EPA is authorized to recover, in addition to the amount of the unpaid Assessed Penalty, 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. To protect the interests of the United States the rate of interest is set at the IRS standard underpayment rate; 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 EPA’s costs of processing and handling overdue debts. If Respondent fails to pay the Assessed Penalty in accordance with this Agreement, EPA will assess a charge to cover the costs of handling any unpaid amounts for the first thirty (30) day period after the Filing Date. Additional handling charges will be assessed every thirty (30) days, or any portion thereof, until the unpaid portion of the Assessed Penalty as well as any accrued interest, penalties, and other charges are paid in full.
  - c. Late Payment Penalty. A late payment penalty of six percent (6%) per annum, will be assessed monthly on all debts, including any unpaid portion of the Assessed Penalty, interest, penalties, and other charges,

that remain delinquent more than ninety (90) days. Any such amounts will accrue from the Filing Date.

43. 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 Agreement, EPA may take additional actions. Such actions 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. Refer this matter to the United States Department of Justice for litigation and collection, per 40 C.F.R. § 13.33.
44. 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.
45. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Agreement shall not be deductible for purposes of federal taxes.

## **VIII. EFFECT OF AGREEMENT**

46. In accordance with 40 C.F.R. § 22.18(c), compliance with the final order ratifying this Agreement resolves Respondent's liability only for federal civil penalties for the violations specifically alleged above.



- 47. Nothing in this Agreement shall relieve Respondent of the duty to comply with all applicable provisions of the Act, any regulation, order, or permit issued pursuant to the Act, and any other federal, state, or local laws, 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.
- 48. Nothing herein shall be construed to limit the power of the EPA to pursue injunctive or other equitable relief, or criminal sanctions, for any violations of law or 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.
- 49. If and to the extent the EPA finds, after signing this Agreement, that any information provided by Respondent was materially false or inaccurate at the time such information was provided to the EPA, the EPA reserves any and all of its legal and equitable rights.

**IX. EFFECTIVE DATE**

- 50. This Agreement shall become effective on the date a final order ratifying this Agreement is filed with the Regional Hearing Clerk for EPA Region 8.

**UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY REGION 8**

Date: \_\_\_\_\_

By: \_\_\_\_\_

David Cobb, Supervisor  
Toxics and Pesticides Enforcement Section  
Enforcement and Compliance Assurance Division  
Complainant

**Protekta Inc.,  
Respondent**

Date: Oct. 21, 2024

By: *Morten Jakobsen*

Name, Title: Morten Jakobsen, CEO