

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Audrey Zucker 2/11/16
Name of Case Attorney Date

in the ORC (RAA) at 918-1113
Office & Mail Code Phone number

Case Docket Number FIFRA-01-2015-0059

Site-specific Superfund (SF) Acct. Number _____

This is an original debt This is a modification

Name and address of Person and/or Company/Municipality making the payment:

Rolf C. Hagen
Robert E. McDonnell, Esq.
Morgan, Lewis & Bockius, LLP
One Federal St., Boston, MA 02110-1726

Total Dollar Amount of Receivable \$ 151,040 Due Date: 3/10/16

SEP due? Yes _____ No Date Due _____

Installment Method (if applicable)

INSTALLMENTS OF:
1ST \$ _____ on _____
2nd \$ _____ on _____
3rd \$ _____ on _____
4th \$ _____ on _____
5th \$ _____ on _____

For RHC Tracking Purposes:

Copy of Check Received by RHC _____ Notice Sent to Finance _____

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

IFMS Accounts Receivable Control Number _____

If you have any questions call: _____
in the Financial Management Office Phone Number



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I – New England
5 Post Office Square - Suite 100
Boston, Massachusetts 02109-3912

BY HAND

February 10, 2016

Wanda I. Santiago, Regional Hearing Clerk
U.S. Environment Protection Agency, Region I
5 Post Office Square, Suite 100 (ORA18-1)
Boston, MA 02109-3912


Re: In the Matter of Rolf C. Hagen (USA) Corporation, Docket No. FIFRA-01-2015-0059

Dear Ms. Santiago:

Enclosed for filing in the above-referenced matter, please find the original and one copy of the Consent Agreement and Final Order, with Certificate of Service.

Thank you for your assistance in this matter.

Sincerely,


Audrey Zucker
Enforcement Counsel

Enclosures

cc: Robert E. McDonnell, Esq., Morgan, Lewis & Backius, LLP

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FEB 10 2016

EPA ORC 
Office of Regional Hearing Clerk

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order, In the Matter of Rolf C. Hagen (USA) Corporation, Docket No. FIFRA-01-2015-0059, was sent to the following persons, in the manner specified on the date below:

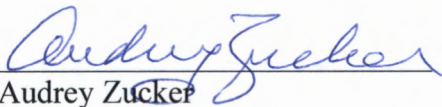
Original and one copy,
hand-delivered:

Wanda I. Santiago, Regional Hearing Clerk
U.S. Environment Protection Agency, Region I
5 Post Office Square, Suite 100 (ORA18-1)
Boston, MA 02109-3912

One copy by
electronic mail:

Robert E. McDonnell, Esq.
Morgan, Lewis & Bockius LLP
One Federal Street
Boston, Massachusetts 02110-1726

Date: 2/10/2016


Audrey Zucker

Enforcement Counsel
U.S. Environmental Protection Agency, Region I
5 Post Office Square, Suite 100 (OES04-2)
Boston, MA 02109-3912
(617) 918-1788

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1 (NEW ENGLAND)

In the Matter of:)
)
Rolf C. Hagen (USA) Corp.) Docket No. FIFRA-01-2015-0059
305 Forbes Boulevard)
Mansfield, MA) **CONSENT AGREEMENT and**
) **FINAL ORDER**
)
Respondent.)
_____)

INTRODUCTION

1. The United States Environmental Protection Agency, Region 1 (“EPA”) as Complainant, and Rolf C. Hagen (USA) Corp. (“Respondent”), as Respondent, enter into this Consent Agreement and Final Order (“CAFO”) by mutual consent, in order to settle the claims asserted in the Complaint filed in this matter.

2. EPA and Respondent (collectively, the “Parties”) agree that settlement of this matter is in the public interest and that entry of this CAFO without further litigation is the most appropriate means of resolving this matter.

3. Therefore, before any hearing or the taking of any testimony, without adjudication of any issue of fact or law herein, the Parties agree to comply with the terms of this CAFO.

PRELIMINARY STATEMENT

4. On September 24, 2015, EPA filed a Complaint and initiated this proceeding for the assessment of a civil penalty pursuant to Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (“FIFRA”), as amended, 7 U.S.C. § 136l(a).

5. The Complaint alleges that, on numerous occasions between 2010 and 2014, Respondent imported for distribution or sale regulated pesticidal devices without submitting the

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FEB 10 2016

EPA ORC
Office of Regional Hearing Clerk

required forms, *i.e.*, Notices of Arrival of Pesticides and Devices, to EPA prior to importation, in violation of Section 12(a)(2)(N) of FIFRA, 7 U.S.C. § 136j(a)(2)(N), and regulations promulgated pursuant to FIFRA at 40 C.F.R. Part 152 *et seq.*, and 19 C.F.R. §§ 12.110 – 12.117.

6. For purposes of this proceeding, without trial or litigation of the issues or any adjudication of the facts, Respondent: (1) admits that EPA has jurisdiction over the subject matter alleged in the Complaint, (2) neither admits nor denies the factual allegations contained in the Complaint, and (3) consents to the terms of this CAFO as a settlement of the allegations raised by EPA in the Complaint.

7. With respect to the Complaint and the Final Order, Respondent hereby waives any defenses it might have as to jurisdiction and venue, its right to request a judicial or administrative hearing on any issue of law or fact set forth in the Complaint, and its right to appeal the Final Order accompanying the Consent Agreement.

8. By signing this CAFO, Respondent certifies to the best of its knowledge and belief that it is presently operating in compliance with FIFRA and the regulations promulgated pursuant to FIFRA.

TERMS OF SETTLEMENT

9. In light of the above, and taking into account the factors enumerated in Section 14(a) of FIFRA, the December 2009 “FIFRA Enforcement Response Policy” issued by the Waste and Chemical Enforcement Division, Office of Civil Enforcement, Office of Enforcement and Compliance Assurance, the Monetary Penalty Inflation Adjustment Rules at 40 C.F.R. Part 19, promulgated in accordance with the Debt Collection Improvement Act of 1996 (“DCIA”), Pub. L. No. 104-134, 110 Stat. 1321 (1996), and other factors as justice may require, EPA has determined that it is fair and appropriate that Respondent pay a civil penalty in the amount of

\$151,040 in settlement of the violations alleged in the Complaint.

10. Respondent shall pay the penalty of \$151,040 within thirty (30) days of the effective date of this CAFO, in the manner described below:

a. Payment shall be in a single payment of \$151,040 due within 30 calendar days of the effective date of this CAFO. If the due date for the payment falls on a weekend or federal holiday, then the due date is the next business day.

b. The payment shall be made by remitting a check or making an electronic payment, as described below. The check or other payment shall reference "*In the Matter of Rolf C. Hagen (USA) Corp.*, Consent Agreement and Final Order, EPA Region 1," Respondent's name and address, and the EPA Docket Number of this action (FIFRA-01-2015-0059), and be payable to "Treasurer, United States of America." The payment shall be remitted as follows:

If remitted by regular U.S. mail:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

If remitted by any overnight commercial carrier:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, Missouri 63101

If remitted by wire transfer: Any wire transfer must be sent directly to the Federal Reserve Bank in New York City using the following information:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read "D 68010727"

Environmental Protection Agency”

If remitted on-line with a debit card, credit card, or bank account transfer:

No user name, password, or account number is necessary for this option. On-line payment can be accessed via WWW.PAY.GOV, entering 1.1 in the form search box on the left side of the screen to access the EPA’s Miscellaneous Payment Form, opening the form, following the directions on the screen and, after selecting “submit data,” entering the relevant debit card, credit card, or bank account information.

c. At the time of payment, a copy of the check (or notification of other type of payment)

shall also be sent to:

Wanda Santiago, Regional Hearing Clerk
U.S. Environmental Protection Agency, Region I
5 Post Office Square, Suite 100
Mail Code: ORA18-1
Boston, MA 02109-3912

and

Audrey Zucker
Enforcement Counsel
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code: OES04-2
Boston, MA 02109-3912
zucker.audrey@epa.gov

11. If Respondent fails to pay the civil penalty, it will be subject to an action to compel payment, plus interest, enforcement expenses and a nonpayment penalty. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States, as well as a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty (or any portion thereof) on the date it is due under this CAFO if such penalty (or portion thereof) is not paid in full by such due date. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b)(2). In addition, a penalty charge of six percent (6%) per year and an amount to

cover the costs of collection will be assessed on any portion of the debt that remains delinquent more than ninety (90) days after payment is due. Should assessment of the penalty charge on the debt be required, it will be assessed as of the first day payment is due, under 31 C.F.R. § 901.9(d). In any action to compel payment of civil penalties owed under this CAFO, the validity, amount, and appropriateness of the penalty shall not be subject to review.

12. The civil penalty due and any interest, non-payment penalties, or charges that arise pursuant to this CAFO shall represent penalties assessed by EPA and shall not be deductible for the purposes of Federal taxes. Accordingly, Respondent agrees to treat all payments made pursuant to this CAFO as penalties within the meaning of Internal Revenue Service regulations, including 26 C.F.R. § 1.162-21, and further agrees not to use these payments in any way as, or in furtherance of, a tax deduction under Federal, State or local law.

13. This CAFO constitutes a settlement by EPA of all claims for civil penalties, pursuant to Section 14(a) of FIFRA, for violations of FIFRA Section 12(a)(2)(N) which may have occurred with respect to the failure to file Notices of Arrival with EPA for the import of Laguna Pressure Flo-Clean Filters and Laguna UV/Sterilizer/Clarifier devices between January 1, 2010 and September 24, 2015, including those violations specified in the Complaint.

14. This CAFO in no way relieves Respondent of any criminal liability, and EPA reserves all its other criminal and civil enforcement authorities, including the authority to seek injunctive relief and the authority to take any action to address imminent hazards. Except with respect to the specific violations alleged in the Complaint, compliance with this CAFO shall not be a defense to any action subsequently commenced pursuant to Federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with said laws and regulations.

15. The Parties each shall bear its own costs and attorneys' fees in the action resolved by this CAFO, and Respondent specifically waives any right to seek attorneys' fees under the Equal Access to Justice Act, 5 U.S.C. § 504.

16. The undersigned representative of Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this CAFO and to execute and legally bind Respondent to it.

For Respondent:

Charles Rull
(Name)
Rolf C. Hagen (USA) Corp.
305 Forbes Boulevard
Mansfield, MA

Vice President - Purchasing
(Title)

01/22/16
(Date)

For EPA Region 1:

Susan Studlien
Susan Studlien, Director
Office of Environmental Stewardship
EPA-Region 1

01/28/2016
(Date)

and:

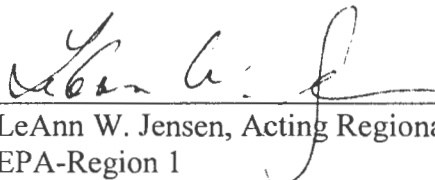
Audrey Zucker
Audrey Zucker, Enforcement Counsel
Office of Environmental Stewardship
EPA-Region 1

1/26/2016
(Date)

FINAL ORDER

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Order. Respondent, Rolf C. Hagen (USA) Corp., is hereby ordered to comply with the terms of the above Consent Agreement, which will become effective on the date it is filed with the Regional Hearing Clerk.

2/10/16
(Date)



LeAnn W. Jensen, Acting Regional Judicial Officer
EPA-Region 1