



U. S. ENVIRONMENTAL PROTECTION AGENCY

Region 1 (New England)

5 Post Office Square, Suite 100
Boston, Massachusetts 02109-3912

EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER, Docket Number FIFRA-01-2021-0064
Issued under Section 14(a) of FIFRA, 7 U.S.C. § 136I(a), and 40 C.F.R. §§ 22.13(b) and 22.18(b)

1. The U.S. Environmental Protection Agency (“EPA”) finds that Respondent, Allen Pools & Chemical Corp., d/b/a Allen Engineering, failed to comply with Section 7(c) of the Federal Insecticide, Fungicide and Rodenticide Act (“FIFRA”), 7 U.S.C. § 136e(c).
2. Under FIFRA Section 7(c) and 40 C.F.R. Part 167, Respondent was required to file, on or before the March 1st deadline, an annual pesticide production report covering each of the prior calendar years of 2019 and 2020 (a/k/a “Reporting Years”) for Respondent’s registered pesticide-producing establishment located at 1901 US Route 4 in Mendon, Vermont and identified by EPA Establishment Number 9336-VT-001 (“the Establishment”).
3. EPA finds that Respondent failed to file its annual pesticide production report concerning the Establishment on or before the March 1, 2020 and March 1, 2021 deadlines, which failures are unlawful under FIFRA Section 12(a)(2)(L), 7 U.S.C. § 136j(a)(2)(L).
4. EPA is authorized to enter into this Expedited Settlement Agreement and Final Order (“Agreement”) and this proceeding for the assessment of a civil penalty is simultaneously commenced and concluded pursuant to Section 14(a) of FIFRA, 7 U.S.C. § 136I(a), and 40 C.F.R. § 22.13(b).
5. Pursuant to FIFRA and the Consolidated Rules of Practice at 40 C.F.R. Part 22, based on the nature of the violations, and other relevant factors, EPA has determined that an appropriate civil penalty to settle this action is in the amount of \$2,900 (two thousand nine hundred dollars). Respondent consents to the issuance of this Agreement and consents to the payment of such penalty.
6. In signing this Agreement, Respondent: (a) admits that Respondent is subject to the requirements in Paragraph 2 above; (b) admits that EPA has jurisdiction over Respondent and Respondent’s conduct alleged herein; (c) neither admits nor denies the factual allegations contained herein; (d) consents to the assessment of the penalty in Paragraph 5 above; and, (e) waives any right to contest the allegations contained herein and to appeal the proposed Final Order herein.
7. By its signature below, Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that Respondent has corrected the alleged violations and is complying with Section 7(c) of FIFRA and its implementing regulations at 40 C.F.R. § 167.85.
8. Respondent agrees that, *within 30 days of the effective date of this Agreement* (the effective date meaning the date the fully executed Agreement is filed with the Regional Hearing Clerk), it shall submit a check or make an electronic payment, as described below. Any check or other payment shall reference “In the Matter of Allen Engineering, Expedited Settlement Agreement and Final Order, EPA Region 1,”

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Respondent's name and address, and the EPA Docket Number assigned to this action (FIFRA-01-2021-0064), shall be in the amount stated above, and shall be payable to "Treasurer, United States of America." Such payment shall be remitted as follows:

For checks, send by regular U.S. mail to:

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

For electronic payments, by using SFO Form Number 1.1 at:

www.pay.gov
Search: "SFO 1.1"
Open form and complete

Within 24 hours of payment, Respondent shall e-mail notice of payment, along with a copy of the check or electronic payment receipt, in portable document format (pdf) or equivalent, to: John Bowman, FIFRA Enforcement Officer, at Bowman.john@epa.gov, and Wanda I. Santiago, Regional Hearing Clerk, at R1_Hearing_Clerk_Filings@epa.gov.

9. Upon the effective date of this Agreement, payment of the civil penalty shall resolve only Respondent's liability for Federal civil penalties for the violations and facts alleged herein. EPA reserves all of its rights to take enforcement action for any other violations by Respondent of FIFRA, any other Federal statute or regulation, or this Agreement.

10. Nothing in this Agreement is intended to, nor shall be construed to operate in any way to resolve any criminal liability of Respondent, and nothing in this Agreement shall be construed to limit EPA's authority to undertake any action against Respondent in response to conditions that may present an imminent and substantial endangerment. Each party shall bear its own costs and fees, if any, and Respondent specifically waives any right to recover costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504.

11. Pursuant to 31 U.S.C. § 3717, 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 the event that the civil penalty is not paid when due, the penalty shall be payable, plus accrued interest, without demand. Interest shall be payable at the rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b)(2) and shall accrue from the original date on which the penalty was due to the date of payment. In addition, a penalty charge of six (6) percent per year will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. However, 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).

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12. The civil penalty due and any interest, non-payment penalties, or charges that arise pursuant to this Agreement 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 Agreement as penalties within the meaning of Internal Revenue Service regulations, including 26 C.F.R. § 1.162-21, and further agrees not to use such payments in any way as, or in furtherance of, a tax deduction under Federal, State or local law.

13. By entering into this Agreement, each of the parties give their respective consent to accept digital signatures hereupon. Respondent further consents to accept electronic service of the fully executed Agreement through its authorized representative, by e-mail, to callen@allenpools-spas.com. Respondent understands that this e-mail address may be made public when the Agreement is filed and uploaded to a searchable database.

14. This Agreement is binding on the parties signing below. Upon signature of the parties and approval by the Regional Judicial Officer, this Agreement shall be filed with the Regional Hearing Clerk. In accordance with 40 C.F.R. § 22.31(b), this Agreement is effective upon filing with the Regional Hearing Clerk.

APPROVED BY ALLEN POOLS & CHEMICAL CORP., d/b/a ALLEN ENGINEERING:

Signature:  Date: 5/26/21
Name and Title (print): Tom McCannell, Trustee

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APPROVED BY EPA:

JAMES CHOW Digitally signed by JAMES CHOW
Date: 2021.06.01 18:18:54 -04'00'
Signature: _____ Date: _____
James Chow, Deputy Director *for* Karen McGuire, Director
Enforcement and Compliance Assurance Division, U.S. EPA - Region 1 (New England)

FINAL ORDER

Pursuant to 40 C.F. R. § 22.18(b) and (c), the foregoing Expedited Settlement Agreement resolving this matter is incorporated by reference into this Final Order and is hereby ratified. The Respondent, Allen Pools & Chemical Corp., d/b/a Allen Engineering, is ordered to pay the civil penalty amount specified in the Agreement, in the manner indicated. The terms of the Agreement will become effective on the date it is filed with the Regional Hearing Clerk.

IT IS SO ORDERED:

LEANN JENSEN Digitally signed by LEANN
JENSEN
Date: 2021.06.23 12:46:41 -04'00'
Signature: _____ Date: _____
LeAnn W. Jensen, Regional Judicial Officer
U.S. EPA - Region 1 (New England)