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ENVIR. APPEALS BOARD

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

IN THE MATTER OF)
) DOCKET NO. FIFRA-07-2003-0055
HOOPS AGRI SALES COMPANY)
)
Respondent)

ORDER

By Motion dated April 15, 2004, Complainant United States Environmental Protection Agency, moved that a Default Order be granted in its favor and against Respondent Hoops Agri Sales Company. Complainant Motion states that Respondent failed to timely filed an Answer to the Complaint filed against Respondent and properly served upon it.

The Motion is hereby, GRANTED, as set forth below:

Good cause exists for the granting of this Motion. Respondent failed to file an Answer, and the time for filing an Answer has expired. Respondent did not file a Motion for an Extension in which to file an Answer, and an extension was not granted *sua sponte*.

Title 40 C.F.R. § 22.17(a) provides that a party may be found to be in default for a failure to file a timely Answer to the Complaint. The Regulation also states that a failure by Respondent to file an Answer to the Complaint constitutes an admission of all facts alleged in the Complaint and a waiver of Respondent's right to a hearing on such factual allegations.

Title 40 C.F.R. § 22.17(c) authorized the Presiding Officer to issue a Default Order against the defaulting party. Respondent is found to be in default for its failure to file an Answer to the Complaint, and accordingly is found to have violated § 12(a)(2)(L) of FIFRA, 7 U.S.C. §136j(a)(2)(L), as charged in the Complaint and the Complainant's Motion for Default Order. Respondent is hereby ordered to pay a civil penalty of Eight Thousand Eight Hundred Dollars (\$8,800). Payment of the penalty shall become due and payable by Respondent 30 days after the Default Order becomes final. 40 C.F.R. § 22.17(d). Payment shall be made by forwarding a cashier's or certified check, payable to "Treasurer, United States of America." The check should be sent to:

Mellon Bank
Regional Hearing Clerk
EPA-Region VII
P.O. Box 360748M
Pittsburgh, Pennsylvania 15251

Failure to pay the civil penalty imposed by this Default Order May subject the Respondent to the assessment of interest and penalty charges on the debt pursuant to 31 U.S.C. Section 3717(e)(2).

Robert L. Patrick
Regional Judicial Officer

Dated:_____