



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

APR 29 2008

4APT-PTSB

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ms. Sarah Franklin
Wilks Pools, Inc.
2785 Goodwin Avenue
Crestview, Florida 32539

SUBJ: Docket No. FIFRA-04-2008-3018(b)
Wilks Pools, Inc.

Dear Ms. Franklin:

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. Given that no penalty has been assessed, you may consider the matter closed.

Also enclosed is a copy of the October 2001 *Enforcement Alert* titled "U.S. EPA Notifying Defendants of Securities and Exchange Commission's Environmental Disclosure Requirements." This document puts you on notice of your potential duty to disclose to the Securities and Exchange Commission any environmental enforcement actions taken by EPA. Please note that the contact phone number on page three of the Notice has been changed to (202) 551-3115.

Your cooperation in reaching resolution of this matter is appreciated. Should you have any questions about this matter or your compliance status in the future, please call me at (404) 562-8979 or Mr. Mark Bloeth at (404) 562-9013.

Sincerely,


Jeaneanne M. Gettle
Chief
Pesticides and Toxic
Substances Branch

Enclosures

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
ATLANTA, GEORGIA

In the Matter of:) Docket No. FIFRA-04-2008-3018(b)
)
Wilks Pools, Inc.)
)
)
Respondent.)
_____)

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2009 APR 29 PM 2:29
HEARING OFFICE

CONSENT AGREEMENT AND FINAL ORDER

I. Nature of the Action

1. This is a civil penalty proceeding pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, 7 U.S.C. §136 *et seq.* (hereinafter "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 CFR Part 22. Complainant is the Director of the Air, Pesticides and Toxics Management Division, United States Environmental Protection Agency, Region 4 (EPA). Respondent is Wilks Pools, Inc.
2. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 CFR §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 CFR §22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

II. Preliminary Statements

3. The authority to take action under Section 14(a) of FIFRA, 7 U.S.C. §136l(a), is vested in the Administrator of EPA. The Administrator of EPA has delegated this authority under FIFRA to the Regional Administrators by EPA Delegation 5-14, dated May 11, 1994.
4. Pursuant to 40 CFR §22.5(c)(4) the following individual represents EPA in this matter and is authorized to receive service for EPA in this proceeding:

Mr. Mark Bloeth
U.S. EPA - Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street
Atlanta, Georgia 30303-8960.
5. Respondent is Wilks Pools, Inc., a Florida corporation, located at 2785 Goodwin Avenue, Crestview, Florida 32539.
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.
7. Respondent is a “producer” as defined by Section 2(w) of FIFRA, 7 U.S.C. §136(w), and 40 CFR §167.3.
8. Respondent’s EPA Establishment Number is 72603-FL-001.
9. Respondent’s establishment at 2785 Goodwin Avenue, Crestview, Florida 32539, is registered with the Agency as a pesticide-producing establishment.
10. Respondent has voluntarily terminated EPA Est. No. 72603-FL-001 since Respondent had no production activity in calendar years 2006 and 2007.

11. Producers operating an establishment registered with EPA are required to submit to the Administrator of EPA an annual report which indicates the types and amounts of pesticides or active ingredients which they are currently producing, which they produced during the past year, and which they sold or distributed during the past year, pursuant to Section 7(c)(1) of FIFRA, 7 U.S.C. §136e(c)(1), and the regulations promulgated at 40 CFR §167.85.
12. Submittal of the annual report of pesticide-production for calendar year 2006 was due on or before March 1, 2007.
13. Respondent failed to submit the annual report on or before March 1, 2007.
14. Therefore, Respondent violated Section 12(a)(2)(L) of FIFRA, 7 U.S.C. §136j(a)(2)(L).
15. 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.
16. Section 14(a)(4) of FIFRA, 7 U.S.C. §136l(a), requires 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.
17. Given Respondent's lack of production in calendar years 2006 and 2007 and Respondent's voluntary termination of the establishment, EPA proposes to assess a no civil penalty against the Respondent for the above-described violation. Civil penalties under Section 14(a) of FIFRA, 7 U.S.C. §136l(a), may be assessed by Administrative Order.

III. Consent Agreement

18. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above, but neither admits nor denies any findings of fact or conclusion of law contained herein.
19. 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.
20. Respondent consents to the assessment of no civil penalty as set forth in this CAFO.
21. Respondent certifies that as of the date of its execution of this Consent Agreement and Final Order (CAFO), it is in compliance with all relevant requirements of FIFRA.
22. Respondent agrees to submit all future pesticide-production reports on or before the March 1st due date by means of certified mail, return receipt requested.
23. Compliance with this CAFO shall resolve the allegation of the violation contained herein. This CAFO shall not otherwise affect any liability of Respondent to the United States. Other than as expressed herein, neither 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.
24. 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.

IV. Final Order

25. Should Respondent choose to engage in production activity in the future, Respondent shall request re-activation of EPA Est. No. 72603-FL-001 and shall send all future pesticide-production reports required under Section 7 of FIFRA, 7 U.S.C. §136(e), by means of certified mail, return receipt requested, to the following address:

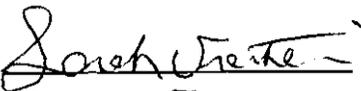
U.S. EPA - Region 4
Sam Nunn Atlanta Federal Center
PCB & Chemical Products
Management Section
61 Forsyth Street
Atlanta, Georgia 30303-8960.

26. Respondent shall pay the penalty no civil penalty.
27. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
28. This CAFO shall be binding upon the Respondent, its successors and assigns.
29. 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 legally bind that party to this CAFO.

Regional Hearing Clerk.

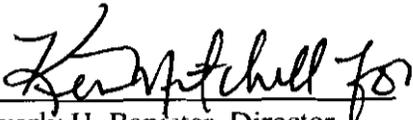
AGREED AND CONSENTED TO:

Wilks Pools, Inc.

By: 
Name: Sarah Franklin
Title: Vice Pres.

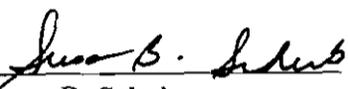
Date: 4-3-08

U.S. Environmental Protection Agency

By: 
Beverly H. Banister, Director
Air, Pesticides and Toxics
Management Division
61 Forsyth Street
Atlanta, Georgia 30303-8960.

Date: 4/23/08

APPROVED AND SO ORDERED this 29th day of April, 2008.


Susan B. Schub
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing Consent Agreement and Final Order, in the Matter of: **Wilks Pools, Inc. FIFRA Docket No. 04-2008-3018(b)**, on the parties listed below in the manner indicated.

Ms. Sarah Franklin
Wilks Pools, Inc.
2785 Goodwin Avenue
Crestview, FL 32539

(via Certified Mail - Return Receipt Requested)

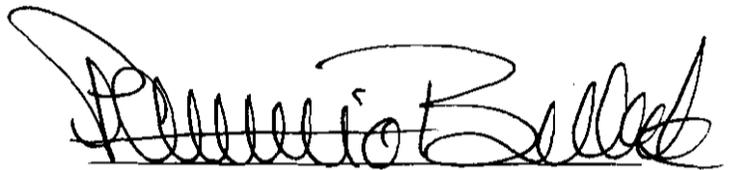
Mark Bloeth
PCB & Chemical Products Management Section
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, GA 30303

(via EPA's internal mail)

Robert Caplan
Office of Environmental Accountability
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, GA 30303

(via EPA's internal mail)

Date: 4-29-08



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