



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

AUG 14 2019

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Brian Martin
Rudolf-Venture Chemical, Inc.
2199 Burkett Road
Rock Hill, South Carolina 29730

Re: Rudolf-Venture Chemical, Inc.
Ratified Consent Agreement and Final Order
Docket No. FIFRA-04-2019-3017(b)

Dear Mr. Martin:

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.

Please refer to Section V of the CAFO for penalty information and payment requirements. To ensure proper processing, the respondent name and docket number for this case, identified above and in the CAFO, should be noted on any cashier's or certified check submitted in payment of the penalty.

Should you have any questions about this matter or your compliance status in the future, please contact Kimberly Tomczak of the EPA Region 4 staff at (404) 562-8987.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry L. Lamberth".

Larry L. Lamberth
Chief
Chemical Safety and Land Enforcement Branch

Enclosures

cc: Ryan Okey, Clemson University Department of Pesticide Regulation

(CAFO) will simultaneously commence and conclude this matter.

II. Preliminary Statements

3. Respondent is licensed to do business in the State of South Carolina.
4. 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.
5. Respondent is a "producer" as defined at Section 2(w) of FIFRA, 7 U.S.C. § 136(w), as the person who manufactures, prepares, compounds, propagates, or processes any pesticide.
6. The term "pesticide" is defined by Section 2(u) of FIFRA, 7 U.S.C. § 136(u), to mean any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pest.
7. A "pest" is defined in Section 2(t) of FIFRA, 7 U.S.C. § 136(t), 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 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).
8. The term "establishment" is defined in Section 2(dd) of FIFRA, 7 U.S.C. § 136(dd) and 40 C.F.R. § 167.3, to mean any place where a pesticide or device or active ingredient used in producing a pesticide is produced, or held, for distribution or sale.
9. The term "to distribute or sell" as defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), includes to distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, or release for shipment.

10. Pursuant to Section 17(c) FIFRA, 7 U.S.C. § 136o(c) and the regulations at 19 C.F.R. § 12.112, an importer (or its agent) desiring to import pesticides into the United States is required to submit to the EPA Administrator a Notice of Arrival of Pesticides and Devices (NOA) [EPA Form 3540-1] prior to the arrival of the shipment(s) into the United States, or, as an alternative to submitting an NOA, the importer or its agent may file an entry via the U. S. Customs and Border Protection's (CBP) Automated Commercial Environment (ACE) Data Processing System.
11. The term "misbranded" as defined by Section 2(q) of FIFRA, 7 U.S.C. §136(q), includes labeling which bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular.
12. Pursuant to Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), it is unlawful for any person in any State to distribute or offer for sale a misbranded pesticide.
13. Pursuant to Section 12(a)(2)(N) of FIFRA, 7 U.S.C. § 136j(a)(2)(N), it is unlawful for any registrant, wholesaler, dealer, retailer, or other distributor to fail to file reports required by FIFRA.

III. Specific Allegations

14. On June 6, 2018, and June 7, 2018, Rudolf-Venture's licensed customs broker, DSV Air & Sea, Inc. (hereinafter DSV), filed two entries via the CBP ACE system as Entry Numbers DSV-30940909 and DSV-30941204 on behalf of Rudolf-Venture for the importation of two shipments of pesticides, however, the entries were incorrectly designated in CBP's ACE system as non-pesticide products. The shipments arrived at the Port of Charleston, South Carolina, on or about June 6, 2018.

15. On June 11, 2018, DSV advised the EPA that both shipments referenced in paragraph 14 contained the same pesticide product. Also, the EPA verified that neither DSV nor Rudolf-Venture had properly submitted NOAs or filed ACE System electronic entries for either shipment. Additionally, the EPA advised DSV that the pesticides in both shipments would remain on hold at the Port of Charleston until proper entry documents were submitted.
16. On or around June 12, 2018, DSV filed corrected ACE System entries which showed that the shipment under Entry Number DSV-30940909 contained thirty (30) plastic pails of the pesticide RUCO-BAC-AGP (EPA Registration Number 84189-2), each plastic pail weighing 25 kilograms, and the shipment under Entry Number DSV-30941204 contained a total of twenty-four (24) pails of the registered pesticide RUCO-BAC-AGP, each pail weighing 25 kilograms. DSV also submitted a copy of the label that was represented to be on each plastic pail.
17. On or around June 12, 2018, the EPA determined that the copy of the label for RUCO-BAC-AGP pesticide product submitted by DSV did not fully match the most current EPA-approved master label for that registered pesticide product. More specifically, the label was not an EPA-approved pesticide label but appeared to be a label possibly intended to meet U.S. Department of Transportation requirements. The label did not include the precautionary statement, directions for use, and environmental hazards, among other labeling requirements under FIFRA.
18. On June 13, 2018, after a review of the entries and product labels, the EPA issued a Notice of Refusal of Admission (NORA) to DSV and Rudolf-Venture for Entry Numbers DSV-30940909 and DSV-30941204 for having failed to submit a proper NOA or to file

appropriate entry documents in ACE as an alternative to submitting NOAs when the entries were first transmitted and for distributing misbranded pesticides. Upon receipt of the NORA, Rudolf-Venture requested an opportunity to relabel the misbranded pesticides at one of its facilities that is an EPA-registered establishment. After conferring with CBP, the EPA advised Rudolf-Venture that it could seek to transfer the pesticide products from the Port of Charleston to its facility for relabeling under a CBP Permit to Transfer.

19. On June 13, 2018, Rudolf-Venture informed the EPA that the 24 plastic pails of the pesticide RUCO-BAC-AGP included in the shipment under Entry Number DSV-30941204 had been released to Rudolf-Venture by CBP on June 11, 2018 and received at Rudolf-Venture's facility (EPA Establishment No. 84189-SC-1) located at 2199 Burkett Road, Rock Hill, South Carolina 29730 on June 12, 2018. Rudolf Venture also confirmed that the 24 plastic pails were relabeled with the EPA-approved label. CBP officials at the Port of Charleston confirmed that the shipment left the port on June 11, 2018.
20. Failure to submit NOAs prior to time of arrival of a shipment of pesticides, or failure to file entry documentation through ACE as an alternative to submitting an NOA, is a violation of 19 C.F.R. § 12.112, and Section 12(a)(2)(N) of FIFRA. By not submitting NOAs prior to the time of arrival of two shipments of pesticides, or alternatively filing entry documentation through the CBP ACE system for Entry Numbers DSV-30940909 and DSV-30941204, the EPA alleges that Rudolf has violated Section 12(a)(2)(N) of FIFRA on two occasions.
21. On June 18, 2018, DSV submitted an NOA and filed an entry through CBP's ACE System (Entry Number DSV-30945106) on behalf of Rudolf for the importation of a shipment of an additional twenty-four (24) plastic pails of the pesticide product RUCO-

BAC-AGP, each plastic pail weighing 25 kilograms. The shipment arrived at the Port of Charleston, South Carolina on or around June 13, 2018. Upon review of the product label, the EPA determined that the label included incorrect information that was not compliant with the EPA master label. More specifically, the label listed a domestic establishment number rather than the foreign establishment number of the manufacturer where it was produced, and the label was missing information under the pesticide disposal section.

22. On June 21, 2018, DSV submitted an NOA, and filed an entry through CBP's ACE System (Entry Number DSV-30946096) on behalf of Rudolph-Venture for the importation of a shipment of the pesticide product RUCO-BAC HYG CONC (EPA Reg. No. 91742-1-84189) which contained a total of three (3) fiber drums, each drum weighing 25 kilograms, that arrived at the Port of Charleston, South Carolina on or around June 20, 2018. Upon review of the product label, the EPA determined that the label included incorrect information that was not compliant with the EPA master label. More specifically, the label listed a domestic establishment number rather than the establishment number of the foreign manufacturer and contained an inactive registration number for the imported pesticide product. On October 5, 2015, the product's registration number was transferred from EPA Reg. No. 3090-215 to EPA Reg. No. 91742-1, yet the old registration number was included on the label that was used on the three fiber drums.
23. On June 22, 2018, DSV submitted an additional NOA and filed an electronic entry under CBP's ACE System (Entry Number DSV-30951310) on behalf of Rudolf -Venture for the importation of a shipment of the pesticide RUCO-BAC-AGP (EPA Registration Number 84189-2) which contained a total of ten (10) plastic pails, each plastic pail

weighing 25 kilograms that arrived at the Port of Charlotte, North Carolina on or around June 22, 2018. Upon review of the product label, the EPA determined that the label included incorrect information that was not compliant with the EPA master label. More specifically, the label listed a domestic establishment number rather than the establishment number of the foreign manufacturer and the label was missing information under the pesticide disposal section.

24. On June 28, 2018, the EPA and Rudolf-Venture conducted a conference call to discuss the misbranded imported pesticide products. During the call, the EPA advised Rudolf-Venture that the shipments under Entry Numbers: DSV-30940909, DSV-30945106, DSV-30946096, and DSV-30951310 could be transferred under a CBP Permit to Transfer, if approved by CBP, from the Port of Charleston, South Carolina to Jaychem C/O Reco Transportation (Jaychem), located at 201 Jedburg Road, Summerville, South Carolina, a bonded warehouse that is also a registered EPA establishment (EPA Est. No. 84189-SC-2). Subsequent to the call, the shipments under Entry Numbers DSV-30940909, DSV-30945106, DSV-30946096, and DSV-30951310, were transferred by to the Jaychem facility to be relabeled.
25. On July 19, 2018, after receiving photographs and a certification letter from Rudolph-Venture showing that the 24 pails in Entry Number DSV-3094124 had been properly relabeled at Rudolf-Venture's EPA-registered establishment in Rock Hill, South Carolina, in compliance with FIFRA, the EPA notified the company that the Entry had been given a full release and that the company could use, sell and distribute the 24 pails of the pesticide contained in the shipment.

26. On July 20, 2018, after receiving photographs and a certification letter from Rudolph-Venture showing the plastic pails of the pesticide included in Entry Numbers DSV-30940909, DSV-30945106, and DSV-30951310 had been properly relabeled in Summerville, South Carolina in compliance with FIFRA, the EPA notified Rudolph-Venture stating that these three entries had been given full releases such that Rudolph-Venture was free to use, sell or distribute the pesticide.
27. On July 24, 2018, after receiving photographs and a certification letter from Rudolph-Venture showing that the fiber drums of the product in Entry Number DSV-30946096 had been properly relabeled, in compliance with FIFRA, the EPA sent a letter to Rudolph-Venture stating that this Entry had been given a full release such that Rudolph-Venture was free to use, sell or distribute the pesticide products.
28. The EPA alleges that by importing the five shipments of mislabeled pesticide products as described above, Rudolph-Venture distributed misbranded pesticides on at least five occasions in violation of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), and that by failing to properly submit NOAs or file an electronic alternative through the ACE System as alleged in paragraph 19 above, Rudolph-Venture failed to file records or reports as required by Section 12(a)(2)(N) of FIFRA on 2 occasions, and is, therefore, subject to the assessment of civil penalties under Section 14 of FIFRA, 7 U.S.C. § 136l.
29. 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.
30. Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), requires the 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(s).

31. After consideration of the factors set forth in Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), the EPA proposes to assess a total civil penalty of **THIRTY THOUSAND ONE HUNDRED DOLLARS (\$30,100)** against the Respondent for the above-described alleged violations. Civil penalties under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), may be assessed by Administrative Order.

IV. Consent Agreement

32. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the factual allegations set forth above.
33. 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.
34. Respondent consents to the assessment of the penalty proposed by the EPA and agrees to pay the civil penalty as set forth in this CAFO.
35. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of FIFRA.
36. In accordance with 40 C.F.R. § 22.18(c), Respondent's full compliance with this CAFO shall only resolve Respondent's liability for federal civil penalties for the violations alleged in Section III of this CAFO and shall not otherwise affect the right of the EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law. Compliance with this CAFO is not a defense to any action subsequently commenced pursuant to federal laws and regulations administered by the EPA, and it is the responsibility of Respondent to comply with FIFRA and other applicable federal, state and local laws and regulations.
37. 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.

V. Final Order

38. Respondent is assessed a civil penalty of **THIRTY THOUSAND ONE HUNDRED DOLLARS (\$30,100)**. Payment shall be paid within thirty (30) days of the effective date of this CAFO.
39. Respondent shall remit the penalty by either a cashier's or certified check made payable to the "Treasurer, United States of America," and shall send the check via U.S. mail to the following address:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000.

The check shall reference on its face the name of the Respondent and Docket Number of this CAFO.

Address for payments by USPS overnight mail or other delivery service (e.g., Federal Express, United Parcel Service, DHL, etc.):

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, Missouri 63101
Contact Number: (314) 425-1819.

40. At the time of payment, Respondent shall send a separate copy of the check and a written statement that the payment is being made in accordance with this CAFO, to the following persons at the following addresses:

Regional Hearing Clerk
U.S. EPA Region 4
61 Forsyth Street S.W.
Atlanta, Georgia 30303;

Kimberly Tomczak
Chemical Safety Section
Chemical Safety and Land Enforcement Branch
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303.

41. For the purposes of state and federal income taxation, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for any civil penalty payment made pursuant to this CAFO. Any attempt by Respondent to deduct any such payments shall constitute a violation of this CAFO.
42. Pursuant to 31 U.S.C. § 3717, the 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. Interest will therefore begin to accrue on the civil penalty from the effective date of this CAFO, if the penalty is not paid by the date required. A charge will also be assessed to cover the administrative costs, both direct and indirect, of overdue debts. In addition, a late payment penalty charge shall be applied on any principal amount not paid within 90 days of the due date.
43. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
44. This CAFO shall be binding upon the Respondent, its successors and assigns.
45. 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 hereby legally binds that party to it.

The remainder of this page is intentionally left blank.

VI. Effective Date

46. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:

Respondent: Rudolf-Venture Chemical, Inc.

Docket No.: FIFRA-04-2019-3017(b)

By: B.M.I. (Signature)

Date: 7-22-19

Name: Brian Martin (Typed or Printed)

Title: Managing Director (Typed or Printed)

Complainant: U. S. Environmental Protection Agency

By: Suzanne G. Rubini
Suzanne G. Rubini
Acting Director
Enforcement and Compliance Assurance Division

Date: 8.9.2019

APPROVED AND SO ORDERED this 14th day of August 2019.

Tanya Floyd
Tanya Floyd
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that on the date set out below, I filed the original and one copy of the foregoing Consent Agreement and Final Order and served a true and correct copy of the foregoing Consent Agreement and Final Order, In the Matter of Rudolf-Venture Chemical, Inc. Docket Number: FIFRA-04-2019-3017(b), to the addressees listed below.

Mr. Brian Martin
Rudolf-Venture Chemical, Inc.
2199 Burkett Road
Rock Hill, South Carolina 29730

(via Certified Mail, Return Receipt Requested)

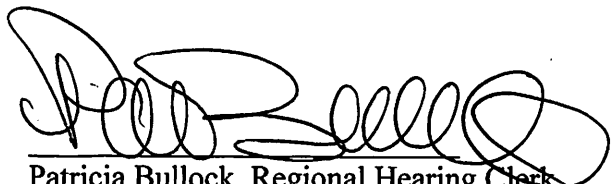
Kimberly Tomczak
Chemical Safety Section
U.S. EPA Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303

(via EPA's internal mail)

Mr. Robert Caplan
Senior Attorney
Office of Regional Counsel
U.S. EPA Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303

(via EPA's internal mail)

8-14-19
DATE



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