

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 3
Philadelphia, Pennsylvania 19103

IN THE MATTER OF:

Energy Solutions USA LLC
504 Carnegie Center Drive
Princeton, New Jersey 08540

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Docket No. FIFRA-03-2025-6000

FILED

Jun 11, 2025

7:18 am

**U.S. EPA REGION 3
HEARING CLERK**

NOTICE OF DETERMINATION

1. Pursuant to the Policy on Incentives for Self-Policing (Audit Policy), 65 Fed. Reg. 19,618 (April 11, 2000), the U.S. Environmental Protection Agency (EPA or Agency) hereby issues this Notice of Determination (NOD) regarding violations voluntarily disclosed to EPA by Energy Solutions USA LLC (Energy Solutions) for the following facility:

Energy Solutions USA LLC
504 Carnegie Center Drive
Princeton, New Jersey 08540

Preliminary Statement

2. Energy Solutions identified violations through a Compliance Management System (CMS) that reflected the regulated entity's due diligence in preventing, detecting, and correcting violations. As an incentive for regulated entities disclosing any violations resulting from the CMS, EPA may eliminate or substantially reduce the gravity-based component of civil penalties to be assessed for violations that are voluntarily disclosed in compliance with the conditions specified in the Audit Policy.

Findings of Fact

3. Energy Solutions initially disclosed violations subject to this NOD to EPA via the Agency's eDisclosure system on July 8, 2024. Energy Solutions described in their disclosure that they had returned to compliance with the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) on May 7, 2024, by submitting revised Confidential Statements of Formula (CSFs).
4. Energy Solutions violated Section 12(a)(1)(C) of FIFRA, 7 U.S.C. § 136j(a)(1)(C) by engaging in distribution or sale of registered pesticides, "Tolcide 4FRAC" (EPA Reg. No. 102007-8), "Tolcide 4FRAC20" (EPA Reg. No. 102007-9), and "Tolcide 4FRAC20W" (EPA Reg. No. 102007-10), the compositions of which differed at the time of their distribution or sale from their compositions as listed in the applicable CSF. Energy Solutions determined they had been using a source of Alkyl Dimethyl Benzyl Ammonium Chloride (ADBAC) not listed in the CSFs, to formulate these pesticide products. These pesticide products are subject to 40 C.F.R. 152.130(a), which allows a

registrant to distribute or sell a registered product with the composition, packaging and labeling currently approved by the Agency. Energy Solutions sold these pesticide products with compositions which had not been approved by the Agency.

5. Based on information provided by Energy Solutions for the disclosure identified above, EPA has determined that Energy Solutions has met each of the following conditions set forth in the Audit Policy:
 - (a) Energy Solutions has stated the violations were discovered as part of a Compliance Management System (CMS) for the facility.
 - (b) Energy Solutions has stated the violations were identified voluntarily, not through a monitoring, sampling or auditing procedure required by statute, regulation, permit, judicial order, administrative order, consent decree or consent agreement.
 - (c) The violations were promptly disclosed and submitted via the Agency's eDisclosure Voluntary Disclosure System.
 - (d) Energy Solutions has stated the violations were identified and disclosed prior to the commencement of a federal, state, or local agency inspection, investigation, or information request, notice of a citizen suit, legal complaint by a third party, or imminent discovery by a regulatory agency.
 - (e) Energy Solutions has stated it has taken the appropriate steps to correct and remedy its FIFRA Section 12 violations.
 - (f) Energy Solutions has stated to EPA that it has taken steps to prevent a recurrence of the violations.
 - (g) Energy Solutions has stated the violations at issue or closely related violations have not occurred previously within the past three years at the same facility and are not part of a pattern of violations on the part of Energy Solutions within the past five years.
 - (h) Energy Solutions has stated the violations at issue have not resulted in serious actual harm to human health or the environment, and that the violations have not presented an imminent and substantial endangerment to public health or the environment. Furthermore, Energy Solutions has stated the violations at issue do not violate the specific terms of any judicial order, administrative order, consent decree or consent agreement.
 - (i) Energy Solutions has cooperated with EPA and provided the information necessary for the Agency to determine the applicability of the Audit Policy to its disclosure.

Determination

6. Based on the review of information and documentation received and in reliance on the Energy Solutions certifications, EPA has determined:

- (a) Energy Solutions has met all of the conditions of the Audit Policy and is eligible for a waiver of the total gravity-based civil penalty for the disclosed violations;
- (b) Energy Solutions accrued no significant economic benefit of noncompliance as a result of the violations described herein;
- (c) Pursuant to the Audit Policy, EPA will not assess a civil penalty against Energy Solutions for the disclosed violations; and
- (d) Energy Solutions has corrected the violations disclosed in their July 8, 2024, eDisclosure (see paragraph 3 and 4 above) by taking the following actions: (i) Submitting updated CSFs to the EPA on May 3, 2024, which include the addition of the previously incorrect source of ADBAC as an alternate ingredient. The updated CSFs for “Tolcide 4FRAC”, “Tolcide 4FRAC20”, and “Tolcide 4FRAC20W” were accepted by EPA between August 13, 2024, and April 22, 2025. (ii) Placing the purchase of the incorrect ADBAC on “blocked status”, in Energy Solution’s purchasing enterprise management system as of May 2, 2024; the status remained blocked pending approval of the revised CSFs, with all stocks of the incorrect ADBAC and product formulated with this material quarantined and cordoned off with signage indicating that the stocks cannot be used and/or released for shipment.

Reservation of Rights

- 7. If, and to the extent that, any information or statement provided by Energy Solutions upon which this NOD is based was materially false or inaccurate at the time such information or statement was provided to EPA, EPA reserves the right to revoke this NOD and, thereby, render such NOD null and void. Such revocation shall be in writing and shall become effective upon receipt by Energy Solutions.
- 8. This NOD applies only to EPA’s mitigation of the civil monetary penalties for the violations disclosed. If, and to the extent that, any information or statement provided by Energy Solutions upon which any civil penalty mitigation granted herein for such violations was based was materially false or inaccurate at the time such information or statement was provided to EPA, EPA reserves the right to assess and collect any and all civil penalties for any violation described herein. Such assessment and collection or the exercise of this reservation shall be in writing and shall become effective upon receipt by Energy Solutions.
- 9. Nothing herein shall be construed to limit the authority of EPA and/or the United States to undertake action against any person, including Energy Solutions, in response to any condition which EPA or the United States determines may be necessary to protect public health, welfare or the environment. Furthermore, issuance of this NOD does not constitute a waiver by EPA

and/or the United States of its right to bring an enforcement action, either civil or criminal, against Energy Solutions for any other violation of any federal or state statute, regulation or permit.

10. In issuing this NOD, EPA seeks to promote self-auditing and full compliance by Energy Solutions with all environmental requirements and to continue the internal procedures necessary to prevent recurrences of violations of environmental requirements.

[Digital Signature and Date]

Karen Melvin, Director

Enforcement and Compliance Assurance Division

U.S. EPA – Region 3