



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590
APR 12 2016

REPLY TO THE ATTENTION OF:
LC-8J

CERTIFIED MAIL 7011 1150 0000 2639 8637
RETURN RECEIPT REQUESTED

Mr. Jack Patel
President
Cater Chemical Corp.
30 Monaco Drive
Roselle, Illinois 60172

Consent Agreement and Final Order In the Matter of: Cater Chemical Corp.
Docket Number: FIFRA-05-2016-0008

Mr. Jack Patel

Enclosed please find a copy of a fully executed Consent Agreement and Final Order in resolution of the above case. This document was filed on April 12, 2016 with the Regional Hearing Clerk.

The civil penalty in the amount of \$3,500 is to be paid in the manner described in paragraphs 27 & 28. Please be certain that the docket number is written on both the transmittal letter and on the check. Payment is due by within 30 calendar days of the filing date.

Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Claudia Niess".

Claudia Niess
Pesticides and Toxics Compliance Section

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:

Cater Chemical Corp.
Roselle, Illinois,

Respondent.



) Docket No. FIFRA-05-2016-0008

) Proceeding to Assess a Civil Penalty
) Under Section 14(a) of the Federal
) Insecticide, Fungicide, and Rodenticide
) Act, 7 U.S.C. § 136l(a)

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 136l(a), and Sections 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules) as codified at 40 C.F.R. § 22.13(b) and 22.18(b)(2) and (3).

2. The Complainant is, by lawful delegation, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency (U.S. EPA), Region 5.

3. The Respondent is Cater Chemical Corp. (Cater), a corporation in the State of Illinois.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). *See* 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional and general allegations in this CAFO.

8. Respondent waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this CAFO, including its right to request a hearing as provided at 40 C.F.R. § 22.15(c), its right to seek federal judicial review of the CAFO pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706, its right to contest the allegations in this CAFO, and its right to appeal this CAFO. Respondent also consents to the issuance of this CAFO without further adjudication.

Statutory and Regulatory Background

9. Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L), states that it is unlawful for any person who is a producer to violate any of the provisions of Section 7 of FIFRA, 7 U.S.C. § 136e.

10. Under Section 7(a) of FIFRA, 7 U.S.C. § 136e(a), and 40 C.F.R. § 167.20(a), no person shall produce any pesticide unless the establishment in which it is produced is registered with U.S. EPA.

11. The term “person” means any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not. *See* Section 2(s) of FIFRA, 7 U.S.C. § 136(s).

12. The term “produce” means to manufacture, prepare, compound, propagate, or process any pesticide, or to package, repack, label, relabel, or otherwise change the container

of any pesticide. *See* Section 2(w) of FIFRA, 7 U.S.C. § 136(w), and 40 C.F.R. § 167.3.

13. The term “producer” means any person (as defined by FIFRA) who produces any pesticide, active ingredient, or device (including packaging, repackaging, labeling, and relabeling). *See* Section 2(w) of FIFRA, 7 U.S.C. § 136(w), and 40 C.F.R. § 167.3.

14. The terms “pesticide” and “pesticidal product” mean any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest. *See* Section 2(u) of FIFRA, 7 U.S.C. § 136(u), and 40 C.F.R. § 167.3.

15. The term “establishment” means any site where a pesticide or pesticidal product is produced, or held, for distribution or sale. *See* Section 2(dd) of FIFRA, 7 U.S.C. § 136(dd), and 40 C.F.R. § 167.3.

16. The term “to distribute or sell” means to distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, release for shipment, or receive and (having so received) deliver or offer to deliver. *See* Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg).

17. The Administrator of U.S. EPA may assess a civil penalty against any registrant, commercial applicator, wholesaler, dealer, retailer, or other distributor who violates any provision of FIFRA of up to \$7,500 for each offense that occurred after January 12, 2009. *See* Section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1), and 40 C.F.R. Part 19.

Count 1

18. Respondent is a “person” as defined at Section 2(s) of FIFRA, 7 U.S.C. § 136(s).

19. At all times relevant to this CAFO, Respondent owned or operated a facility located at 30 Monaco Drive, Roselle, Illinois 60172 (the “Cater facility”).

20. Respondent produced “Cat San QD,” EPA Registration Number 1839-57-64787,

and “CAT SAN,” EPA Registration Number 1839-86-64787, at the Cater facility in calendar year 2014, within the meaning of Section 2(w) of FIFRA, 7 U.S.C. § 136(w), and 40 C.F.R. § 167.3.

21. “Cat San QD” and “CAT SAN” are “pesticides” and “pesticidal products,” within the meaning of Section 2(u) of FIFRA, 7 U.S.C. § 136(u), and 40 C.F.R. § 167.3.

22. At all times relevant to this CAFO, the Cater facility distributed or sold “Cat San QD” and “CAT SAN,” within the meaning of Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg).

23. The Cater facility is an “establishment,” within the meaning of Section 2(dd) of FIFRA, 7 U.S.C. § 136(dd), and 40 C.F.R. § 167.3.

24. Respondent is a “producer,” within the meaning of Section 2(w) of FIFRA, 7 U.S.C. § 136(w), and 40 C.F.R. § 167.3.

25. At all times relevant to this CAFO, the Cater facility was not registered with U.S. EPA.

26. Respondent violated Section 7(a) of FIFRA, 7 U.S.C. § 136e(a), and 40 C.F.R. § 167.20(a) by producing a pesticide at the unregistered establishment identified in Paragraph 19.

Civil Penalty

27. Pursuant to Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), Complainant determined that an appropriate civil penalty to settle this action is \$3,500. In determining the penalty, Complainant considered the appropriateness of the penalty to the size of Respondent’s business, the effect on Respondent’s ability to continue in business, and the gravity of the violation. Complainant also considered U.S. EPA’s FIFRA Enforcement Response Policy, dated December 2009.

28. Within 30 days after the effective date of this CAFO, Respondent shall pay the civil penalty by submitting a cashier's or certified check in the amount of \$3,500, payable to "Treasurer, United States of America," to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
Post Office Box 979077
St. Louis, Missouri 63197-9000

The check must note the following: In the Matter of Cater Chemical Corp. and the docket number of this CAFO.

29. Once Respondent has submitted the check referenced in the previous paragraph, Respondent must send a notice of payment that states Respondent's name and the case docket number to U.S. EPA at the following addresses:

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Claudia Niess (LC-8J)
Pesticides and Toxics Compliance Section
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Robert M. Peachey (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

30. This civil penalty is not deductible for federal tax purposes.

31. If Respondent does not pay timely the civil penalty, U.S. EPA may refer this matter to the Attorney General, who shall recover such amount by action in the appropriate United States district court under Section 14(a)(5) of FIFRA, 7 U.S.C. § 136l(a)(5). The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

32. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

33. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in this CAFO.

34. This CAFO does not affect the rights of the U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

35. Respondent certifies that it is complying with Sections 7 and 12 of FIFRA, 7 U.S.C. §§ 136e and 136j.

36. This CAFO does not affect Respondent's responsibility to comply with FIFRA and other applicable federal, state, and local laws.

37. Compliance with this CAFO shall not be a defense to any action subsequently commenced pursuant to federal laws and regulations administered by the U.S. EPA.

38. This CAFO is a "final order" for purposes of 40 C.F.R. § 22.31 and U.S. EPA's FIFRA Enforcement Response Policy.

39. The CAFO shall be binding upon Respondent and Respondent's officers, directors, agents, servants, employees, and successors or assigns.

40. Each person signing this CAFO certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

41. Each party agrees to bear its own costs and attorneys fees in this action.

42. This CAFO constitutes the entire agreement between the parties.


43. This CAFO shall become effective on the date it is filed with the Regional Hearing Clerk, Region 5.

In the Matter of: Cater Chemical Corp., Roselle, Illinois.
Docket No.

Cater Chemical Corp., Respondent

03/21/16

Date

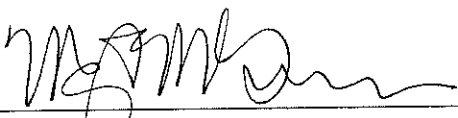


Jack Patel
President
Cater Chemical Corp.

U.S. Environmental Protection Agency, Complainant

4/6/16

Date



Margaret M. Guerriero
Director
Land and Chemicals Division

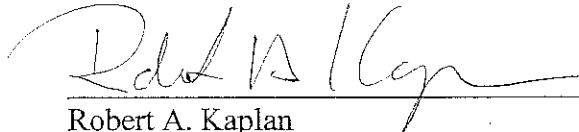
In the Matter of:
Cater Chemical Corp.
Docket No. FIFRA-05-2016-0008

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. § 22.18 and 22.31. IT IS SO ORDERED.

4-8-16

Date



Robert A. Kaplan
Acting Regional Administrator
United States Environmental Protection Agency
Region 5