

**UNITED STATES PROTECTION AGENCY
BEFORE THE ENVIRONMENTAL APPEALS BOARD**

In the Matter of:)	FIFRA Appeal No.: 06-(02)
)	
Rhee Bros., Inc.)	COMPLAINANT-APPELLANT'S
9505 Berger Road)	MOTION FOR EXTENSION OF
Columbia, MD 21046)	TIME TO FILE APPEAL BRIEF
)	
Docket No.: FIFRA-03-2005-0028)	

MOTION FOR EXTENSION OF TIME TO FILE APPEAL BRIEF

Pursuant to Sections 22.7(b) and 22.16(a) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. §§ 22.7(b) and 22.16(a), the United States Environmental Protection Agency ("EPA"), files this Motion for Extension of Time to File Appeal Brief ("Motion") and requests a thirty (30) day extension of time. Concurrent with the filing of this Motion, EPA is filing a Notice of Appeal, seeking review of the penalty assessment methodology employed by the Presiding Officer in the Initial Decision issued in the above-referenced matter, served on EPA by Facsimile and Pouch Mail on September 19, 2006.

Under the Consolidated Rules of Practice, the Environmental Appeals Board may grant an extension of time for filing any document upon timely motion of a party to the proceeding, for good cause shown, and after consideration of prejudice to the parties. 40 C.F.R. §§ 22.7(b) and 22.16(a). The Consolidated Rules of Practice further provide that any motion for an extension of time must be filed sufficiently in advance of the due date

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to allow other parties a reasonable opportunity to respond, and to allow the Environmental Appeals Board an opportunity to issue an order. 40 C.F.R. § 22.7(b).

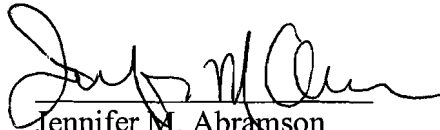
In the above-referenced matter, the Presiding Officer found Rhee Bros., Inc. (“Respondent”) liable for 467 violations of Section 12(a)(1)(A) of the Federal Insecticide, Fungicide and Rodenticide Act (“FIFRA”), 7 U.S.C. § 136j(a)(1)(A), but, as set forth in a 51 page Initial Decision, substantially deviated from the applicable Enforcement Response Policy and EPA’s proposed penalty of \$1,306,800 in assessing a total penalty of \$235,290. EPA is seeking review of the Presiding Officer’s penalty assessment methodology.

The penalty assessment methodology employed by the Presiding Officer in the above-referenced case raises many issues of significance to the national FIFRA program, and, thus, EPA Headquarters will be participating in the appeal. EPA will require additional time to file its appeal brief due to the substantial coordination with EPA Headquarters that will be necessary to make sure the position of the Agency is accurately reflected.

On October 10, 2006, EPA contacted Lowell M. Rothschild, Esquire, Counsel for Rhee Bros., Inc., and informed him of EPA’s intent to appeal and to file this Motion. At the time of filing of this Motion, EPA has not heard back from Mr. Rothschild as to whether or not his client opposes the relief sought herein. However, granting this Motion should not result in any prejudice to Respondent.

For the foregoing reasons, EPA submits that it has demonstrated good cause for this extension and requests an additional 30 days from the initial deadline of Thursday October 19, 2006 in which to submit its appeal brief, making its filing due on or before Monday, November 20, 2006.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Jennifer M. Abramson", written over a horizontal line.

Jennifer M. Abramson
Assistant Regional Counsel

Of Counsel:

Gary Jones