

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VII
11201 Renner Boulevard
Lenexa, Kansas

2015 JAN 21 AM 10:37

BEFORE THE ADMINISTRATOR

IN THE MATTER OF :)
)
FERTILIZER SERVICE COMPANY) Docket No. FIFRA-07-2015-0005
)
) EXPEDITED SETTLEMENT
) AGREEMENT AND
Respondent) FINAL ORDER
)

EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER

1. The U.S. Environmental Protection Agency (“EPA”) alleges that Fertilizer Service Company (“Respondent”) failed to comply with Section 7(c) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), 7 U.S.C. § 136e(c) for its facility, Fertilizer Service Company, EPA Establishment No. 049206-MO-001, located in Fairfax, Missouri.

2. Section 7(c) of FIFRA, 7 U.S.C. § 136e(c), requires any producer operating a registered pesticide-producing establishment to inform EPA of the types and amounts of pesticides and, if applicable, active ingredients used in producing pesticides, which it is producing, which it has produced during the past year, and which it has sold or distributed during the past year. The information required by this paragraph shall be kept current and submitted to the Administrator annually as required by such regulations as the Administrator may prescribe. The regulation found at 40 C.F.R. § 167.85(d) requires such pesticides report to be filed annually on or before March 1, even if the producer has produced no pesticidal products for that reporting year.

3. Respondent has failed to comply with Section 7(c) of FIFRA, 7 U.S.C. § 136(c), and with the regulations found at 40 C.F.R. § 167.85(d) in that it did not file the 2013 annual pesticides report for the above facility by March 1, 2014, as required.

4. EPA is authorized to enter into this Expedited Settlement Agreement and final Order (“Agreement”), and this proceeding for the assessment of a civil penalty is simultaneously commenced and concluded, pursuant to Section 14(a) of FIFRA, 7 U.S.C. § 1361 and 40 C.F.R. § 22.13(b).

5. In signing this Agreement, Respondent: (a) admits that Respondent is subject to the requirements in Paragraph 2 (above); (b) admits that EPA has jurisdiction over Respondent and Respondent's conduct as alleged herein; (c) neither admits nor denies the factual allegations contained herein; (d) consents to the assessment of this penalty; and (e) waives any right to contest the allegations contained herein, and its right to appeal the proposed Final Order attached hereto.

6. By its signature below, Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that to the best of Respondent's knowledge, it is presently in compliance with all requirements of FIFRA, 7 U.S.C. 136 et seq., and all regulations promulgated thereunder. Respondent has now submitted its 2013 annual pesticides report.

7. EPA and Respondent agree that settlement of this matter for a civil penalty is in the public interest. Respondent certifies that it has sent a Cashier's or certified check (payable to the "United States Treasury") in the amount of eight hundred dollars (\$800.00) in payment of the full penalty amount 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 docket Number of this ESA is FIFRA-07-2015-0005, and must be included on the check.

This original ESA and a copy of the check must be sent by certified mail to:

Andrew Kowalski (TOPE)
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219

8. No portion of the civil penalty or interest paid by Respondent pursuant to the requirements of this Agreement shall be claimed by Respondent as a deduction for federal, state, or local income tax purposes.

9. EPA reserves all of its rights to take enforcement action for any other past, present, or future violations by Respondent of FIFRA, or any other federal statute or regulation, of this Agreement.

10. Upon signing and returning this Agreement to EPA, Respondent waives the opportunity for a hearing or appeal pursuant to FIFRA.

11. Each party shall bear its own costs and fees, if any.

12. This Agreement authorized by EPA's execution of the Final Order attached hereto constitutes a final order under 40 C.F.R. Part 22.

13. This Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. 22.31(b), is effective upon filing.

FOR RESPONDENT:

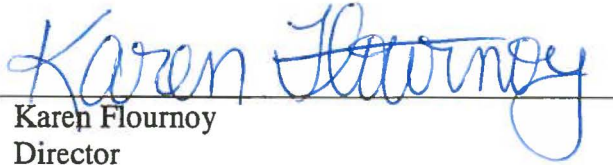
Bruce Pyeatt

Date: 12-17-14

Name (Print): Bruce Pyeatt

Title (Print): owner

FOR COMPLAINANT:



Karen Flournoy
Director
Water, Wetlands and Pesticides Division
EPA Region 7

Date:





Kent Johnson
Office of Regional Counsel
EPA Region

Date:



I hereby ratify the ESA and incorporate it herein by reference. It is so ORDERED.

Karina Borromeo

Karina Borromeo
Regional Judicial Officer

Date: 1-21-2015

REQUEST TO INACTIVATE EPA ESTABLISHMENT NUMBER* Company

Name: Fertilizer Service Company

Physical Address of EPA Establishment:


601 North US Highway 59
Fairfax, MO 64446

EPA Establishment Number: 49206 - MO - 001

Reason for inactivation:

- NO LONGER PRODUCING PRODUCTS
- PRODUCTION OF PRODUCTS TEMPORARILY SUSPENDED
- OUT OF BUSINESS

I attest that I am authorized to act on behalf of the above company, and I am requesting to inactivate the above EPA Establishment Number. Since my establishment was active for part of the 2014 reporting year, I understand that I will need to submit an annual report form for the 2014 reporting year, recording the current year's production or lack thereof, by March 1, 2015.


SIGNATURE
owner

TITLE

08-27-2014
DATE

Return to: Mr. Delbert Kelley
U.S. Environmental Protection Agency
WWPD/TOPE/PEST
11201 Renner Boulevard Lenexa,
Kansas 66219

IN THE MATTER OF Fertilizer Service Company, Respondent
Docket No. FIFRA-07-2015-0005

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Order was sent this day in the following manner to the addressees:


Copy by email to Contact for Complainant:

lesher.mark@epa.gov

Copy by First Class Mail to:

Bruce Pyeatt, Owner
Fertilizer Service Company
601 North US Highway 59
Fairfax, Missouri 64446

Dated: 1/21/15



Kathy Robinson
Kathy Robinson
Hearing Clerk, Region 7