



MASON

"The Gusternary Specialists"

June 11, 2007

Mr. Jerry Kirbach
Illinois Department of Agriculture
Regional Hearing Clerk (E-13J)
U.S. EPA - Region 5
77 West Jackson Blvd,
Chicago, IL 60604

Attention: DT-8J

In the Matter of Mason Chemical Company, Arlington Heights, Illinois, Respondent,
Docket No. FIFRA-05-2007-0027
Proceeding to Assess a Civil Penalty Under Section 14(a) of the Federal Insecticide,
Fungicide and Rodenticide Act, 7 U.S.C. § 136l(a)

Dear Mr. Jerry Kirbach:

We respectfully request a hearing on the above referenced Complaint.

Answer to Complaint

Complaint

1. Admit
2. Admit
3. Admit

Statutory And Regulatory Background

4. Admit
5. Admit
6. Admit

7. Admit

8. Admit

9. Admit

10. Admit

11. Admit

12. Admit

13. Admit

14. Admit

General Allegations

15. Admit

16. Admit

17. Admit

18. Admit

19. Admit

20. Admit

21. Admit

22. Admit

23. Admit

24. Admit

25. Respondent has no knowledge that on August 22, 2002, an inspector employed by the MDA and duly authorized to conduct inspections under FIFRA, conducted an inspection under Sections 8 and 9 of FIFRA, 7 U.S.C. §§ 136f and 136g, at Norman's establishment located at 31473 Utica Road, Fraser, Michigan 48026, to examine and collect samples of any pesticides packaged, labeled and released for shipment.

26. Respondent has no knowledge that during the August 22, 2002, inspection, the MDA inspector collected documentary samples of letters, pesticide product labels, EPA Notices of

Supplemental Distribution, Production Records, Shipping Invoices, and copies of Distribution Agreements.

27. Respondent has no knowledge that upon collection of the samples, the inspector issued a "Receipt For Samples" to an authorized representative of Norman, who acknowledged, by signature on the document, that the samples were obtained from pesticides that were packaged, labeled, and released for shipment or sale.

28. Respondent has no knowledge that the distributor pesticide product label of "ALGAE CHECK," EPA Reg. No. 10324-43-38122, that was collected during the August 22, 2002 inspection, differs from that of the label of July 27, 1993, which was submitted to U.S.EPA by Respondent and "Accepted" in support of the registration of this pesticide product.

29. Respondent has no knowledge of a November 26, 2001 inspection, and therefore respondent has no knowledge that the distributor product label **does not** contain this statement.

30. Respondent has no knowledge of a November 26, 2001 inspection, and therefore respondent has no knowledge that the distributor product label **does not** contain this statement.

31. Respondent has no knowledge that the pesticide product label of "ALGAECIDE AQUA GUARD 50," EPA Reg. No. 10324-19-38122, that was collected during the August 22, 2002 inspection, differs from that of the label of February 14, 1994, which was submitted to U.S.EPA by Respondent and "Accepted" in support of the registration of this pesticide product.

32. Subparagraphs (A) (B) (C) & (D) - Respondent has no knowledge of a November 26, 2001 inspection, and therefore respondent has no knowledge that the distributor product label **does not** contain these statements.

33. Respondent has no knowledge of a November 26, 2001 inspection, and therefore respondent has no knowledge that the distributor product label **does not** contain this statement.

34. Respondent has no knowledge that the pesticide product label of "ALGAE TREK," EPA Reg. No. 10324-15-38122, that was collected during the August 22, 2002 inspection, differs from that of the label of March 4, 1994, which was submitted to U.S.EPA by Respondent and "Accepted" in support of the registration of this pesticide product.

35. Subparagraphs (A) & (B) - Respondent has no knowledge of a November 26, 2001 inspection, and therefore respondent has no knowledge that the distributor product label **does not** contain these statements.

36. Respondent has no knowledge that on or about June 17, 2002, that the pesticide product "ALGAE CHECK," EPA Reg. No. 10324-43-38122 was distributed or sold to Goldblatt Store, located at 5630 West Belmont, Chicago, Illinois 60634.

37. Respondent has no knowledge that on or about July 31, 2002, that the pesticide product "ALGAE CHECK," EPA Reg. No. 10324-43-38122 was distributed or sold to Lafayette Pavilion, located at One Lafayette Plaisance, Detroit, Michigan 48207.

38. Respondent has no knowledge that on or about August 14, 2002, that the pesticide product "ALGAE CHECK," EPA Reg. No. 10324-43-38122 was distributed or sold to U.A.W. Solidarity House, located at 8000 East Jefferson Avenue, Detroit, Michigan 48214.

39. Respondent has no knowledge that on or about June 17, 2002, that the pesticide product "ALGAE TREK," EPA Reg. No. 10324-15-38122 was distributed or sold to Goldblatt Store, located at 5630 West Belmont, Chicago, Illinois 60634.

40. Respondent has no knowledge that on or about July 31, 2002, that the pesticide product "ALGAE TREK," EPA Reg. No. 10324-15-38122 was distributed or sold to Lafayette Pavilion, located at One Lafayette Plaisance, Detroit, Michigan 48207.

41. Respondent has no knowledge that on or about August 14, 2002, that the pesticide product "ALGAE TREK," EPA Reg. No. 10324-15-38122 was distributed or sold to U.A.W. Solidarity House, located at 8000 East Jefferson Avenue, Detroit, Michigan 48214.

Count 1

42. Respondent agrees that complaint incorporates paragraphs 1 through 41 of this complaint, as if set forth in this paragraph.

43. Respondent has no knowledge that "ALGAE CHECK," EPA Reg. No. 10324-43-38122 was distributed or sold on or about August 22, 2002, as a misbranded pesticide.

44. Respondent has no knowledge that "ALGAE CHECK," EPA Reg. No. 10324-43-38122 was **not** in agreement with the "Accepted" label of July 27, 1993, which was submitted in support of the pesticide product's registration, and therefore has no knowledge that it was "misbranded".

45. Respondent has no knowledge that any such failure occurred.

Count 2

46. Respondent agrees that complaint incorporates paragraphs 1 through 45 of this complaint, as if set forth in this paragraph.

47. Respondent has no knowledge that "ALGAE CHECK," EPA Reg. No. 10324-43-38122 was distributed or sold on or about August 14, 2002, as a misbranded pesticide to U.A.W. Solidarity House, located at 8000 East Jefferson Avenue, Detroit, Michigan 48214.

48. Respondent has no knowledge that “ALGAE CHECK,” EPA Reg. No. 10324-43-38122 was **not** in agreement with the “Accepted” label of July 27, 1993, which was submitted in support of the pesticide product’s registration, and therefore has no knowledge that it was “misbranded”.

49. Respondent has no knowledge that any such failure occurred.

Count 3

50. Respondent agrees that complaint incorporates paragraphs 1 through 49 of this complaint, as if set forth in this paragraph.

51. Respondent has no knowledge that “ALGAE CHECK,” EPA Reg. No. 10324-43-38122 was distributed or sold on or about July 31, 2002, as a misbranded pesticide to Lafayette Pavilion, located at One Lafayette Plaisance, Detroit, Michigan 48207.

52. Respondent has no knowledge that “ALGAE CHECK,” EPA Reg. No. 10324-43-38122 was **not** in agreement with the “Accepted” label of July 27, 1993, which was submitted in support of the pesticide product’s registration, and therefore has no knowledge that it was “misbranded”.

53. Respondent has no knowledge that any such failure occurred.

Count 4

54. Respondent agrees that complaint incorporates paragraphs 1 through 53 of this complaint, as if set forth in this paragraph.

55. Respondent has no knowledge that “ALGAE CHECK,” EPA Reg. No. 10324-43-38122 was distributed or sold on or about June 17, 2002, as a misbranded pesticide to Goldblatt Store, located at 5630 West Belmont, Chicago, Illinois 60634.

56. Respondent has no knowledge that “ALGAE CHECK,” EPA Reg. No. 10324-43-38122 was **not** in agreement with the “Accepted” label of July 27, 1993, which was submitted in support of the pesticide product’s registration, and therefore has no knowledge that it was “misbranded”.

57. Respondent has no knowledge that any such failure occurred.

Count 5

58. Respondent agrees that complaint incorporates paragraphs 1 through 57 of this complaint, as if set forth in this paragraph.

59. Respondent has no knowledge that “ALGAECIDE AQUA GUARD 50,” EPA Reg. No. 10324-19-38122 was distributed or sold on or about August 22, 2002, as a misbranded pesticide.

60. Respondent has no knowledge that “ALGAECIDE AQUA GUARD 50,” EPA Reg. No. 10324-19-38122 was **not** in agreement with the “Accepted” label of February 17, 1994, which was submitted in support of the pesticide product’s registration, and therefore has no knowledge that it was “misbranded”.

61. Respondent has no knowledge that any such failure occurred.

Count 6

62. Respondent agrees that complaint incorporates paragraphs 1 through 61 of this complaint, as if set forth in this paragraph.

63. Respondent has no knowledge that “ALGAE TREK,” EPA Reg. No. 10324-15-38122 was distributed or sold on or about August 22, 2002, as a misbranded pesticide.

64. Respondent has no knowledge that “ALGAE TREK,” EPA Reg. No. 10324-15-38122 was **not** in agreement with the “Accepted” label of March 4, 1994, which was submitted in support of the pesticide product’s registration, and therefore has no knowledge that it was “misbranded”.

65. Respondent has no knowledge that any such failure occurred.

Count 7

66. Respondent agrees that complaint incorporates paragraphs 1 through 65 of this complaint, as if set forth in this paragraph.

67. Respondent has no knowledge that “ALGAE TREK,” EPA Reg. No. 10324-15-38122 was distributed or sold on or about August 14, 2002, as a misbranded pesticide to U.A.W. Solidarity House, located at 8000 East Jefferson Avenue, Detroit, Michigan 48214.

68. Respondent has no knowledge that “ALGAE TREK,” EPA Reg. No. 10324-15-38122 was **not** in agreement with the “Accepted” label of March 4, 1994, which was submitted in support of the pesticide product’s registration, and therefore has no knowledge that it was “misbranded”.

69. Respondent has no knowledge that any such failure occurred.

Count 8

70. Respondent agrees that complaint incorporates paragraphs 1 through 69 of this complaint, as if set forth in this paragraph.

71. Respondent has no knowledge that "ALGAE TREK," EPA Reg. No. 10324-15-38122 was distributed or sold on or about July 31, 2002, as a misbranded pesticide to Lafayette Pavilion, located at One Lafayette Plaisance, Detroit, Michigan 48207.

72. Respondent has no knowledge that "ALGAE TREK," EPA Reg. No. 10324-15-38122 was **not** in agreement with the "Accepted" label of March 4, 1994, which was submitted in support of the pesticide product's registration, and therefore has no knowledge that it was "misbranded".

73. Respondent has no knowledge that any such failure occurred.

Count 9

74. Respondent agrees that complaint incorporates paragraphs 1 through 73 of this complaint, as if set forth in this paragraph.

75. Respondent has no knowledge that "ALGAE TREK," EPA Reg. No. 10324-15-38122 was distributed or sold on or about June 17, 2002, as a misbranded pesticide to Goldblatt Store, located at 5630 West Belmont, Chicago, Illinois 60634.

76. Respondent has no knowledge that "ALGAE TREK," EPA Reg. No. 10324-15-38122 was **not** in agreement with the "Accepted" label of March 4, 1994, which was submitted in support of the pesticide product's registration, and therefore has no knowledge that it was "misbranded".

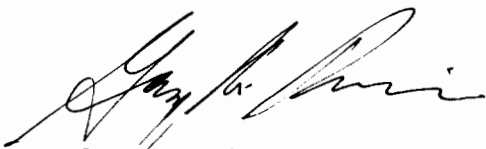
77. Respondent has no knowledge that any such failure occurred.

Respondent contends that the proposed penalty is inappropriate.

The Respondent requests a hearing.

Sincerely,

Mason Chemical Company



Gary R. Preis
Controller

cc: Mr. Mardi Klevs, Chief, Pesticides and Toxics Branch, Waste, Pesticides and Toxics Division
Mr. Louis Oviedo, Mr. Joseph G. Lukascyk, Ms. Marcy Toney, Mr. Tony Martry,
Mr. Eric Volck, Ms. Elizabeth Lytle