



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590
October 29, 2014

REPLY TO THE ATTENTION OF:

LC- 8J

CERTIFIED MAIL

Receipt No.7009 1680 0000 7674 4096

Mr. Troy Tate
Tate & Surfactants, Inc.
1500 N Webster St.
Kokomo, Indiana 46901

Consent Agreement and Final Order In the Matter of
Troy Tate & Surfactants, Inc. Docket No. **FIFRA-05-2015-0003**

Dear Mr. Tate:

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 October 29, 2014, with the Regional Hearing Clerk.

The civil penalty in the amount of \$2,290 is to be paid in the manner described in paragraphs 38 and 39. Please be certain that the docket number is written on both the transmittal letter and on the check. Payment is due by November 28, 2014 (within 30 calendar days of the filing date).

Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in cursive script that reads "Terence Bonace".

Terence Bonace
Pesticides and Toxics Compliance Section

Enclosures

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:)	Docket No. FIFRA-05-2015-0003
)	
Tate Soaps & Surfactants, Inc.)	Proceeding to Assess a Civil Penalty
Kokomo, Indiana,)	Under Section 14(a) of the Federal
)	Insecticide, Fungicide, and Rodenticide
Respondent.)	Act, 7 U.S.C. § 136I(a)
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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. § 136I(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. Part 22.
2. The Complainant is the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region 5.
3. Respondent is Tate Soaps & Surfactants, Inc., a corporation doing business in the State of Indiana.
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). 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 allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and its right to appeal this CAFO.

9. Respondent certifies that it is complying with FIFRA, 7 U.S.C. §§ 136-136y.

Statutory and Regulatory Background

10. Section 3(c)(1)(D), 7 U.S.C. § 136a(c)(1)(D), states that each applicant for registration of a pesticide shall file with the Administrator a statement which includes the complete formula of the pesticide.

11. 40 C.F.R. § 158.320(a) requires that for registration of a pesticide the registrant must submit, among other things, the source of any active ingredient in the product if it is an EPA-registered product and the chemical and common name of the active ingredient is listed on the source product.

12. 40 C.F.R. § 158.325 requires that for each active ingredient that is derived from an EPA-registered product, the registrant must submit the name of the EPA registered product and the EPA registration number of the product.

13. Section 12(a)(1)(C) of FIFRA, 7 U.S.C. § 136j(a)(1)(C), states that it is unlawful for any person to distribute or sell to any person any pesticide the composition of which differs at the time of its distribution or sale from its composition as described in the statement required in connection with its registration under Section 3 of FIFRA.

14. The term “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.” 7 U.S.C. § 136(gg).

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

16. A “pest,” as defined in Section 2(t) of FIFRA, 7 U.S.C. § 136(t), means any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism which the Administrator of EPA declares to be a pest under Section 25(c)(1) of FIFRA.

17. A “pesticide,” as defined in Section 2(u) of FIFRA, 7 U.S.C. § 136(u) means, among other things, any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.

18. At all times relevant to this Complaint, Respondent was a “person,” as defined at Section 2(s) of FIFRA, 7 U.S.C. § 136(s).

19. At all times relevant to this Complaint, Respondent owned or operated a place of business at 1500 North Webster, Kokomo, Indiana.

20. On June 10, 2013, an inspector employed by the Office of the Indiana State Chemist and authorized to conduct inspections under FIFRA conducted an inspection at Respondent’s place of business.

21. During the June 10, 2013 inspection, the inspector collected production and distribution records for the product *Kork Rub Cleaner-Disinfectant*, EPA Reg. No. 6943-1.

22. The Administrator of EPA may assess a civil penalty against any registrant,

commercial applicator, wholesaler, dealer, retailer, other distributor who violates any provision of FIFRA of up to \$7,500 for each offense that occurred after January 12, 2009, pursuant to Section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1), and 40 C.F.R. Part 19.

Factual Allegations and Alleged Violations

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

24. Respondent is a “registrant.”

25. At all times relevant to the Complaint, Respondent owned or operated a place of business located at 1500 North Webster, Kokomo, Indiana.

26. On or about June 5, 2013, Respondent distributed or sold *Kork Rub Cleaner-Disinfectant* to Classic Solutions, Inc. in Columbus, Ohio.

27. *Kork Rub Cleaner-Disinfectant* was formulated with a different EPA-registered active ingredient source than what Respondent reported to EPA as part of its registration of *Kork Rub Cleaner-Disinfectant*

Count 1

28. Complainant incorporates paragraphs 1 through 22 of this complaint, as if set forth in this paragraph.

29. During calendar year 2012, *Kork Rub Cleaner-Disinfectant* was a registered pesticide, EPA Reg. No. 66943-1.

30. During calendar year 2012, *Kork Rub Cleaner-Disinfectant* was a pesticide, as defined at Section 2(u) of FIFRA, 7 U.S.C. § 136(u).

31. On or about April 6, 1987, EPA accepted a Confidential Statement of Formula for *Kork Rub Cleaner-Disinfectant* in connection with its registration.

32. On at least one occasion in 2013, Respondent distributed, sold, offered for sale, held

for distribution, held for sale, held for shipment, shipped, delivered for shipment, released for shipment or received and (having so received) delivered or offered to deliver to persons *Kork Rub Cleaner-Disinfectant*.

33. On at least one occasion in 2012, Respondent distributed or sold *Kork Rub Cleaner-Disinfectant* composed of active ingredients from a source not included in the Confidential Statement of Formula accepted on April 6, 1987.

34. The distribution or sale set forth above, was an unlawful act under Section 12(a)(1)(C) of FIFRA, 7 U.S.C. § 136j(a)(1)(C).

35. Respondent is subject to the assessment of a civil penalty of up to \$7,500 for the unlawful act set forth in this count group, above, under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

36. Respondent's violation of Section 12(a)(1)(C) of FIFRA, 7 U.S.C. § 136j(a)(1)(C) subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136l(a).

Civil Penalty

37. 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 \$2,290. In determining the penalty amount, 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 EPA's FIFRA Enforcement Response Policy, dated December 2009. Therefore, Complainant has determined that the appropriate penalty to settle this action is \$2,290.

38. Within 30 days after the effective date of this CAFO, Respondent must pay a \$2,290

civil penalty for the FIFRA violations by sending a cashier's or certified check, 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

39. Respondent must send a notice of payment that states Respondent's name, complete address and the case docket number to EPA at the following addresses when it pays the penalty:

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

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

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

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

41. If Respondent does not pay timely the civil penalty, EPA may refer the matter to the Attorney General who will 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.

42. 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 amount overdue 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

43. This CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts alleged in the CAFO.

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

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

46. This CAFO is a "final order" for purposes of EPA's FIFRA Enforcement Response Policy.

47. The terms of this CAFO bind Respondent, its successors and assigns.

48. Each person signing this agreement 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.

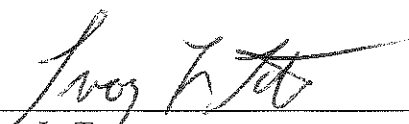
49. Each party agrees to bear its own costs and attorneys' fees, in this action.

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

Tate Soap & Detergents, Inc., Respondent

8/18/2014

Date



Troy L. Tate
President
Tate Soap & Detergents, Inc.

United States Environmental Protection Agency, Complainant

10/17/2014
Date

Michael D. Harris ^{for M.G.}
Margaret M. Guerriero
Director
Land and Chemicals Division

In the Matter of:
Tate Soaps & Detergents, Inc.
Docket No. **FIFRA-05-2015-0003**

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.

10/24/2014

Date



Susan Hedman
Regional Administrator
United States Environmental Protection Agency
Region 5

CERTIFICATE OF SERVICE

I hereby certify that the original signed copy of the Consent Agreement and Final Order in resolution of the civil administrative action involving Tate & Surfactants, Inc., was filed on October 29, 2014, with the Regional Hearing Clerk (E-19J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604, and that I mailed by Certified Mail, Receipt No. 7009 1680 0000 7674 4096, a copy of the original to the Respondent:

Mr. Troy Tate
Tate & Surfactants, Inc.
1500 N Webster St.
Kokomo, Indiana 46901

and forwarded copies (intra-Agency) to:

Ann Coyle, Regional Judicial Officer, ORC/C-14J
Jose DeLeon, Regional Judicial Officer, ORC/C-14J
Eric Volck, Cincinnati Finance/MWD



Frederick Brown
Pesticides and Toxics Compliance Section
U.S. EPA - Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Docket No. FIFRA-05-2015-0003