



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII
901 NORTH 5TH STREET
KANSAS CITY, KANSAS 66101

05 MAR 17 PM 1:16

ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

Honorable William B. Moran
Administrative Law Judge
U.S. Environmental Protection Agency
Mail Code 1900L
1200 Pennsylvania Ave, NW
Washington, D.C. 20460

Re: FRM Chem, Inc., a.k.a. Industrial Specialties
Docket No. FIFRA-07-2004-0041

Dear Judge Moran:

Enclosed please find Complainant's Notice of Appeal, Motion for Extension of Time to File Appeal Brief, and Certificate of Service filed with the U.S. EPA Environmental Appeals Board.

Respectfully submitted,

Chris R. Dudding
Assistant Regional Counsel

Enclosures

cc. ✓ Region 7 Hearing Clerk

Raymond E. Kastendieck, President
FRM Chem, Inc.

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Senior Assistant Regional Counsel

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ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ENVIRONMENTAL APPEALS BOARD

WASHINGTON, DC

In the Matter of)	
)	
FRM Chem, Inc.,)	Docket No. FIFRA-07-2004-0041
a.k.a. Industrial Specialties)	
)	
Respondent)	

NOTICE OF APPEAL

Pursuant to Section 22.30(a) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Rules of Practice"), 40 C.F.R. § 22.30(a), the United States Environmental Protection Agency ("Agency," "Appellant" or "EPA"), files the instant Notice of Appeal, seeking review of the Initial Decision for the above-referenced case issued by the Presiding Officer on February 16, 2005, and filed with the Regional Hearing Clerk on February 18, 2005. EPA has not filed an accompanying appellate brief with the filing of this Notice of Appeal but has filed, via facsimile, a Motion for Extension of Time to File Appeal Brief that articulates the reasons supporting EPA's request for an extension.

34

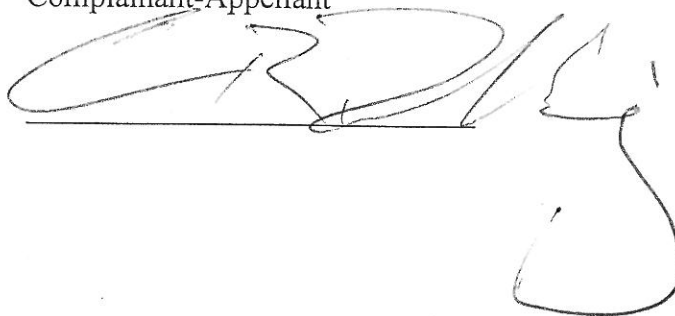
In the Complaint, EPA alleged that Respondent, FRM Chem, Inc. a.k.a. Industrial Specialties (“Respondent” or “FRM”) violated the Federal Insecticide, Fungicide, and Rodenticide Act (“FIFRA”), 7 U.S.C §§ 136 et seq., by engaging in the distribution or sale of an unregistered and misbranded pesticide called Root Eater. The Complaint alleged three violations of FIFRA and sought the assessment of \$5,500 per count. The Presiding Officer found Respondent liable, as alleged in the Complaint, but substantially deviated from the applicable Enforcement Response Policy (“ERP”) and the Agency’s proposed penalty of \$16,500, assessing a total penalty of \$1,800 for the three violations.

The Agency seeks review of the Presiding Officer’s penalty assessment and the grounds upon which the Presiding Officer relied in concluding that a total penalty of \$1,800 was appropriate for the violations.

Respectfully submitted,

Chris R. Dudding
Assistant Regional Counsel
Complainant-Appellant

By:



OF COUNSEL:

Gary Jonesi
Ilana Saltzbar
Carl Eichenwald
Office of Enforcement and Compliance Assurance

Re: FRM Chem. Inc., a.k.a. Industrial Specialties
Docket No. FIFRA-07-2004-0041

CERTIFICATE OF SERVICE

I hereby certify that today I sent via facsimile Complainant's Motion for Extension of Time to File Appeal Brief to the U.S. EPA Environmental Appeals Board and to Respondent, and sent by Federal Express mail the originals of the Complainant's Notice of Appeal and of the Motion for Extension of Time to File Appeal Brief to the U.S. EPA Environmental Appeals Board, and mailed copies of these documents via First-Class Mail to the following:

Honorable William B. Moran
Administrative Law Judge
Office of Administrative Law Judges
U.S. Environmental Protection Agency
Mail Code 1900L
1200 Pennsylvania Ave, NW
Washington, D.C. 20460

Raymond E. Kastendieck
President
FRM Chem, Inc.
P.O. Box 207
50 Hiline Dr.
Washington, MO 63090

Dated: March 16, 2005

