



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
THE ADMINISTRATOR

IN RE)
)
CHARBET CHEMICAL COMPANY)
) IF&R NO. IV-525-C
Respondent)

DEFAULT ORDER

Preliminary Statement

This is a proceeding under Section 14(a) of the Federal Insecticide, Fungicide and Rodenticide Act, as amended (7 U.S.C. 136 1(a), 1973 Supp.), instituted by a Complaint filed by the Director, Enforcement, Region IV, United States Environmental Protection Agency, which was served upon Respondent, Charbet Chemical Company, on October 13, 1981. Following a granting of an extension of time by the Regional Administrator, the Respondent filed an Answer by letter dated November 30, 1981. The matter was referred to the undersigned by Order dated January 7, 1982. A pre-hearing letter was issued on February 1, 1982 requiring the parties to submit certain information by March 8, 1982 with replies due on March 22, 1982.

During the following months, motions for continuance were filed on behalf of both the Respondent and the Complainant due to the ill health of their respective counsels. These motions were granted and a final filing date of May 7, 1982 was ordered with replies to be filed no later than May 21, 1982. As of May 21, 1982, the Respondent had not filed his pre-hearing responses as required and a notice of such failure was sent to Respondent under Order dated May 21, 1982, wherein the Respondent was advised if it had not filed its responses by May 31, 1982 a default judgement would be issued against it. As of this date, no response has been filed by the Respondent.

All of the above files are hereby incorporated into and made a part of the record in this proceeding.

By reason of the foregoing, the Respondent is hereby found to be in default pursuant to the Consolidated Rules of Practice as issued under the Act (40 CFR 22.17). Such default constitutes an admission of all facts alleged in the complaint and a waiver of hearing by Respondent.

Findings of Fact

1. Respondent is a corporation doing business in the State of Florida.

2. During the calendar year 1980, the Respondent manufactured products which were pesticides within the meaning of 7 U.S.C. 136(u) at its plant in Miami, Florida.

3. The plant is registered under EPA Establishment No. 13857FL01.

4. Respondent failed to submit to the Administrator as required by Section 7 of the Act (7 U.S.C. 136(e)) and any regulations promulgated pursuant thereto [40 CFR 167.5], information on the types and amounts of pesticides produced and distributed by the registered establishment.

5. Respondent received a notice of warning on March 7, 1981 for failure to file their 1980 annual pesticide production report. Respondent received the 1980 report solicitation on December 30, 1980. Respondent's record in reporting reflects a delinquency in 1976, which precipitated two notices of warning. Respondent's 1980 production report has not been received by EPA.

Conclusions

By reason of the facts set forth in the above, the Respondent failed to file the reports as required by the Act in violation of 7 U.S.C. 136(e).

Pursuant to Section 22.17 of the Consolidated Rules of Practice, the penalty proposed to be assessed in the Complaint, \$1,760.00, shall become due and payable by Respondent, Charbet Chemical Company, without further proceedings.

ORDER

Pursuant to Section 14(a) of the Federal Insecticide, Fungicide and Rodenticide Act, as amended, a civil penalty of \$1,760.00 is hereby assessed against Respondent, Charbet Chemical Company, for the violation of the Act found herein.

Payment of the full amount of the civil penalty assessed shall be made within sixty (60) days of the service of the final order upon Respondent, Charbet Chemical Company, by forwarding to the Regional Hearing Clerk a cashier's check or certified check payable to the United States of America in such amount.^{1/}

T.B. Yost

Thomas B. Yost
Administrative Law Judge

DATED: June 9, 1982

^{1/} See Sec. 22.17 of the Consolidated Rules of Practice with respect to effect and consequences of this Default Order.

Judge Thomas B. Yost
Environmental Protection Agency
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Atlanta, Georgia 30308
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