



UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
BEFORE THE ADMINISTRATOR

In the Matter of: )  
)  
FMC Corporation, ) Docket No. FIFRA-03-2015-0248  
)  
Respondent. )

**NOTICE OF HEARING ORDER**

Pursuant to the procedural rules governing this proceeding, set forth at 40 C.F.R. Part 22, I am responsible for scheduling the hearing in this matter and determining an appropriate location for the hearing consistent with 40 C.F.R. §§ 22.21, 22.19(d), and 22.35(b). I am also responsible for regulating the course of the hearing consistent with 40 C.F.R. § 22.4. By Order dated July 17, 2017, I directed each party to file a statement identifying any periods of unavailability during the remainder of calendar year 2017 for a hearing on the unresolved issues remaining in this matter and an estimate of the amount of time needed to present the party's direct case. The parties timely filed a Joint Statement as to Time Needed for Hearing and Dates of Unavailability [sic], in which the parties represented that they were unable to identify any dates in 2017 when both parties are available for hearing, "primarily due to the unusual and substantial demands of FMC's upcoming closing of a publicly-announced transaction with DuPont, which is scheduled for November 1, 2017." The parties proceeded to propose January 31-February 9, 2018, as an alternative period for the hearing. Based on these representations, the prehearing filing deadlines and the hearing in this matter are scheduled as follows.

**Settlement Status Reports.** Complainant is directed to file Status Reports as to the status of any settlement negotiations between the parties, *which shall not include any specific terms of settlement*, on or before **September 15, 2017, October 27, 2017, and December 8, 2017.**

**Supplement to Prehearing Exchange.** Consistent with the Prehearing Order issued in this matter on May 6, 2016, any addition of a proposed witness or exhibit to a party's prehearing exchange, submitted pursuant to 40 C.F.R. § 22.19(f), must be filed with an accompanying *motion to supplement the prehearing exchange* only when supplementation is sought after **December 4, 2017.**

**Non-dispositive Motions.** Consistent with the Prehearing Order, any non-dispositive motions, such as motions for additional discovery, motions for subpoenas, and motions in limine, shall be filed no later **December 4, 2017.** *Motions not filed in a timely manner may not be considered.*

**Joint Stipulations.** On or before **January 5, 2018**, the parties shall file a Joint Set of Stipulated Facts, Exhibits, and Testimony. The time allotted for the hearing is limited. Therefore, the parties must make a good faith effort to stipulate as much as possible to matters that cannot reasonably be contested so that the hearing can be concise and focused solely on those matters that can only be resolved after an evidentiary hearing.

**Prehearing Conference.** A prehearing conference will be scheduled in advance of the hearing and conducted by a staff attorney.

**Prehearing Briefs.** The parties may, if they wish, file prehearing briefs on or before **January 12, 2018**. If filed, Complainant's brief should specifically state each count of the Complaint and each claim therein that will be tried at the hearing and indicate which counts and claims will not. If filed, Respondent's brief should identify each of the defenses Respondent intends to pursue at the hearing.

**Hearing.** As stated in the Order of July 17, 2017, a hearing will be held to take evidence and argument on the unresolved issues remaining in this matter, namely, the appropriate number of units of violation for the violations of Section 12(a)(2)(E) of FIFRA, 7 U.S.C. §136j(a)(2)(E), found in the Order of July 17, 2017; the liability of Respondent for the alleged violations of Section 12(a)(2)(E) of FIFRA, 7 U.S.C. § 136j(a)(2)(E), charged in Violations 12,274 through 12,379 of the Complaint; and the appropriate penalty, if any, to assess against Respondent. The hearing shall begin promptly at 9:00 a.m. on **Wednesday, January 31, 2018**, in or around Philadelphia, Pennsylvania, and will continue as necessary through **February 9, 2018**. This Tribunal will make appropriate arrangements for a courtroom. The parties will be notified of the precise location and of other procedures pertinent to the hearing when those arrangements are complete.

*Individuals requiring special accommodations at the hearing, including wheelchair access and translation services, must contact Mary Angeles, Headquarters Hearing Clerk, at (202) 564-6281, no later than 30 days prior to the scheduled hearing, so that appropriate arrangements can be made. A staff attorney for this Tribunal, Jennifer Almase, can be contacted to answer any procedural questions or questions about what to expect at the hearing, at 202-564-1170 or almase.jennifer@epa.gov.*

***RESPONDENT IS ADVISED THAT FAILURE TO APPEAR AT THE HEARING, WITHOUT GOOD CAUSE HAVING BEEN SHOWN, MAY RESULT IN THE ENTRANCE OF DEFAULT JUDGMENT AGAINST IT. COMPLAINANT IS ADVISED THAT FAILURE TO APPEAR AT THE HEARING MAY RESULT IN DISMISAL OF THIS CASE WITH PREJUDICE.***

***IF EITHER PARTY DOES NOT INTEND TO ATTEND THE HEARING, OR HAS GOOD CAUSE FOR NOT BEING ABLE TO ATTEND THE HEARING AS SCHEDULED, IT SHALL NOTIFY THIS TRIBUNAL AT THE EARLIEST POSSIBLE MOMENT.***

*Christine Donelian Coughlin*

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Christine Donelian Coughlin  
Administrative Law Judge

Date: August 3, 2017  
Washington, D.C.

In the Matter of *FMC Corporation*, Respondent.  
Docket No. FIFRA-03-2015-0248

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing **Notice of Hearing Order**, dated August 3, 2017, and issued by Administrative Law Judge Christine Donelian Coughlin, was sent this day to the following parties in the manner indicated below.



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Mary Angeles  
Paralegal Specialist

Original and One Copy by Hand Delivery to:

Mary Angeles  
Headquarters Hearing Clerk  
U.S. Environmental Protection Agency  
Office of Administrative Law Judges  
Ronald Reagan Building, Room M1200  
1300 Pennsylvania Ave., NW  
Washington, DC 20004

Copy by Electronic and Regular Mail to:

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*For Complainant*

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*For Respondent*

Dated: August 3, 2017  
Washington, D.C.