

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:)	
)	
DAVID E. EASTERDAY & CO., INC.,)	Docket No.: FIFRA-05-2019-0005
d/b/a WOODWRIGHT FINISHING,)	
WILMOT, OHIO,)	
)	
RESPONDENT.)	
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COMPLAINANT’S INITIAL PREHEARING EXCHANGE

Pursuant to 40 C.F.R. § 22.19(a) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules of Practice”) and in response to Presiding Officer Christine Donelian Coughlin’s February 8, 2019 Prehearing Order (“Prehearing Order”), Complainant, the Director of the Land and Chemicals Division, United States Environmental Protection Agency, Region 5, through her undersigned attorneys, hereby sets forth her Initial Prehearing Exchange. Complainant respectfully reserves the right to supplement this Initial Prehearing Exchange in accordance with 40 C.F.R. § 22.19(f) and the Prehearing Order.

I. WITNESSES

At this time, Complainant expects to call as witnesses the following individuals, whose testimony is expected to include, but may not be limited to, the matters described generally below. Complainant reserves the right to revise and supplement the matters to which each witness identified below may testify. Complainant anticipates that the parties will be able to stipulate that the exhibits are what they purport to be. In the event that the parties are unable to stipulate, Complainant reserves the right to present the testimony of the appropriate records

custodians or other witnesses, live or in written form, for the sole purpose of establishing that certain documents are what they purport to be.

To the extent that the parties can agree on stipulations and narrow the issues, or the issues are narrowed by accelerated decision, the number of witnesses, or the length of their testimonies, may be reduced.

A. Fact Witnesses

i. Ryan King

Mr. King is an inspector and a supervisor with the Ohio Department of Agriculture (ODA), and he is an EPA credentialed inspector. Mr. King performed an establishment inspection of Respondent's facility to determine compliance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. §§ 136 to 136y, on October 1, 2014. Mr. King is expected to testify about: a) the events leading up to the inspection; b) what he observed during the inspection; c) what he was told during the inspection (including by Respondent's representatives); d) his activities during the inspection; e) his preparation of any writings or reports in connection with the inspection; and, f) what he learned concerning Respondent, its operations and the circumstances underlying the violations alleged in the Complaint. Mr. King can also authenticate the inspection report and related documents memorializing his inspection. Mr. King may also be called to testify as a rebuttal witness to provide testimony in rebuttal to that provided by Respondent's witnesses.

ii. Terri Babcock

Terri Babcock is Respondent's President. Ms. Babcock was present at the October 1, 2014 inspection. If necessary, Complainant may call Ms. Babcock as an affirmative witness to testify about: a) Respondent, David E. Easterday & Co., Inc.; b) Respondent's manufacturing, marketing, and sales of the products at issue in this case; c) the basis for the antibacterial label

statements at issue in this case; d) the October 1, 2014 inspection; and, e) to authenticate documents.

iii. Abigail Wesley

Abigail Wesley is an Environmental Scientist with EPA Region 5's Land and Chemicals Division. Ms. Wesley has worked with EPA Region 5 since December 2015, and she is a federally credentialed inspector. Her responsibilities at EPA include inspecting regulated facilities for compliance with FIFRA, as well as case development based on EPA inspections, state partner inspections, tips and complaints, and e-commerce investigations.

Ms. Wesley is the case development officer for this case. Ms. Wesley may be called to testify with respect to: a) her education, training, and experiences prior to working for EPA; b) her roles and duties with EPA's Region 5 Land and Chemicals Division; c) her training and experiences conducting inspections and developing cases for statutes enforced by EPA Region 5's Land and Chemicals Division, including FIFRA; d) her development of this case with respect to Respondent's liability and EPA's penalty calculation for the violations alleged in the Complaint; e) the factual bases supporting the violations alleged in the Complaint; and, f) the calculation and appropriateness of EPA's proposed penalty, considering the FIFRA section 14(a) statutory factors and applicable penalty policies. If necessary, Ms. Wesley may also provide testimony sufficient to authenticate documents submitted for evidence at hearing.

Pursuant to 40 C.F.R. § 22.22(c), Complainant may offer all or part of Ms. Wesley's affirmative testimony in a verified statement. Ms. Wesley may also be called to testify as a rebuttal witness to provide testimony in rebuttal to that provided by Respondent's witnesses.

B. Expert Witnesses

i. Eric Miederhoff

Eric Miederhoff is a Product Manager with EPA's Office of Pesticide Programs (OPP) located in Washington, D.C. Mr. Miederhoff has a bachelor's degree in English from Ralph-Macon College in Ashland, VA, and a master's degree in Environmental Studies from Virginia Commonwealth University in Richmond, VA. He has worked with OPP for 11 years, seven years in the Pesticide Reevaluation Division, and the past four years in the Antimicrobials Division as a Product Manager. Mr. Miederhoff manages a team of five staff that work on pesticide product registration and regulatory issues at the national level, including the approval and denial of product registration actions, reviewing label amendments and notifications, and other similar work.

Mr. Miederhoff may be called to testify with respect to: a) his relevant education, training, and experiences; b) his roles and duties working in EPA OPP's Antimicrobials Division; c) OPP's pesticide registration and label approval process; d) the broader underlying policies, regulations, and purposes which provide the framework for EPA's pesticide registration program; and, e) the potential harm to the public and to the FIFRA regulatory scheme caused by pesticide producers who fail to register their products. Mr. Miederhoff may also be called to testify as a rebuttal witness to provide testimony in rebuttal to that provided by Respondent's witnesses.

ii. Ekaterina Smirnova

If in its prehearing exchange Respondent takes the position that the proposed penalty should be reduced based on its inability to pay, Complainant may call Ekaterina (Katya) Smirnova to testify. Ms. Smirnova is a Senior Associate at Industrial Economics, Inc., a consulting firm located in Cambridge, Massachusetts.

Ms. Smirnova specializes in economic, financial, and policy analysis in the context of policy making, enforcement proceedings, and litigation. She provides analytical support to a wide range of clients on projects involving assessment of the financial capabilities of businesses, individuals, and municipalities to finance investments in environmental controls and pay penalties in the context of litigation. These projects have often involved the development of detailed, forward-looking financial models to determine the subject entity's profitability, cash flow, and ability to repay debt. Ms. Smirnova has also developed and delivered over 30 multi-session, multi-day trainings and seminars in financial analysis and concepts for hundreds of EPA and state environmental enforcement personnel.

Ms. Smirnova may be called to testify as an expert witness in the areas of the forensic analysis of financial information and the analysis of a party's ability to pay (or, the effect of a penalty on a party's ability to continue in business). Ms. Smirnova may testify about her experience in evaluating the financial situation and ability to pay of various types of entities for cases litigated in administrative tribunals and federal district courts. Ms. Smirnova has performed analyses of ability to pay in over 50 cases during her 12-year tenure with Industrial Economics, Inc.

If called, Ms. Smirnova may testify about her review of any financial information provided by Respondent. She may testify about her assessment of the sufficiency or reliability of any financial information that Respondent may submit in its prehearing exchange, and she may identify other categories of information or areas of inquiry that are relevant to an assessment of Respondent's ability to pay. Ms. Smirnova may also provide her expert opinions and conclusions as to Respondent's financial status and Respondent's ability to pay the penalty proposed.

More specifically, Ms. Smirnova may testify about her efforts to analyze the financial status and ability to pay of Respondent in this case. She may testify about the standard methodology used by professionals in her field to evaluate the financial status and ability to pay of individuals, corporations or partnerships. She may testify about the different types of financial documentation, and the extent of such financial data, that are necessary to conduct any reasonably accurate assessment of a respondent's financial condition and ability to pay, including the reasons why at least three to five years of complete tax returns and complete financial statements are needed to begin any meaningful evaluation of a corporation's ability to pay. She may also testify about the need, in any ability to pay analysis, to identify potential sources of funds available to the subject of the analysis, and about the need to fully and accurately identify that subject's expenses and assess whether all such expenses are reasonable. She may testify that analyzing ability to pay also necessarily involves an analysis of the net worth of the party, which entails an accurate and complete identification of all assets (including real estate and personal property) and liabilities. She may testify about her assessment of the sufficiency or reliability of financial information which may be submitted by Respondent in its prehearing exchange, and she may identify other categories of information or areas of inquiry that are relevant to an assessment of Respondent's ability to pay.

Ms. Smirnova may also testify to additional facts or opinions as necessary to respond to assertions or arguments raised by Respondent. To the extent deemed necessary by the Court, Ms. Smirnova will provide testimony sufficient to authenticate the documents that she refers to during her testimony at the hearing in this matter.

C. Additional Witnesses

Consistent with the Consolidated Rules and the Prehearing Order, Complainant reserves the right to call: a) witnesses listed by Respondent in its Prehearing Exchange; b) additional

witnesses to rebut the testimony of Respondent's witnesses; and, c) such other witnesses as otherwise may become necessary.

II. EXHIBITS

Complainant intends to produce the following documents into evidence at hearing.

Copies of these documents are attached to this prehearing exchange.

- CX 1 – FIFRA Establishment Inspection Report (10/2/2014)
- CX 2 – Notice of Inspection (10/1/2014)
- CX 3 – Spotless Hospitality Web Advertisement (printed on 12/18/2017)
- CX 4 – EPA / ODA Authorization Agreement for FIFRA Inspections (6/19/06)
- CX 5 – Ryan King inspector credentials 2013 – 2016
- CX 6 – Ryan King inspector credentials 2016 – 2019
- CX 7 – Eric Miederhoff Resume
- CX 8 – Ekaterina Smirnova Resume
- CX 9 - Notice of Intent to File Administrative Complaint (11/14/17)
- CX 10 – USPS Return Receipts from Service of Complaint
- CX 11 – EPA General Enforcement Policy #GM-21 (Policy on Civil Penalties) (2/16/84)
- CX 12 – EPA General Enforcement Policy #GM-22 (A Framework for Statute-Specific Approaches to Penalty Assessments: Implementing EPA's Policy on Civil Penalties) (2/16/84)
- CX 13 – FIFRA Enforcement Response Policy (December 2009)
- CX 14 – FIFRA Delegation of Authority 5-14 (5/11/94)
- CX 15 – FIFRA Regional Delegation of Authority 5-14, 15A (10/22/07)
- CX 16 – Civil Monetary Penalty Inflation Adjustment Rule (11/6/2013)
- CX 17 – Hoovers Report: David E. Easterday and Co., Inc. Profile (6/14/2017)

Note: At hearing, Complainant may present enlargements of one or more of these exhibits as demonstrative exhibits.

Consistent with the Consolidated Rules and the Prehearing Order, Complainant reserves its rights to introduce: a) exhibits included by Respondent in its Prehearing Exchange; b) additional exhibits to rebut evidence presented by Respondent; and, c) such other exhibits as otherwise may become necessary.

III. TIME NEEDED FOR HEARING AND TRANSLATION SERVICE NEEDS

Complainant anticipates that it will need no more than two days to present its case in chief. Complainant does not anticipate that translation services will be necessary with regard to the testimony of any of its witnesses.

IV. SERVICE OF THE COMPLAINT

A copy of the certified mail return receipt “green” card, stamped as received by the Regional Hearing Clerk, which demonstrates service of the Complaint according to 40 C.F.R. § 22.5(b)(1), is attached at CX 10.

V. COMPLAINANT’S BASES FOR ALLEGATIONS DENIED / NOT ADMITTED BY RESPONDENT

Paragraphs 1 and 4 through 15 are direct references to provisions of the FIFRA statute and EPA regulations promulgated pursuant to FIFRA.

In support of paragraph 2, Complainant plans to introduce Complainant’s Exs. 14 and 15, which are copies of EPA’s national and regional delegations of authority to pursue administrative enforcement of FIFRA violations.

Paragraphs 3, 16, and 17 are admitted.

In paragraphs 18 and 92, Respondent denies that it is a “producer” as that term is defined in FIFRA. Complainant plans to introduce Complainant’s Exs. 1 and 3, as well as the testimony of Ryan King, and, if necessary, Terri Babcock in support of its allegation.

In paragraph 19, Respondent denies that the ODA inspector was authorized to conduct inspections under FIFRA. Complainant plans to introduce Complainant’s Exs. 4, 5, and 6, and the testimony of Ryan King in support of its allegation.

In paragraph 20, Respondent admits providing the ODA inspector with sales records but denies the characterization of those sales records as “distribution records.” Complainant intends

no specialized meaning for the use of the term “distribution records.” Complainant plans to introduce Complainant’s Ex. 1, which contains Respondent’s sales records, the testimony of Ryan King and, if necessary, Terri Babcock in support of its allegation.

In paragraph 21, Respondent denies the manner in which the sales records are identified in the ODA inspection report. Complainant plans to introduce Complainant’s Ex. 1 and the testimony of Ryan King in support of its allegation.

In paragraph 22, Respondent repeats its denial of the characterization of sales records as “distribution records” and also denies that the records cover the period October 1, 2013 through October 1, 2014. Complainant plans to introduce Complainant’s Ex. 1 and the testimony of Ryan King in support of its allegations.

In paragraph 23, Respondent denies that Complainant requested financial information related to its ability to pay a civil penalty in its November 14, 2017 letter. Complainant plans to introduce Complainant’s Ex. 7 and the testimony of Abigail Wesley in support of its allegations.

In paragraph 24, Respondent admits that it produced a product it refers to as “Spotless Cleaner” at its facility and attempts to deny allegations that are not pleaded in paragraph 24. Complainant plans to introduce Complainant’s Ex. 1, and, if necessary, the testimony of Ryan King and Terri Babcock, in support of its allegations. Respondent also “contests” Complainant’s headings above paragraphs 24, 29, 34, 39, 44, and 49. Complainant organized the Complaint consistent with the organization of Respondent’s sales records attached as Complainant’s Ex. 1, pages 35-54.

In paragraph 25, Respondent denies the allegation that the ODA inspector collected a label for “Spotless Hospitality Furniture & Glass Concentrate (32 fluid oz.)” Complainant plans to introduce Complainant’s Ex. 1, and the testimony of Ryan King in support of its allegation.

In paragraph 26, Respondent denies the allegation that its distribution records refer to the product in paragraphs 24 and 25 as “Spotless Hospitality Furniture & Glass Cleanser Concentrate 1 Quart.” Complainant plans to introduce Complainant’s Ex. 1, and, if necessary, the testimony of Ryan King and Terri Babcock in support of its allegation.

In paragraph 27, Respondent admits that the label of what it refers to as “Spotless Cleaner” displayed the word “antibacterial” and the statement “Removes 99.9% of bacteria.” Respondent contests the use of the word “prominently” in paragraph 27 and argues that no reasonable person could confuse the product referred to in paragraph 27 with a pesticide. Complainant plans to introduce Complainant’s Ex. 1, and, if necessary, the testimony of Ryan King and Terri Babcock in support of its allegation.

In paragraph 28, Respondent denies that the product referred to in paragraph 28 is a “pesticide” under FIFRA, and further responds that 40 C.F.R. § 152.15(a)(1) is unlawful as applied to the facts and circumstances of the product referred to in paragraph 28. Complainant plans to introduce Complainant’s Exs. 1 and 3, and, if necessary, the testimony of Ryan King and Terri Babcock in support of its allegation.

For paragraphs 29 through 33, Respondent’s denials and other responses, as well as Complainant’s factual and legal bases for the allegations, are the same as those discussed above with respect to paragraphs 24 through 28, with the exception of Complainant’s Ex. 3, which is only relevant to Respondent’s “Spotless Hospitality” line of products.

For paragraphs 34 through 38, Respondent’s denials and other responses, as well as Complainant’s factual and legal bases for the allegations, are the same as those discussed above with respect to paragraphs 24 through 28, with the exception of Complainant’s Ex. 3, which is only relevant to Respondent’s “Spotless Hospitality” line of products.

For paragraphs 39 through 43, Respondent's denials and other responses, as well as Complainant's factual and legal bases for the allegations, are the same as those discussed above with respect to paragraphs 24 through 28, with the exception of Complainant's Ex. 3, which is only relevant to Respondent's "Spotless Hospitality" line of products.

For paragraphs 44 through 48, Respondent's denials and other responses, as well as Complainant's factual and legal bases for the allegations, are the same as those discussed above with respect to paragraphs 24 through 28.

For paragraphs 49 through 53, Respondent's denials and other responses, as well as Complainant's factual and legal bases for the allegations, are the same as those discussed above with respect to paragraphs 24 through 28.

Paragraph 54 is a paragraph incorporating by reference the allegations contained in paragraphs 1 through 53.

Respondent admits paragraph 55.

In paragraph 56, Respondent denies that the labeling for Spotless Concentrate (32 oz.) contained pesticidal claims. Complainant plans to introduce Complainant's Exs. 1 and 3, and, if necessary, the testimony of Ryan King and Terri Babcock in support of its allegation.

Respondent admits paragraph 57.

In paragraph 58, Respondent denies that its distribution or sale of Spotless Concentrate (32 oz.) without the required FIFRA registration constitutes the distribution or sale of an unregistered pesticide. Complainant plans to introduce Complainant's Exs. 1 and 3, and, if necessary, the testimony of Ryan King and Terri Babcock in support of its allegation.

In paragraph 59, Respondent denies that its distribution or sale of an unregistered pesticide on the four separate occasions noted in paragraph 55 constitutes four unlawful acts

under section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A). Complainant plans to introduce Complainant's Exs. 1 and 3, and, if necessary, the testimony of Ryan King and Terri Babcock in support of its allegation.

Paragraph 60 is a paragraph incorporating by reference the allegations contained in paragraphs 1 through 53.

Respondent admits paragraph 61.

In paragraph 62, Respondent denies that the labeling for Heirloom Essentials Concentrate (16 oz.) contained pesticidal claims. Complainant plans to introduce Complainant's Ex. 1, and, if necessary, the testimony of Ryan King and Terri Babcock in support of its allegation.

Respondent admits paragraph 63.

In paragraph 64, Respondent denies that its distribution or sale of Heirloom Essentials Concentrate (16 oz.) without the required FIFRA registration constitutes the distribution or sale of an unregistered pesticide. Complainant plans to introduce Complainant's Ex. 1, and, if necessary, the testimony of Ryan King and Terri Babcock in support of its allegation.

In paragraph 65, Respondent denies that its distribution or sale of an unregistered pesticide on the three separate occasions noted in paragraph 63 constitutes three unlawful acts under section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A). Complainant plans to introduce Complainant's Ex. 1, and, if necessary, the testimony of Ryan King and Terri Babcock in support of its allegation.

Paragraph 66 is a paragraph incorporating by reference the allegations contained in paragraphs 1 through 53.

Respondent admits paragraph 67.

In paragraph 68, Respondent denies that the labeling for Heirloom Essentials Cleanser (8 oz.) contained pesticidal claims. Complainant plans to introduce Complainant's Ex. 1, and, if necessary, the testimony of Ryan King and Terri Babcock in support of its allegation.

Respondent admits paragraph 69.

In paragraph 70, Respondent denies that its distribution or sale of Heirloom Essentials Cleanser (8 oz.) without the required FIFRA registration constitutes the distribution or sale of an unregistered pesticide. Complainant plans to introduce Complainant's Ex. 1, and, if necessary, the testimony of Ryan King and Terri Babcock in support of its allegation.

In paragraph 71, Respondent denies that its distribution or sale of an unregistered pesticide on the 11 separate occasions noted in paragraph 67 constitutes 11 unlawful acts under section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A). Complainant plans to introduce Complainant's Ex. 1, and, if necessary, the testimony of Ryan King and Terri Babcock in support of its allegation.

Paragraph 72 is a paragraph incorporating by reference the allegations contained in paragraphs 1 through 53.

Respondent admits paragraph 73.

In paragraph 74, Respondent denies that the labeling for Heirloom Essentials Cleanser (1 oz.) contained pesticidal claims. Complainant plans to introduce Complainant's Ex. 1, and, if necessary, the testimony of Ryan King and Terri Babcock in support of its allegation.

Respondent admits paragraph 75.

In paragraph 76, Respondent denies that its distribution or sale of Heirloom Essentials Cleanser (1 oz.) without the required FIFRA registration constitutes the distribution or sale of an

unregistered pesticide. Complainant plans to introduce Complainant's Ex. 1, and, if necessary, the testimony of Ryan King and Terri Babcock in support of its allegation.

In paragraph 77, Respondent denies that its distribution or sale of an unregistered pesticide on the five separate occasions noted in paragraph 73 constitutes five unlawful acts under section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A). Complainant plans to introduce Complainant's Ex. 1, and, if necessary, the testimony of Ryan King and Terri Babcock in support of its allegation.

Paragraph 78 is a paragraph incorporating by reference the allegations contained in paragraphs 1 through 53.

Respondent admits paragraph 79.

In paragraph 80, Respondent denies that the labeling for Spotless Concentrate (128 oz.) contained pesticidal claims. Complainant plans to introduce Complainant's Ex. 1, and, if necessary, the testimony of Ryan King and Terri Babcock in support of its allegation.

Respondent admits paragraph 81.

In paragraph 82, Respondent denies that its distribution or sale of Spotless Concentrate (128 oz.) without the required FIFRA registration constitutes the distribution or sale of an unregistered pesticide. Complainant plans to introduce Complainant's Exs. 1 and 3, and, if necessary, the testimony of Ryan King and Terri Babcock in support of its allegation.

In paragraph 83, Respondent denies that its distribution or sale of an unregistered pesticide on the three separate occasions noted in paragraph 79 constitutes three unlawful acts under section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A). Complainant plans to introduce Complainant's Exs. 1 and 3, and, if necessary, the testimony of Ryan King and Terri Babcock in support of its allegation.

Paragraph 84 is a paragraph incorporating by reference the allegations contained in paragraphs 1 through 53.

Respondent admits paragraph 85.

In paragraph 86, Respondent denies that the labeling for Spotless Cleanser (32 oz.) contained pesticidal claims. Complainant plans to introduce Complainant's Exs. 1 and 3, and, if necessary, the testimony of Ryan King and Terri Babcock in support of its allegation.

Respondent admits paragraph 87.

In paragraph 88, Respondent denies that its distribution or sale of Spotless Cleanser (32 oz.) without the required FIFRA registration constitutes the distribution or sale of an unregistered pesticide. Complainant plans to introduce Complainant's Exs. 1 and 3, and, if necessary, the testimony of Ryan King and Terri Babcock in support of its allegation.

In paragraph 89, Respondent denies that its distribution or sale of an unregistered pesticide on the eight separate occasions noted in paragraph 85 constitutes eight unlawful acts under section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A). Complainant plans to introduce Complainant's Exs. 1 and 3, and, if necessary, the testimony of Ryan King and Terri Babcock in support of its allegation.

Paragraph 90 is a paragraph incorporating by reference the allegations contained in paragraphs 1 through 53.

In paragraph 91, Respondent denies that it produced pesticide products. Complainant plans to introduce Complainant's Exs. 1 and 3, and, if necessary, the testimony of Ryan King and Terri Babcock in support of its allegation.

Paragraph 92 is addressed above in conjunction with paragraph 18.

Respondent admits paragraph 93.

In paragraph 94, Respondent denies that it violated FIFRA's prohibition on the production of pesticides at an establishment that is not registered with EPA. Complainant plans to introduce Complainant's Exs. 1 and 3, and, if necessary, the testimony of Ryan King and Terri Babcock in support of its allegation.

VI. INFORMATION AND DOCUMENTATION RELEVANT TO PENALTY

In Sections I, II, and V above, Complainant has included a description of all factual information, supporting documentation, and guidance documents it currently intends to rely on to calculate a proposed penalty. Pursuant to the Prehearing Order, Complainant may include in the Rebuttal Prehearing Exchange additional information, witnesses, and documents in response to Respondent's Prehearing Exchange. Complainant will also include a statement specifying the dollar amount of the penalty that Complainant proposes to assess for the violations alleged in the Complaint, and a detailed explanation of the factors considered and methodology utilized in calculating the amount of the proposed penalty, in accordance with the criteria set forth in the particular statute authorizing this proceeding and as referenced in the Proposed Civil Penalty section of the Complaint.

VII. RELEVANT GUIDANCE AND POLICIES

In Section II above, EPA has included a description of all EPA guidance documents and policies it currently is intending to rely on to support the allegations set forth in the Complaint.

Respectfully Submitted,

Counsel for EPA:

3/28/2019
Date



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In the matter of David E. Easterday & Co., Inc. d/b/a Woodwright Finishing
Docket Number: FIFRA-05-2019-0005

CERTIFICATE OF SERVICE

I certify that the foregoing Complainant's Initial Prehearing Exchange, dated and filed March 28, 2019, was sent this day to the following addresses in the manner indicated below.



Robert S. Guenther
Associate Regional Counsel

Copy by Email to Attorneys
for Respondent:

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