UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

In the Matter of	)	
	)	
Tridon Pool Specialists, Inc.,	)	Docket No. IF&R-04-8530-C
	)	
Respondent	)	

Federal Insecticide, Fungicide and Rodenticide Act. The filing of required annual reports constitutes an essential part of the enforcement and compliance tools of the Environmental Protection Agency.

Appearances:

Ms. Cheryl A. Bottie
Secretary/Treasurer
Tridon Pool Specialists, Inc.
770 Belcher Road N.
Clearwater, FL 33575

For Respondent

Flora B. Devine, Esquire
Office of Regional Counsel
U. S. EPA, Region IV
345 Courtland St., NE
Atlanta, GA 30365

Counsel for Complainant

ACCELERATED DECISION[1/]

This is a proceeding under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, Section 14(a)(1), 7 U.S.C. §136 l(a)(1) for assessment of a civil penalty for alleged violations of the Act.[2/]

Complaint was issued against Respondent Tridon Pool Specialist, Inc. on December 21, 1984, charging Respondent with failure to submit to the Administrator an Annual Pesticide Report for the year 1983 within the time allowed as required by Section 7(c)(1) of FIFRA (7 U.S.C. §136e(c)(1)) and 40 CFR 167.5(c) which constitutes a violation of Section 12(a)(2)(L) of FIFRA (7 U.S.C. §136j(a)(2)(L)). A penalty of $800.00 was proposed.

Respondent answered alleging that "Our report was filed on April 23, 1984 and attached hereto is a copy of our cover letter and the report we filed."

The Complaint states that Respondent was granted 20 days after May 18, 1984 to file said report and that Respondent had failed to respond within those 20 days.

Findings Of Fact

1. Respondent is a corporation with its principal place of business located in Clearwater, Florida.

1/ An Accelerated Decision constitutes the Initial Decision in this Proceeding. 40 CFR 22.20(b).

2/ FIFRA, Section 14(a)(1) provides, as follows:

> Any registrant, commercial applicator, wholesaler, dealer. retailer or other distributor who violates any provision of this Act may be assessed a civil penalty by the Administrator of not more than $5,000 for each offense.

2. Respondent is a person as defined in Section 2(s) of FIFRA (7 U.S.C. §136(s)).

3. Respondent mailed the Annual Report to Complainant (EPA) on April 23, 1984.

4. Respondent complied with the reporting requirements of FIFRA.

Discussion and Conclusion

The only question to be resolved here is whether or not the required annual report was mailed on April 23, 1984 as alleged by Respondent and then, of course, the natural assumption that if it was mailed, it reached its destination in the normal course of events.

Complainant alleges that no such report was received until January 21, 1985 and that the report appeared to be an original, rather than a copy.

Based upon the record before the Court, and since neither party seems to believe the expense of a hearing would add anything to the case, a finding must be made in favor of Respondent. Since both Respondent and EPA have submitted statements which give no reason to doubt, it would be very difficult for the Court to assess a penalty in this proceeding. It is, of course, worth pointing out that this annual report requirement is a very essential part of the tools which EPA must utilize to effectively carry out its mission of protecting humans and the environment, and a failure to report is not taken lightly.

ORDER[3/]

The Complaint herein against Tridon Pool Specialists, Inc. is hereby dismissed.

Edward B. Finch
Chief Administrative Law Judge

Dated: August 20, 1985
Washington, D. C.

3/ Unless an appeal is taken pursuant to the rules of practice, 40 CFR 22.30, or the Administrator elects to review this decision on his own motion, the Accelerated Decision shall become the final order of the Administrator. See 40 CFR 22.20(b).

CERTIFICATE OF SERVICE

I hereby certify that the original of this Accelerated Decision and the Judicial file were hand-delivered to the Hearing Clerk, U. S. EPA, Headquarters, and three copies were mailed by certified mail, return receipt requested, to the Regional Hearing Clerk, U. S. EPA, Region IV, for distribution pursuant to 40 CFR 22.27(a).

Leanne B. Boisvert
Leanne B. Boisvert
Legal Staff Assistant

Dated: August 20, 1985