11/8/90

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

IN THE MATTER OF	)	
	)	
REVERE PRODUCTS CORPORATION,	)	Docket No. IF&R-V-07-90
	)	
Respondent	)	

ORDER GRANTING MOTION FOR ACCELERATED DECISION
AND SETTING FURTHER PROCEDURES

On October 12, 1990, Complainant filed a motion for accelerated decision pursuant to Section 22.20 of the EPA Rules of Practice (Rules), 40 C.F.R. §22.20. The motion seeks to have the issue of liability resolved in favor of the Complainant on the basis that the Respondent, in its answer to the complaint, admitted the violation alleged in the complaint. On October 19, 1990, the Respondent filed a response to the motion in which it did not contest the material facts pleaded therein except to correct that Tricor Direct, Inc., the corporation of which the Respondent is a division, is a corporation organized under the laws of the state of Delaware, not the state of Wisconsin, as set out in the complaint.

Since the Respondent does not contest the motion for accelerated decision in any substantive way, the motion is granted and judgment is entered in favor of the complainant on the issue of liability in this case. The allegations in the motion for accelerated decision are adopted and incorporated herein by reference, with the exception that Tricor Direct, Inc. is found to be a corporation organized under the laws of the state of Delaware, not Wisconsin. Accordingly, it is held that the Respondent failed to file the calendar year 1989 Pesticides Report for Pesticide-Producing Establishments (EPA Form 3540-16) by the deadline of March 1, 1990 and, therefore, is in violation of Section 7(c)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (FIFRA), 7 U.S.C. §136e(c)(1). The failure to file also constitutes a violation of the EPA regulations in 40 C.F.R. Subpart E, which requires that any producer operating a registered establishment report the types and amounts of pesticides it is currently producing, which it produced during the past year and which it sold or distributed during the past year.

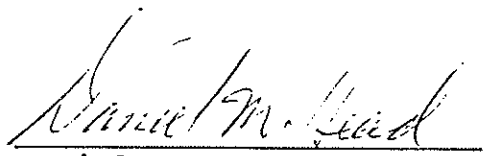
The motion for accelerated decision acknowledges that the Respondent in its responsive pleadings has placed in issue the amount of the penalty to be assessed and, as a result, there does remain an issue to be resolved by hearing in this proceeding.

Accordingly, the following procedural schedule is established to control the remainder of this case:[1]

December 14, 1990 - The parties shall complete the prehearing exchange described in the September 14, 1990 order entered herein, on the issue of the amount of the penalty.

January 4, 1990 - The parties shall file their replies to the prehearing exchange.

SO ORDERED.



Daniel M. Head
Administrative Law Judge

Dated: November 5, 1990
Washington, D.C.

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[1] The entry of this schedule renders moot the Complainant's October 24, 1990 motion for extension of time, and it is denied.

IN THE MATTER OF REVERE PRODUCTS CORPORATION, Respondent
Docket No. IF&R-V-09-90

CERTIFICATE OF SERVICE

I certify that the foregoing Order Granting Motion of Accelerated Decision and Setting Further Procedures, dated 11-8-90, was sent in the following manner to the addressees listed below:

Original by Regular Mail to:

Ms. Beverly Shorty
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5
230 South Dearborn Street
Chicago, IL 60604

Copy by Certified Mail, Return Receipt Requested to:

Counsel for Complainant:

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Maria A. Whiting for
Secretary

Dated: November 8, 1990
Washington, D.C.