

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 REGION 5**

In the Matter of:)	
)	Docket No. FIFRA-05-2024-0016
Rosen’s Inc.)	
Ottawa, Illinois)	EXPEDITED SETTLEMENT
)	AGREEMENT AND
Respondent.)	FINAL ORDER
)	

EXPEDITED SETTLEMENT AGREEMENT and FINAL ORDER

1. The U.S. Environmental Protection Agency alleges that Rosen’s Inc. (Respondent) failed to comply with Section 7(c) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), 7 U.S.C. § 136e(c), for its facility, EPA Establishment Number 32938-IL-1, located at 3236 North IL Route 23, Ottawa, Illinois 61350.

2. Section 7(c) of FIFRA, 7 U.S.C. § 136e(c), requires any producer operating a registered pesticide-producing establishment to inform EPA of the types and amounts of pesticides (and, if applicable, active ingredients used in producing pesticides): which it is producing; which it has produced during the past year; and which it has sold or distributed during the past year. In addition, § 136e(c) provides that the required information shall be kept current and submitted to the Administrator annually, as required by regulations prescribed by the Administrator.

3. 40 C.F.R. § 167.85(a) and (b) adds requirements for reporting: devices produced at registered pesticide-producing establishments; the name and address of the establishment; and an estimate of the amount of pesticide product to be produced during the current year.

4. 40 C.F.R. § 167.85(c) requires the producer to obtain, complete and submit annually a pesticide reporting form supplied by EPA. The applicable form, “*EPA Form 3540-16*,

Pesticide Report for Pesticide-Producing and Device-Producing Establishments,” requires, among other things: identification of the establishment; identification of the company; authorized signature and signature date; and specific pesticide production information. In addition, the document “*Instructions for Completing EPA Form 3540-16, Pesticide Report for Pesticide-Producing and Device-Producing Establishments Reporting Year January 1, 2021 through December 31, 2021*”, *Instructions for Completing EPA Form 3540-16, Pesticide Report for Pesticide-Producing and Device-Producing Establishments Reporting Year January 1, 2022 through December 31, 2022*” and “*Instructions for Completing EPA Form 3540-16, Pesticide Report for Pesticide-Producing and Device-Producing Establishments Reporting Year January 1, 2023 through December 31, 2023*” provides additional detail regarding information required on the forms.

5. 40 C.F.R. § 167.85(d) requires the pesticide-production reports to be filed annually on or before March 1, even if the producer has not produced any pesticidal products for that reporting year.

6. On March 1, 2022, Respondent submitted an incomplete pesticide-production report for the 2021 calendar year by failing to list the correct EPA Production Registration Number which constitutes as a major incomplete report. Incorrect EPA Product Registration Numbers were listed for Atrazine 4L-Tenkoz, N-Serve 24, Brawl II.

7. On March 1, 2023, Respondent submitted an incomplete pesticide-production report for the 2022 calendar year by failing to list the correct EPA Production Registration Number which constitutes as a major incomplete report. Incorrect EPA Product Registration Numbers were listed for Atrazine 4L-Tenkoz, N-Serve 24 and Palace II.

8. On February 29, 2024, Respondent submitted an incomplete pesticide-production

report for the 2023 calendar year by failing to list the correct EPA Production Registration Number which constitutes as a major incomplete report. Incorrect EPA Product Registration Numbers were listed for Atrazine 4L-Tenkoz, N-Serve 24 and Brawl II.

9. Respondent's three failures to comply with Section 7(c) of FIFRA and 40 C.F.R. § 167.85 constitutes 3 violations of Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L).

10. EPA and Respondent agree to settle this matter for a civil penalty of **\$900 (nine hundred dollars and zero cents)**. EPA and Respondent agree that settlement of this matter is in the public interest.

11. EPA is authorized to enter into this Expedited Settlement Agreement and Final Order (Agreement) pursuant to Section 14(a) of FIFRA, 7 U.S.C. § 136l, and 40 C.F.R. §§ 22.13(b) and 22.18(b)(2)-(3).

12. In signing this Agreement, Respondent: (a) admits that Respondent is subject to the requirements in Paragraphs 2 through 5 above; (b) admits that EPA has jurisdiction over Respondent and Respondent's conduct as alleged herein; (c) neither admits nor denies the factual allegations contained herein; (d) consents to the assessment of this penalty; and (e) waives any right to contest the allegations contained herein, and its right to appeal the proposed Final Order attached hereto.

13. Within 30 days of the effective date of this Agreement, Respondent shall pay a civil penalty of **\$900 (nine hundred dollars and zero cents)** for the FIFRA violations identified in this Agreement using any method, or combination of appropriate methods, as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions, see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.

14. When making a payment, Respondent shall:

a. Identify every payment with Respondent's name and the docket number of this
ESA, **FIFRA-05-2024-0016**,

b. Concurrently with any payment or within 24 hours of any payment,

Respondent shall serve proof of such payment to the following person(s):

Regional Hearing Clerk (E-19J)
U.S. Environmental Protection Agency, Region 5
r5hearingclerk@epa.gov

Jayna Kozlowski
Pesticides and Toxics Compliance Section (ECP-17J)
U.S. Environmental Protection Agency, Region 5
kozlowski.jayna@epa.gov

And
R5lecab@epa.gov

U.S. Environmental Protection Agency
Cincinnati Finance Center
CINWD_AcctsReceivable@epa.gov

“Proof of payment” means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent's name.

15. Payment of the civil penalty shall resolve only Respondent's liability for federal civil penalties for the violations and facts alleged herein.

16. The civil penalty is not deductible for federal tax purposes.

17. If Respondent does not timely pay the civil penalty, EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties, and the United States' enforcement expenses for the collection action. The validity, amount and

appropriateness of the civil penalties are not reviewable in a collection action.

18. EPA reserves all of its rights to take enforcement action for any other past, present, or future violations by Respondent of FIFRA, any other federal statute or regulation, or this Agreement.

19. Respondent certifies that it is complying with Section 7(c) of FIFRA, 7 U.S.C. § 136e(c), and its implementing regulations at 40 C.F.R. § 167.85.

20. Upon signing and returning this Agreement to EPA, Respondent waives any and all remedies, claims for relief and other available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this Expedited Settlement Agreement, including the opportunity for a hearing or appeal pursuant to FIFRA and 40 C.F.R. Part 22 and any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

21. Each party shall bear its own costs and fees, if any.

22. The Agreement authorized by EPA's execution of the Final Order attached hereto constitutes a final order under 40 C.F.R. Part 22.

23. This Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. § 22.31(b), is effective upon filing of the Final Order.

24. The parties consent to service of this Expedited Settlement Agreement and Final Order by e-mail at the following valid e-mail addresses: kozlowski.jayna@epa.gov (for Complainant), and TSHAFER@RIW2000.COM (for Respondent).


25. Respondent understands that the ESA will become publicly available upon filing.

IT IS SO AGREED,

FOR RESPONDENT:

Name (print): Todd Shuter

Title (print): Compliance Director

Signature: 

Date 8-20-2024

APPROVED BY EPA:

MICHAEL HARRIS

Digitally signed by MICHAEL
HARRIS
Date: 2024.09.09 13:02:12 -05'00'

Michael D. Harris
Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency
Region 5

**In the Matter of:
Rosen's Inc.**

Docket No.: FIFRA-05-2024-0016

FINAL ORDER

This Expedited Settlement Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Expedited Settlement Agreement and Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31.

IT IS SO ORDERED:

Ann L. Coyle
Regional Judicial Officer
United States Environmental Protection Agency
Region 5