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HEARINGS CLERK
EPA--REGION 10

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

DOCKET NO. FIFRA-10-2008-0148

KLEENCO PRODUCTS, INC.

**CONSENT AGREEMENT AND
FINAL ORDER**

Respondent

I. STATUTORY AUTHORITY

1.1. This Consent Agreement and Final Order ("CAFO") is issued under the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA") by Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA"), 7 U.S.C. § 136l(a).

1.2. The Administrator has delegated the authority to issue the Final Order contained in Part V of this CAFO to the Regional Administrator of EPA Region 10, who in turn has re delegated this authority to the Regional Judicial Officer.

1.3. Pursuant to Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), and in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties," 40 C.F.R. Part 22, EPA hereby issues, and Kleenco Products, Inc. ("Respondent") hereby agrees to issuance of, the Final Order contained in Part V of this CAFO.

1 **IV. CONSENT AGREEMENT**

2 4.1. For the purpose of this proceeding, Respondent admits the jurisdictional
3 allegations contained herein, but neither admits nor denies the specific factual allegations put
4 forth by EPA. Respondent waives any right to contest these allegations as well as the right to
5 appeal the accompanying Final Order. Respondent also consents that this settlement will be
6 considered prior history under FIFRA once finalized and consents to payment of the penalty as
7 stated below.

8 4.2. Respondent consents to the assessment of a civil penalty in the amount of
9 EIGHT-HUNDRED DOLLARS and no cents (\$800.00). This amount will be paid in six
10 monthly payments. Respondent consents to issuance of the Final Order set forth in Part V,
11 below, and agrees to make the first payment in the amount of ONE-HUNDRED THIRTY-
12 THREE DOLLARS and THIRTY-THREE CENTS (\$133.33) within thirty (30) days of the
13 effective date of this Final Order. Subsequent monthly payments in the amount of ONE-
14 HUNDRED THIRTY-FOUR DOLLARS and THIRTY-FOUR CENTS (\$134.34) are due for
15 five months following the initial payment.

16 4.3. Payment under this CAFO shall be made by cashier's check or certified check,
17 payable to the order of "Treasurer, United States of America" and delivered to the following
18 address:

19 US Bank - USEPA - Region 10
20 Fines and Penalties
21 Cincinnati Finance Center
22 PO Box 979077
23 St. Louis, MO 63197-9000

24 Respondent shall note on the check the title and docket number of this action.
25

1 4.4. Respondent shall serve photocopies of the checks described in Paragraph 4.3,
2 above, on the Regional Hearing Clerk and the EPA Region 10 Office of Compliance and
3 Enforcement at the following addresses:

4 Regional Hearing Clerk
5 U.S. Environmental Protection Agency Region 10
6 Office of Regional Counsel, ORC-158
7 1200 Sixth Avenue, Suite 900
8 Seattle, WA 98101

9 Attn: Erin Halbert
10 U.S. Environmental Protection Agency Region 10
11 Pesticides and Toxics Unit, OCE-084
12 1200 Sixth Avenue, Suite 900
13 Seattle, WA 98101

14 4.5. Should Respondent fail to pay the penalty assessed herein in full by its due date,
15 the entire unpaid balance of penalty and accrued interest shall become immediately due and
16 owing. Should such a failure to pay occur, Respondent may be subject to a civil action under
17 Section 14(a)(5) of FIFRA, 7 U.S.C. § 1361(a)(5), to collect any unpaid penalties, together with
18 interest, handling charges, and nonpayment penalties, as set forth below.

19 4.6. Should Respondent fail to pay any portion of the penalty assessed herein in full by
20 its due date, Respondent shall also be responsible for payment of the following amounts:

- 21 a. Interest: Any unpaid portion of the assessed penalty shall bear interest at the rate
22 established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1)
23 from the effective date of the accompanying Final Order, provided, however, that
24 no interest shall be payable on any portion of the assessed penalty that is paid
25 within 30 days of the effective date of the Final Order.
- b. Handling Charge: Pursuant to 31 U.S.C. § 3717(e)(1), a monthly handling charge
of \$15 shall be paid if any portion of the assessed penalty is more than 30 days
past due.

1 c. Nonpayment Penalty: Pursuant to 31 U.S.C. § 3717(e)(2), a nonpayment penalty
2 of 6% per annum shall be paid on any portion of the assessed penalty that is more
3 than 90 days past due, which nonpayment penalty shall be calculated as of the
4 date the underlying penalty first becomes past due.

5 4.7. The penalty described in Paragraph 4.2, above, including any additional costs
6 incurred under Paragraph 4.6, above, represents an administrative civil penalty assessed by EPA
7 and shall not be deductible for purposes of federal taxes.

8 4.8. The undersigned representative of Respondent certifies that he is fully authorized
9 to enter into the terms and conditions of this CAFO and to bind Respondent to this document.

10 4.9. Respondent shall bear its own costs and attorneys fees in connection with this
11 matter.

12 4.10. The provisions of this CAFO shall bind Respondent and its agents, servants,
13 employees, successors, and assigns.

14 4.11. The above provisions are STIPULATED AND AGREED upon by Respondent
15 and EPA.

16 DATED:

17 9/18/08

KLEENCO PRODUCTS, INC.:

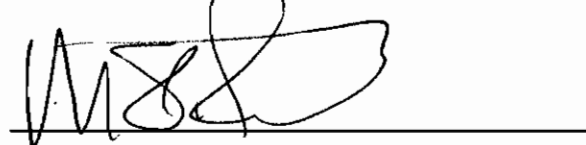
18 

19 DALE R. SILBAUGH
President
For Respondent

20 DATED:

21 10/1/08

22 U.S. ENVIRONMENTAL PROTECTION AGENCY:

23 

24 MERCER ST. PETER
Assistant Regional Counsel
For Complainant

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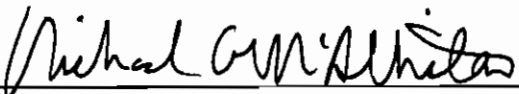
V. FINAL ORDER

5.1. The terms of the foregoing Parts I-IV are hereby ratified and incorporated by reference into this Final Order. Respondent is hereby ordered to comply with the foregoing terms of the settlement.

5.2. This CAFO shall constitute a settlement by EPA of all claims for civil penalties pursuant to FIFRA for the violations alleged above. In accordance with 40 C.F.R. § 22.31(a), nothing in this CAFO shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This CAFO does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of FIFRA and regulations promulgated thereunder.

5.3. This Final Order shall become effective upon filing.

SO ORDERED this 16th day of October, 2008.



RICHARD G. McALLISTER
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 10

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGEEMENT AND FINAL ORDER** in **In the Matter of: Kleenco Products, Inc., DOCKET NO.: FIFRA-10-2008-0148** as filed with the Regional Hearing Clerk on October 16, 2008.

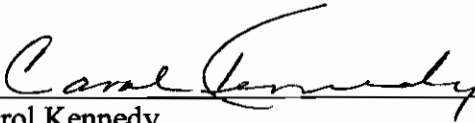
On October 16, 2008 the undersigned certifies that a true and correct copy of the document was delivered to:

Mercer St. Peter, Esquire
U.S. Environmental Protection Agency
1200 Sixth Avenue, ORC-158
Seattle, Washington 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt on October 16, 2008 to:

Dale R. Silbaugh, President
Kleenco Products, Inc.
P.O. Box 1786
Bellevue, WA 98009

DATED this 16th day of October 2008.



Carol Kennedy
Regional Hearing Clerk
EPA Region 10