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**U. S. ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 RENNER BOULEVARD
LENEXA, KANSAS 66219**

BEFORE THE ADMINISTRATOR

In the Matter of:)
)
Reckitt Benckiser LLC,) **Docket No. FIFRA-07-2017-0012**
)
Respondent)
_____)

CONSENT AGREEMENT AND FINAL ORDER

Preliminary Statement

The U.S. Environmental Protection Agency ("EPA"), Region 7 and Reckitt Benckiser LLC ("Respondent") have agreed to a settlement of this action before filing of a Complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. §§ 22.13(b) and 22.18(b)(2).

Jurisdiction

1. This proceeding is an administrative action for the assessment of civil penalties instituted pursuant to Sections 7 and 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 136f.
2. This Consent Agreement and Final Order serves as notice that EPA has reason to believe that Respondent has violated Section 7(c) of FIFRA, 7 U.S.C. § 136e, specifically 7 U.S.C. § 136e(c)(1), which constitutes a violation of 7 U.S.C. § 136j(a)(2)(L).

Parties

3. Complainant, by delegation from the Administrator of EPA and the Regional Administrator, EPA, Region 7, is the Director of the Water, Wetlands and Pesticides Division, EPA, Region 7.
4. Respondent is a producer and distributor of pesticides with its principal place of business at 399 Interpace Parkway, Parsippany, New Jersey 07054.

Statutory and Regulatory Background

5. Congress enacted FIFRA in 1947 and amended it in 1972 and in 1996. The general purpose of FIFRA is to provide the basis for regulation, sale, distribution and use of pesticides in the United States. 7 U.S.C. 136 *et. seq.*

6. Section 2(t) of FIFRA, 7 U.S.C. § 136(t), defines the term “pest” to mean (1) any insect, rodent, nematode, fungus, weed, or (2) any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism (except viruses, bacteria, or other micro-organism on or in living man or other living animals) which the Administrator declares to be a pest under Section 25(c)(1).

7. Section 2(u) of FIFRA, 7 U.S.C. § 136(u), defines the term “pesticide” to mean any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.

8. Section 2(s) of FIFRA, 7 U.S.C. § 136(s), defines the term “person” to mean any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.

9. The term “produce” is defined by Section 2(w) of FIFRA, 7 U.S.C. § 136(w), and by 40 C.F.R. § 167.3 as meaning to manufacture, prepare, propagate, compound, or process any pesticide or device or active ingredient or to package, repack, label, relabel, or otherwise change the container of any pesticide or device.

10. The term “producer” is defined by Section 2(w) of FIFRA, 7 U.S.C. § 136(w), and by 40 C.F.R. § 167.3 as any person who manufactures, prepares, compounds, propagates or processes any pesticide or device or active ingredient used in producing a pesticide (such actions include packaging, repackaging, labeling, and relabeling a pesticide).

11. Section 7(c)(1) of FIFRA, 7 U.S.C. § 136e(c)(1), and 40 C.F.R. § 167.85 provide that each producer operating an establishment registered under Section 7(a) of FIFRA, 7 U.S.C. § 136e(a), is required to complete and submit an initial pesticide production report to EPA no later than thirty (30) days after the first registration of each establishment the producer operates.

12. Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L), makes it unlawful for any person who is a producer to violate any provision of Section 7 of FIFRA.

13. Section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1), authorizes the EPA Administrator to assess a civil penalty of not more than \$5,000 for each offense. The EPA has adjusted this figure upward for inflation pursuant to the 2008 Civil Monetary Penalty Inflation Adjustment Rule and the Federal Civil Penalties Inflation Adjustment Improvements Act of 2015, which amend 40 C.F.R. Part 19, so that penalties of up to \$7,500 per day are now authorized for violations that occur from January 12, 2009, through November 2, 2015, and penalties of up to \$19,057 are authorized for violations that occur after November 2, 2015.

EPA's Factual Allegations

14. Respondent is a limited liability company authorized to conduct business in the state of Missouri.

15. Respondent produces cleaning products, such as surface disinfectant sprays, wipes, and cleaning soaps.

16. Respondent owns, operates, controls and/or is otherwise responsible for a facility located at 2001 Premier Parkway South, Saint Peters, Missouri 63303 (hereinafter "Facility"). On or about August 8, 2016, Respondent registered the Facility under Establishment Number 777-MO-2.

17. On or about April 10, 2017, Respondent submitted its initial pesticide production report for the Facility.

Allegations of Violation

Count 1: Failure to Submit Initial Pesticide Production Report

18. Complainant hereby incorporates the allegations contained in Paragraphs 14 through 17 above, as if fully set forth herein.

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

20. Respondent is a "producer" as defined by Section 2(w) of FIFRA, 7 U.S.C. § 136(w), and, as a producer, Respondent is subject to the requirements of Section 7 of FIFRA, 7 U.S.C. § 136e, and the applicable regulations promulgated pursuant thereto contained in 40 C.F.R. Part 167.

21. Respondent failed to complete and submit an initial pesticide production report for the Facility within thirty (30) days of August 8, 2016, as required by Section 7(c)(1) of FIFRA, 7 U.S.C. § 136e(c)(1), and 40 C.F.R. § 167.85.

22. Consequently, Respondent's failure to complete and submit an initial pesticide production report within thirty (30) days after it is registered constitutes a violation of Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L), that is subject to a penalty under Section 14(a)(1) of FIFRA, 7 USC 136l(a)(1).

CONSENT AGREEMENT

23. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:

- (a) Neither admits nor denies the specific factual allegations stated herein;

- (b) consents to the assessment of a civil penalty, as stated herein;
- (c) consents to the issuance of any specified compliance or corrective action order;
- (d) consents to any conditions specified herein;
- (e) consents to any stated Permit Action;
- (f) waives any right to contest the allegations set forth herein; and
- (g) waives its rights to appeal the Final Order accompanying this Consent Agreement.

24. Respondent consents to the issuance of this Consent Agreement and Final Order and consents for the purposes of settlement to the payment of the civil penalty specified herein.

25. Respondent and EPA agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorneys' fees.

Penalty Payment

26. Respondent agrees that, in settlement of the claim alleged herein, Respondent shall pay a civil penalty of Six Thousand Four Hundred Thirty-Five U.S. Dollars and Ninety Cents (\$6,435.90).

27. Respondent shall pay the penalty within thirty (30) days of the effective date of the Final Order. Such payment shall identify Respondent by name and docket number and shall be by certified or cashier's check made payable to the "United States Treasury" and sent to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

or by alternate payment method described at <http://www.epa.gov/financial/makepayment>.

28. A copy of the check or other information confirming payment shall simultaneously be sent to the following:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219; and

Nacenté Seabury, Attorney
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219.

29. Respondent understands that its failure to timely pay any portion of the civil penalty may result in the commencement of a civil action in Federal District Court to recover the full remaining balance, along with penalties and accumulated interest. In such case, interest shall begin to accrue on a civil penalty from the date of delinquency until such civil or stipulated penalty and any accrued interest are paid in full. 31 C.F.R. § 901.9(b)(1). Interest will be assessed at a rate of the United States Treasury Tax and loan rates in accordance with 31 U.S.C. § 3717. Additionally, a charge will be assessed to cover the costs of debt collection including processing and handling costs, and a non-payment penalty charge of six (6) percent per year compounded annually will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. 31 U.S.C. § 3717(e)(2).

30. Respondent consents to the issuance of this Consent Agreement and Final Order and consents for the purposes of settlement to the payment of the civil penalty.

Effect of Settlement and Reservation of Rights

31. Full payment of the penalty proposed in this Consent Agreement shall only resolve Respondent's liability for federal civil penalties for the violations alleged herein. Complainant reserves the right to take any enforcement action with respect to any other violations of FIFRA or any other applicable law.

32. The effect of settlement described in the immediately preceding paragraph is conditioned upon the accuracy of Respondent's representations to EPA, as memorialized in the paragraph directly below.

33. Respondent certifies by the signing of this Consent Agreement that it is presently in compliance with all requirements of FIFRA and its implementing regulations.

34. Full payment of the penalty proposed in this Consent Agreement shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Consent Agreement and Final Order does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of FIFRA and regulations promulgated thereunder.

35. Complainant reserves the right enforce the terms and conditions of this Consent Agreement and Final Order.

General Provisions

36. By signing this Consent Agreement, the undersigned representative of

Respondent certifies that he or she is fully authorized to execute and enter into the terms and conditions of this Consent Agreement and has the legal capacity to bind the party he or she represents to this Consent Agreement.

37. This Consent Agreement shall not dispose of the proceeding without a final order from the Regional Judicial Officer or Regional Administrator ratifying the terms of this Consent Agreement. This Consent Agreement and Final Order shall be effective upon the filing of the Final Order by the Regional Hearing Clerk for EPA, Region 7. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

38. The penalty specified herein shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal, State and local taxes.

39. This Consent Agreement and Final Order shall apply to and be binding upon Respondent and Respondent's agents, successors and/or assigns. Respondent shall ensure that all contractors, employees, consultants, firms, or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this Consent Agreement and Final Order.

RESPONDENT
RECKITT BENCKISER LLC

Date: 8.4.2017

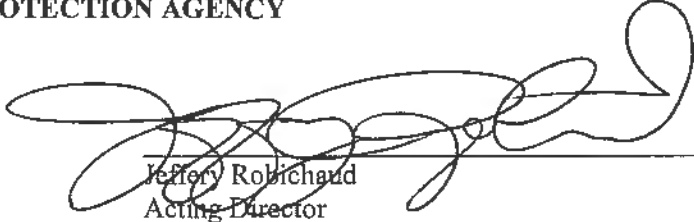
By: 

DAVID L Campbell
Print Name

Vice President
Title

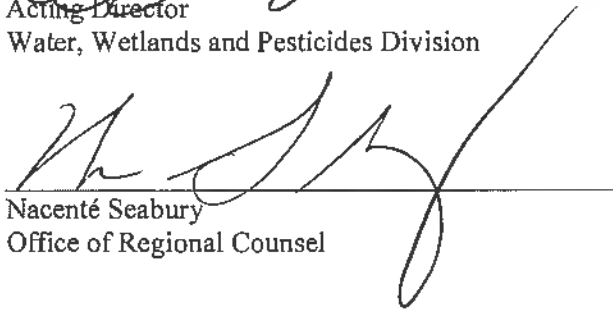
COMPLAINANT
U. S. ENVIRONMENTAL PROTECTION AGENCY

Date: 8/22/17



Jeffrey Robichaud
Acting Director
Water, Wetlands and Pesticides Division

Date: 8/22/17



Nacenté Seabury
Office of Regional Counsel

FINAL ORDER

Pursuant to Section 7 of FIFRA, 7 U.S.C. § 136l(a), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits, 40 C.F.R. Part 22, the foregoing Consent Agreement resolving this matter is hereby ratified and incorporated by reference into this Final Order.

Respondent is ORDERED to comply with all of the terms of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(b), the effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

IT IS SO ORDERED.

Karina Borromeo
Karina Borromeo
Regional Judicial Officer

Aug. 29, 2017
Date

CERTIFICATE OF SERVICE

I certify that on the date below, I hand delivered the original and one true copy of this Consent Agreement and Final Order to the Regional Hearing Clerk, United States Environmental Protection Agency, 11201 Renner Boulevard, Lenexa, Kansas 66219. I further certify that on the date below I sent by certified mail, return receipt requested, a true and correct copy of the original Consent Agreement and Final Order to the following:

Hal Ambuter
Registered Agent
Reckitt Benckiser LLC
399 Interpace Parkway
P.O. Box 225
Parsippany, New Jersey 07054

Dated this 30 day of August, 2017.

Lisa Haugen
Name