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7 UNITED STATES
8 ENVIRONMENTAL PROTECTION AGENCY
9 REGION IX

10 In the Matter of:) Docket No. FIFRA-9-2007-0007
11)
12 The Clorox Company,) COMPLAINT AND NOTICE OF
13) OPPORTUNITY FOR HEARING
14 Respondent.)

15 I. AUTHORITY AND PARTIES

16 1. This is a civil administrative action brought pursuant to Section 14(a) of the Federal
17 Insecticide, Fungicide, and Rodenticide Act ("FIFRA"), 7 U.S.C. § 136l(a), for the assessment of
18 a civil administrative penalty against The Clorox Company ("Respondent") for: (1) the sale
19 and/or distribution of an unregistered pesticide in violation of Section 12(a)(1)(A) of FIFRA, 7
20 U.S.C. § 136j(a)(1)(A); and (2) the sale and/or distribution of a misbranded pesticide in violation
21 of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

22 2. Complainant is the Director of the Communities and Ecosystems Division, United
23 States Environmental Protection Agency ("EPA"), Region IX. The Administrator of EPA
24 delegated to the Regional Administrator of Region IX the authority to bring this action under
25 FIFRA by EPA Delegation Order Number 5-14, dated May 11, 1994. The Regional
26 Administrator of Region IX further delegated the authority to bring this action under FIFRA to
27 the Director of the Communities and Ecosystems Division by EPA Regional Order Number
28 1255.08 CHG1, dated June 9, 2005.

1 3. Respondent is The Clorox Company, a corporation headquartered in Oakland,
2 California.

3 II. GENERAL ALLEGATIONS

4 4. Respondent is a corporation and therefore fits within the definition of "person" as that
5 term is defined by Section 2(s) of FIFRA, 7 U.S.C. § 136(s). As such, Respondent is subject to
6 FIFRA and the implementing regulations promulgated thereunder.

7 5. From February 2005 through September 2006, Respondent "distributed or sold" as
8 those terms are defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), sodium hypochlorite
9 solution meant for Asian export ("Export Clorox Bleach") to persons in the United States.

10 6. Export Clorox Bleach is a disinfectant that is intended to prevent, destroy, repel and/or
11 mitigate bacteria and other microorganisms that are deleterious to man or the environment.

12 7. Bacteria and microorganisms that are deleterious to man or the environment are
13 "pests" as that term is defined in Sections 2(t) and 2(cc) of FIFRA, 7 U.S.C. § 136(t) and §
14 136(cc), and 40 C.F.R. § 152.5(d).

15 8. A "pesticide" means "any substance or mixture of substances intended for preventing,
16 destroying, repelling, or mitigating any pest." 7 U.S.C. § 136(u) and 40 C.F.R. § 152.3.

17 9. Export Clorox Bleach is a "pesticide" as that term is defined in Section 2(u) of
18 FIFRA, 7 U.S.C. § 136(u) and 40 C.F.R. § 152.3.

19 10. Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), makes it unlawful for any
20 person to distribute or sell to any person any pesticide that is not registered under Section 3 of
21 FIFRA, 7 U.S.C. § 136a.

22 11. At all times relevant to this Complaint (including all the counts to follow), Export
23 Clorox Bleach was not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

24 12. Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), makes it unlawful for any
25 person to distribute or sell to any person any pesticide that is adulterated or misbranded.

26 13. Section 2(q)(1)(H) of FIFRA, 7 U.S.C. § 136(q)(1)(H), provides that a pesticide is
27 misbranded if, in the case of a pesticide not registered in accordance with Section 3 of this Act
28 and intended for export, the label does not contain, in words prominently placed thereon with

1 such conspicuousness (as compared with other words, statements, designs, or graphic matter in
2 the labeling), as to render it likely to be noted by the ordinary individual under customary
3 conditions of purchase and use, the following: "Not Registered for Use in the United States of
4 America".

5 III. ALLEGED VIOLATIONS

6 COUNT 1: Sale and/or distribution of an unregistered pesticide, 7 U.S.C. § 136j(a)(1)(A).

7 14. Paragraphs 1 through 13 above are hereby incorporated in this Count 1 by reference
8 as if the same were set forth herein in full.

9 15. On or about February 11, 2005, Respondent "distributed or sold," as those terms are
10 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Export Clorox Bleach to
11 the Amity Foundation in Los Angeles, California.

12 16. By distributing or selling the unregistered pesticide Export Clorox Bleach on or about
13 February 11, 2005, Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

14 COUNT 2: Sale and/or distribution of a misbranded pesticide, 7 U.S.C. § 136j(a)(1)(E).

15 17. Paragraphs 1 through 13 above are hereby incorporated in this Count 2 by reference
16 as if the same were set forth herein in full.

17 18. On or about February 11, 2005, Respondent "distributed or sold," as those terms are
18 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Export Clorox Bleach to
19 the Amity Foundation in Los Angeles, California.

20 19. The labeling accompanying the pesticide Export Clorox Bleach that Respondent sold
21 or distributed on February 11, 2005 failed to contain prominently placed words conspicuously
22 stating the following: "Not Registered for Use in the United States of America".

23 20. The absence of this required statement on the labeling resulted in the pesticide Export
24 Clorox Bleach being "misbranded" as that term is defined at Section 2(q)(1)(A) of FIFRA, 7
25 U.S.C. § 136(q)(1)(A).

26 21. By distributing or selling the misbranded pesticide Export Clorox Bleach on February
27 11, 2005, Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

1 COUNT 3: Sale and/or distribution of an unregistered pesticide, 7 U.S.C. § 136j(a)(1)(A).

2 22. Paragraphs 1 through 13 above are hereby incorporated in this Count 3 by reference
3 as if the same were set forth herein in full.

4 23. On or about February 11, 2005, Respondent "distributed or sold," as those terms are
5 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Export Clorox Bleach to
6 Shelter Partnerships in Los Angeles, California.

7 24. By distributing or selling the unregistered pesticide Export Clorox Bleach on or about
8 February 11, 2005, Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

9 COUNT 4: Sale and/or distribution of a misbranded pesticide, 7 U.S.C. § 136j(a)(1)(E).

10 25. Paragraphs 1 through 13 above are hereby incorporated in this Count 4 by reference
11 as if the same were set forth herein in full.

12 26. On or about February 11, 2005, Respondent "distributed or sold," as those terms are
13 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Export Clorox Bleach to
14 Shelter Partnerships in Los Angeles, California.

15 27. The labeling accompanying the pesticide Export Clorox Bleach that Respondent sold
16 or distributed on February 11, 2005 failed to contain prominently placed words conspicuously
17 stating the following: "Not Registered for Use in the United States of America".

18 28. The absence of this required statement on the labeling resulted in the pesticide Export
19 Clorox Bleach being "misbranded" as that term is defined at Section 2(q)(1)(A) of FIFRA, 7
20 U.S.C. § 136(q)(1)(A).

21 29. By distributing or selling the misbranded pesticide Export Clorox Bleach on February
22 11, 2005, Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

23 COUNT 5: Sale and/or distribution of an unregistered pesticide, 7 U.S.C. § 136j(a)(1)(A).

24 30. Paragraphs 1 through 13 above are hereby incorporated in this Count 5 by reference
25 as if the same were set forth herein in full.

26 31. On or about February 15, 2005, Respondent "distributed or sold," as those terms are
27 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Export Clorox Bleach to
28 Touch of Kindness in Los Angeles, California.

1 32. By distributing or selling the unregistered pesticide Export Clorox Bleach on or about
2 February 15, 2005, Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

3 **COUNT 6: Sale and/or distribution of a misbranded pesticide, 7 U.S.C. § 136j(a)(1)(E).**

4 33. Paragraphs 1 through 13 above are hereby incorporated in this Count 6 by reference
5 as if the same were set forth herein in full.

6 34. On or about February 15, 2005, Respondent "distributed or sold," as those terms are
7 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Export Clorox Bleach to
8 Touch of Kindness in Los Angeles, California.

9 35. The labeling accompanying the pesticide Export Clorox Bleach that Respondent sold
10 or distributed on February 15, 2005 failed to contain prominently placed words conspicuously
11 stating the following: "Not Registered for Use in the United States of America".

12 36. The absence of this required statement on the labeling resulted in the pesticide Export
13 Clorox Bleach being "misbranded" as that term is defined at Section 2(q)(1)(A) of FIFRA, 7
14 U.S.C. § 136(q)(1)(A).

15 37. By distributing or selling the misbranded pesticide Export Clorox Bleach on February
16 15, 2005, Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

17 **COUNT 7: Sale and/or distribution of an unregistered pesticide, 7 U.S.C. § 136j(a)(1)(A).**

18 38. Paragraphs 1 through 13 above are hereby incorporated in this Count 7 by reference
19 as if the same were set forth herein in full.

20 39. On or about April 11, 2005, Respondent "distributed or sold," as those terms are
21 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Export Clorox Bleach to
22 the Food Bank in Los Angeles, California.

23 40. By distributing or selling the unregistered pesticide Export Clorox Bleach on or about
24 April 11, 2005, Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

25 **COUNT 8: Sale and/or distribution of a misbranded pesticide, 7 U.S.C. § 136j(a)(1)(E).**

26 41. Paragraphs 1 through 13 above are hereby incorporated in this Count 8 by reference
27 as if the same were set forth herein in full.

28 42. On or about April 11, 2005, Respondent "distributed or sold," as those terms are

1 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Export Clorox Bleach to
2 the Food Bank in Los Angeles, California.

3 43. The labeling accompanying the pesticide Export Clorox Bleach that Respondent sold
4 or distributed on April 11, 2005 failed to contain prominently placed words conspicuously stating
5 the following: "Not Registered for Use in the United States of America".

6 44. The absence of this required statement on the labeling resulted in the pesticide Export
7 Clorox Bleach being "misbranded" as that term is defined at Section 2(q)(1)(A) of FIFRA, 7
8 U.S.C. § 136(q)(1)(A).

9 45. By distributing or selling the misbranded pesticide Export Clorox Bleach on April
10 11, 2005, Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

11 COUNT 9: Sale and/or distribution of an unregistered pesticide, 7 U.S.C. § 136j(a)(1)(A).

12 46. Paragraphs 1 through 13 above are hereby incorporated in this Count 9 by reference
13 as if the same were set forth herein in full.

14 47. On or about April 27, 2005, Respondent "distributed or sold," as those terms are
15 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Export Clorox Bleach to
16 the Food Bank in Los Angeles, California.

17 48. By distributing or selling the unregistered pesticide Export Clorox Bleach on or about
18 April 27, 2005, Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

19 COUNT 10: Sale and/or distribution of a misbranded pesticide, 7 U.S.C. § 136j(a)(1)(E).

20 49. Paragraphs 1 through 13 above are hereby incorporated in this Count 10 by reference
21 as if the same were set forth herein in full.

22 50. On or about April 27, 2005, Respondent "distributed or sold," as those terms are
23 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Export Clorox Bleach to
24 the Food Bank in Los Angeles, California.

25 51. The labeling accompanying the pesticide Export Clorox Bleach that Respondent sold
26 or distributed on April 27, 2005 failed to contain prominently placed words conspicuously stating
27 the following: "Not Registered for Use in the United States of America".

28 52. The absence of this required statement on the labeling resulted in the pesticide Export

1 Clorox Bleach being "misbranded" as that term is defined at Section 2(q)(1)(A) of FIFRA, 7
2 U.S.C. § 136(q)(1)(A).

3 53. By distributing or selling the misbranded pesticide Export Clorox Bleach on April
4 27, 2005, Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

5 COUNT 11: Sale and/or distribution of an unregistered pesticide, 7 U.S.C. § 136j(a)(1)(A).

6 54. Paragraphs 1 through 13 above are hereby incorporated in this Count 11 by reference
7 as if the same were set forth herein in full.

8 55. On or about April 27, 2005, Respondent "distributed or sold," as those terms are
9 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Export Clorox Bleach to
10 the Greater New Light Baptist Church in Los Angeles, California.

11 56. By distributing or selling the unregistered pesticide Export Clorox Bleach on or about
12 April 27, 2005, Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

13 COUNT 12: Sale and/or distribution of a misbranded pesticide, 7 U.S.C. § 136j(a)(1)(E).

14 57. Paragraphs 1 through 13 above are hereby incorporated in this Count 12 by reference
15 as if the same were set forth herein in full.

16 58. On or about April 27, 2005, Respondent "distributed or sold," as those terms are
17 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Export Clorox Bleach to
18 the Greater New Light Baptist Church in Los Angeles, California.

19 59. The labeling accompanying the pesticide Export Clorox Bleach that Respondent sold
20 or distributed on April 27, 2005 failed to contain prominently placed words conspicuously stating
21 the following: "Not Registered for Use in the United States of America".

22 60. The absence of this required statement on the labeling resulted in the pesticide Export
23 Clorox Bleach being "misbranded" as that term is defined at Section 2(q)(1)(A) of FIFRA, 7
24 U.S.C. § 136(q)(1)(A).

25 61. By distributing or selling the misbranded pesticide Export Clorox Bleach on April
26 27, 2005, Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

1 COUNT 13: Sale and/or distribution of an unregistered pesticide, 7 U.S.C. § 136j(a)(1)(A).

2 62. Paragraphs 1 through 13 above are hereby incorporated in this Count 13 by reference
3 as if the same were set forth herein in full.

4 63. On or about May 5, 2005, Respondent "distributed or sold," as those terms are
5 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Export Clorox Bleach to
6 the Amity Foundation in Los Angeles, California.

7 64. By distributing or selling the unregistered pesticide Export Clorox Bleach on or about
8 May 5, 2005, Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

9 COUNT 14: Sale and/or distribution of a misbranded pesticide, 7 U.S.C. § 136j(a)(1)(E).

10 65. Paragraphs 1 through 13 above are hereby incorporated in this Count 14 by reference
11 as if the same were set forth herein in full.

12 66. On or about May 5, 2005, Respondent "distributed or sold," as those terms are
13 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Export Clorox Bleach to
14 the Amity Foundation in Los Angeles, California.

15 67. The labeling accompanying the pesticide Export Clorox Bleach that Respondent sold
16 or distributed on May 5, 2005 failed to contain prominently placed words conspicuously stating
17 the following: "Not Registered for Use in the United States of America".

18 68. The absence of this required statement on the labeling resulted in the pesticide Export
19 Clorox Bleach being "misbranded" as that term is defined at Section 2(q)(1)(A) of FIFRA, 7
20 U.S.C. § 136(q)(1)(A).

21 69. By distributing or selling the misbranded pesticide Export Clorox Bleach on May 5,
22 2005, Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

23 COUNT 15: Sale and/or distribution of an unregistered pesticide, 7 U.S.C. § 136j(a)(1)(A).

24 70. Paragraphs 1 through 13 above are hereby incorporated in this Count 15 by reference
25 as if the same were set forth herein in full.

26 71. On or about April 28, 2005, Respondent "distributed or sold," as those terms are
27 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Export Clorox Bleach to
28 the Amity Foundation in Los Angeles, California.

1 72. By distributing or selling the unregistered pesticide Export Clorox Bleach on or about
2 April 28, 2005, Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

3 COUNT 16: Sale and/or distribution of a misbranded pesticide, 7 U.S.C. § 136j(a)(1)(E).

4 73. Paragraphs 1 through 13 above are hereby incorporated in this Count 16 by reference
5 as if the same were set forth herein in full.

6 74. On or about April 28, 2005, Respondent “distributed or sold,” as those terms are
7 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Export Clorox Bleach to
8 the Amity Foundation in Los Angeles, California.

9 75. The labeling accompanying the pesticide Export Clorox Bleach that Respondent sold
10 or distributed on April 28, 2005 failed to contain prominently placed words conspicuously stating
11 the following: “Not Registered for Use in the United States of America”.

12 76. The absence of this required statement on the labeling resulted in the pesticide Export
13 Clorox Bleach being “misbranded” as that term is defined at Section 2(q)(1)(A) of FIFRA, 7
14 U.S.C. § 136(q)(1)(A).

15 77. By distributing or selling the misbranded pesticide Export Clorox Bleach on April
16 28, 2005, Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

17 COUNT 17: Sale and/or distribution of an unregistered pesticide, 7 U.S.C. § 136j(a)(1)(A).

18 78. Paragraphs 1 through 13 above are hereby incorporated in this Count 17 by reference
19 as if the same were set forth herein in full.

20 79. On or about May 12, 2005, Respondent “distributed or sold,” as those terms are
21 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Export Clorox Bleach to
22 Shelter Partnerships in Los Angeles, California.

23 80. By distributing or selling the unregistered pesticide Export Clorox Bleach on or about
24 May 12, 2005, Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

25 COUNT 18: Sale and/or distribution of a misbranded pesticide, 7 U.S.C. § 136j(a)(1)(E).

26 81. Paragraphs 1 through 13 above are hereby incorporated in this Count 18 by reference
27 as if the same were set forth herein in full.

1 82. On or about May 12, 2005, Respondent “distributed or sold,” as those terms are
2 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Export Clorox Bleach to
3 Shelter Partnerships in Los Angeles, California.

4 83. The labeling accompanying the pesticide Export Clorox Bleach that Respondent sold
5 or distributed on May 12, 2005 failed to contain prominently placed words conspicuously stating
6 the following: “Not Registered for Use in the United States of America”.

7 84. The absence of this required statement on the labeling resulted in the pesticide Export
8 Clorox Bleach being “misbranded” as that term is defined at Section 2(q)(1)(A) of FIFRA, 7
9 U.S.C. § 136(q)(1)(A).

10 85. By distributing or selling the misbranded pesticide Export Clorox Bleach on May 12,
11 2005, Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

12 COUNT 19: Sale and/or distribution of an unregistered pesticide, 7 U.S.C. § 136j(a)(1)(A).

13 86. Paragraphs 1 through 13 above are hereby incorporated in this Count 19 by reference
14 as if the same were set forth herein in full.

15 87. On or about June 27, 2005, Respondent “distributed or sold,” as those terms are
16 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Export Clorox Bleach to
17 Operation Reach in Los Angeles, California.

18 88. By distributing or selling the unregistered pesticide Export Clorox Bleach on or about
19 June 27, 2005, Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

20 COUNT 20: Sale and/or distribution of a misbranded pesticide, 7 U.S.C. § 136j(a)(1)(E).

21 89. Paragraphs 1 through 13 above are hereby incorporated in this Count 20 by reference
22 as if the same were set forth herein in full.

23 90. On or about June 27, 2005, Respondent “distributed or sold,” as those terms are
24 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Export Clorox Bleach to
25 Operation Reach in Los Angeles, California.

26 91. The labeling accompanying the pesticide Export Clorox Bleach that Respondent sold
27 or distributed on June 27, 2005 failed to contain prominently placed words conspicuously stating
28 the following: “Not Registered for Use in the United States of America”.

1 92. The absence of this required statement on the labeling resulted in the pesticide Export
2 Clorox Bleach being "misbranded" as that term is defined at Section 2(q)(1)(A) of FIFRA, 7
3 U.S.C. § 136(q)(1)(A).

4 93. By distributing or selling the misbranded pesticide Export Clorox Bleach on June 27,
5 2005, Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

6 COUNT 21: Sale and/or distribution of an unregistered pesticide, 7 U.S.C. § 136j(a)(1)(A).

7 94. Paragraphs 1 through 13 above are hereby incorporated in this Count 21 by reference
8 as if the same were set forth herein in full.

9 95. On or about July 1, 2005, Respondent "distributed or sold," as those terms are
10 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Export Clorox Bleach to
11 Shelter Partnerships in Los Angeles, California.

12 96. By distributing or selling the unregistered pesticide Export Clorox Bleach on or about
13 July 1, 2005, Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

14 COUNT 22: Sale and/or distribution of a misbranded pesticide, 7 U.S.C. § 136j(a)(1)(E).

15 97. Paragraphs 1 through 13 above are hereby incorporated in this Count 22 by reference
16 as if the same were set forth herein in full.

17 98. On or about July 1, 2005, Respondent "distributed or sold," as those terms are
18 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Export Clorox Bleach to
19 Shelter Partnerships in Los Angeles, California.

20 99. The labeling accompanying the pesticide Export Clorox Bleach that Respondent sold
21 or distributed on July 1, 2005 failed to contain prominently placed words conspicuously stating
22 the following: "Not Registered for Use in the United States of America".

23 100. The absence of this required statement on the labeling resulted in the pesticide
24 Export Clorox Bleach being "misbranded" as that term is defined at Section 2(q)(1)(A) of
25 FIFRA, 7 U.S.C. § 136(q)(1)(A).

26 101. By distributing or selling the misbranded pesticide Export Clorox Bleach on July 1,
27
28

1 2005, Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

2 COUNT 23: Sale and/or distribution of an unregistered pesticide, 7 U.S.C. § 136j(a)(1)(A).

3 102. Paragraphs 1 through 13 above are hereby incorporated in this Count 23 by
4 reference as if the same were set forth herein in full.

5 103. On or about August 15, 2005, Respondent “distributed or sold,” as those terms are
6 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Export Clorox Bleach to
7 Operation Reach in Los Angeles, California.

8 104. By distributing or selling the unregistered pesticide Export Clorox Bleach on or
9 about August 15, 2005, Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. §
10 136j(a)(1)(A).

11 COUNT 24: Sale and/or distribution of a misbranded pesticide, 7 U.S.C. § 136j(a)(1)(E).

12 105. Paragraphs 1 through 13 above are hereby incorporated in this Count 24 by
13 reference as if the same were set forth herein in full.

14 106. On or about August 15, 2005, Respondent “distributed or sold,” as those terms are
15 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Export Clorox Bleach to
16 Operation Reach in Los Angeles, California.

17 107. The labeling accompanying the pesticide Export Clorox Bleach that Respondent
18 sold or distributed on August 15, 2005 failed to contain prominently placed words conspicuously
19 stating the following: “Not Registered for Use in the United States of America”.

20 108. The absence of this required statement on the labeling resulted in the pesticide
21 Export Clorox Bleach being “misbranded” as that term is defined at Section 2(q)(1)(A) of
22 FIFRA, 7 U.S.C. § 136(q)(1)(A).

23 109. By distributing or selling the misbranded pesticide Export Clorox Bleach on August
24 15, 2005, Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

25 COUNT 25: Sale and/or distribution of an unregistered pesticide, 7 U.S.C. § 136j(a)(1)(A).

26 110. Paragraphs 1 through 13 above are hereby incorporated in this Count 25 by
27 reference as if the same were set forth herein in full.

28 111. On or about September 20, 2005, Respondent “distributed or sold,” as those terms

1 2005, Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

2 COUNT 23: Sale and/or distribution of an unregistered pesticide, 7 U.S.C. § 136j(a)(1)(A).

3 102. Paragraphs 1 through 13 above are hereby incorporated in this Count 23 by
4 reference as if the same were set forth herein in full.

5 103. On or about August 15, 2005, Respondent “distributed or sold,” as those terms are
6 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Export Clorox Bleach to
7 Operation Reach in Los Angeles, California.

8 104. By distributing or selling the unregistered pesticide Export Clorox Bleach on or
9 about August 15, 2005, Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. §
10 136j(a)(1)(A).

11 COUNT 24: Sale and/or distribution of a misbranded pesticide, 7 U.S.C. § 136j(a)(1)(E).

12 105. Paragraphs 1 through 13 above are hereby incorporated in this Count 24 by
13 reference as if the same were set forth herein in full.

14 106. On or about August 15, 2005, Respondent “distributed or sold,” as those terms are
15 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Export Clorox Bleach to
16 Operation Reach in Los Angeles, California.

17 107. The labeling accompanying the pesticide Export Clorox Bleach that Respondent
18 sold or distributed on February 11, 2005 failed to contain prominently placed words
19 conspicuously stating the following: “Not Registered for Use in the United States of America”.

20 108. The absence of this required statement on the labeling resulted in the pesticide
21 Export Clorox Bleach being “misbranded” as that term is defined at Section 2(q)(1)(A) of
22 FIFRA, 7 U.S.C. § 136(q)(1)(A).

23 109. By distributing or selling the misbranded pesticide Export Clorox Bleach on August
24 15, 2005, Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

25 COUNT 25: Sale and/or distribution of an unregistered pesticide, 7 U.S.C. § 136j(a)(1)(A).

26 110. Paragraphs 1 through 13 above are hereby incorporated in this Count 25 by
27 reference as if the same were set forth herein in full.

28 111. On or about September 20, 2005, Respondent “distributed or sold,” as those terms

1 are defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Export Clorox Bleach
2 to Shelter Partnerships in Los Angeles, California.

3 112. By distributing or selling the unregistered pesticide Export Clorox Bleach on or
4 about September 20, 2005, Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. §
5 136j(a)(1)(A).

6 COUNT 26: Sale and/or distribution of a misbranded pesticide, 7 U.S.C. § 136j(a)(1)(E).

7 113. Paragraphs 1 through 13 above are hereby incorporated in this Count 26 by
8 reference as if the same were set forth herein in full.

9 114. On or about September 20, 2005, Respondent “distributed or sold,” as those terms
10 are defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Export Clorox Bleach
11 to Shelter Partnerships in Los Angeles, California.

12 115. The labeling accompanying the pesticide Export Clorox Bleach that Respondent
13 sold or distributed on September 20, 2005 failed to contain prominently placed words
14 conspicuously stating the following: “Not Registered for Use in the United States of America”.

15 116. The absence of this required statement on the labeling resulted in the pesticide
16 Export Clorox Bleach being “misbranded” as that term is defined at Section 2(q)(1)(A) of
17 FIFRA, 7 U.S.C. § 136(q)(1)(A).

18 117. By distributing or selling the misbranded pesticide Export Clorox Bleach on
19 September 20, 2005, Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. §
20 136j(a)(1)(E).

21 COUNT 27: Sale and/or distribution of an unregistered pesticide, 7 U.S.C. § 136j(a)(1)(A).

22 118. Paragraphs 1 through 13 above are hereby incorporated in this Count 27 by
23 reference as if the same were set forth herein in full.

24 119. On or about October 5, 2005, Respondent “distributed or sold,” as those terms are
25 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Export Clorox Bleach to
26 Shelter Partnerships in Los Angeles, California.

1 120. By distributing or selling the unregistered pesticide Export Clorox Bleach on or
2 about October 5, 2005, Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. §
3 136j(a)(1)(A).

4 COUNT 28: Sale and/or distribution of a misbranded pesticide, 7 U.S.C. § 136j(a)(1)(E).

5 121. Paragraphs 1 through 13 above are hereby incorporated in this Count 28 by
6 reference as if the same were set forth herein in full.

7 122. On or about October 5, 2005, Respondent “distributed or sold,” as those terms are
8 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Export Clorox Bleach to
9 Shelter Partnerships in Los Angeles, California.

10 123. The labeling accompanying the pesticide Export Clorox Bleach that Respondent
11 sold or distributed on October 5, 2005 failed to contain prominently placed words conspicuously
12 stating the following: “Not Registered for Use in the United States of America”.

13 124. The absence of this required statement on the labeling resulted in the pesticide
14 Export Clorox Bleach being “misbranded” as that term is defined at Section 2(q)(1)(A) of
15 FIFRA, 7 U.S.C. § 136(q)(1)(A).

16 125. By distributing or selling the misbranded pesticide Export Clorox Bleach on
17 October 5, 2005, Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).
18 COUNT 29: Sale and/or distribution of an unregistered pesticide, 7 U.S.C. § 136j(a)(1)(A).

19 126. Paragraphs 1 through 13 above are hereby incorporated in this Count 29 by
20 reference as if the same were set forth herein in full.

21 127. On or about December 28, 2005, Respondent “distributed or sold,” as those terms
22 are defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Export Clorox Bleach
23 to Shelter Partnerships in Los Angeles, California.

24 128. By distributing or selling the unregistered pesticide Export Clorox Bleach on or
25 about December 28, 2005, Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. §
26 136j(a)(1)(A).

1 COUNT 30: Sale and/or distribution of a misbranded pesticide, 7 U.S.C. § 136j(a)(1)(E).

2 129. Paragraphs 1 through 13 above are hereby incorporated in this Count 30 by
3 reference as if the same were set forth herein in full.

4 130. On or about December 28, 2005, Respondent "distributed or sold," as those terms
5 are defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Export Clorox Bleach
6 to Shelter Partnerships in Los Angeles, California.

7 131. The labeling accompanying the pesticide Export Clorox Bleach that Respondent
8 sold or distributed on December 28, 2005 failed to contain prominently placed words
9 conspicuously stating the following: "Not Registered for Use in the United States of America".

10 132. The absence of this required statement on the labeling resulted in the pesticide
11 Export Clorox Bleach being "misbranded" as that term is defined at Section 2(q)(1)(A) of
12 FIFRA, 7 U.S.C. § 136(q)(1)(A).

13 133. By distributing or selling the misbranded pesticide Export Clorox Bleach on
14 December 28, 2005, Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

15 COUNT 31: Sale and/or distribution of an unregistered pesticide, 7 U.S.C. § 136j(a)(1)(A).

16 134. Paragraphs 1 through 13 above are hereby incorporated in this Count 31 by
17 reference as if the same were set forth herein in full.

18 135. On or about January 27, 2006, Respondent "distributed or sold," as those terms are
19 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Export Clorox Bleach to
20 Cri-Help in North Hollywood, California.

21 136. By distributing or selling the unregistered pesticide Export Clorox Bleach on or
22 about January 27, 2006, Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. §
23 136j(a)(1)(A).

24 COUNT 32: Sale and/or distribution of a misbranded pesticide, 7 U.S.C. § 136j(a)(1)(E).

25 137. Paragraphs 1 through 13 above are hereby incorporated in this Count 32 by
26 reference as if the same were set forth herein in full.

1 138. On or about January 27, 2006, Respondent "distributed or sold," as those terms are
2 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Export Clorox Bleach to
3 Cri-Help in North Hollywood, California.

4 139. The labeling accompanying the pesticide Export Clorox Bleach that Respondent
5 sold or distributed on January 27, 2006 failed to contain prominently placed words conspicuously
6 stating the following: "Not Registered for Use in the United States of America".

7 140. The absence of this required statement on the labeling resulted in the pesticide
8 Export Clorox Bleach being "misbranded" as that term is defined at Section 2(q)(1)(A) of
9 FIFRA, 7 U.S.C. § 136(q)(1)(A).

10 141. By distributing or selling the misbranded pesticide Export Clorox Bleach on
11 January 27, 2006, Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).
12 **COUNT 33: Sale and/or distribution of an unregistered pesticide, 7 U.S.C. § 136j(a)(1)(A).**

13 142. Paragraphs 1 through 13 above are hereby incorporated in this Count 33 by
14 reference as if the same were set forth herein in full.

15 143. On or about January 27, 2006, Respondent "distributed or sold," as those terms are
16 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Export Clorox Bleach to
17 Shelter Partnerships in Los Angeles, California.

18 144. By distributing or selling the unregistered pesticide Export Clorox Bleach on or
19 about January 27, 2006, Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. §
20 136j(a)(1)(A).

21 **COUNT 34: Sale and/or distribution of a misbranded pesticide, 7 U.S.C. § 136j(a)(1)(E).**

22 145. Paragraphs 1 through 13 above are hereby incorporated in this Count 34 by
23 reference as if the same were set forth herein in full.

24 146. On or about January 27, 2006, Respondent "distributed or sold," as those terms are
25 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Export Clorox Bleach to
26 Shelter Partnerships in Los Angeles, California.

27 147. The labeling accompanying the pesticide Export Clorox Bleach that Respondent
28 sold or distributed on January 27, 2006 failed to contain prominently placed words conspicuously

1 stating the following: "Not Registered for Use in the United States of America".

2 148. The absence of this required statement on the labeling resulted in the pesticide
3 Export Clorox Bleach being "misbranded" as that term is defined at Section 2(q)(1)(A) of
4 FIFRA, 7 U.S.C. § 136(q)(1)(A).

5 149. By distributing or selling the misbranded pesticide Export Clorox Bleach on
6 January 27, 2006, Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. §
7 136j(a)(1)(E). COUNT 35: Sale and/or distribution of an unregistered pesticide, 7 U.S.C. §
8 136j(a)(1)(A).

9 150. Paragraphs 1 through 13 above are hereby incorporated in this Count 35 by
10 reference as if the same were set forth herein in full.

11 151. On or about April 7, 2006, Respondent "distributed or sold," as those terms are
12 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Export Clorox Bleach to
13 Cri-Help in North Hollywood, California.

14 152. By distributing or selling the unregistered pesticide Export Clorox Bleach on or
15 about April 7, 2006, Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. §
16 136j(a)(1)(A).

17 COUNT 36: Sale and/or distribution of a misbranded pesticide, 7 U.S.C. § 136j(a)(1)(E).

18 153. Paragraphs 1 through 13 above are hereby incorporated in this Count 36 by
19 reference as if the same were set forth herein in full.

20 154. On or about April 7, 2006, Respondent "distributed or sold," as those terms are
21 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Export Clorox Bleach to
22 Cri-Help in North Hollywood, California.

23 155. The labeling accompanying the pesticide Export Clorox Bleach that Respondent
24 sold or distributed on April 7, 2006 failed to contain prominently placed words conspicuously
25 stating the following: "Not Registered for Use in the United States of America".

26 156. The absence of this required statement on the labeling resulted in the pesticide
27 Export Clorox Bleach being "misbranded" as that term is defined at Section 2(q)(1)(A) of
28 FIFRA, 7 U.S.C. § 136(q)(1)(A).

1 157. By distributing or selling the misbranded pesticide Export Clorox Bleach on April
2 7, 2006, Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

3 COUNT 37: Sale and/or distribution of an unregistered pesticide, 7 U.S.C. § 136j(a)(1)(A).

4 158. Paragraphs 1 through 13 above are hereby incorporated in this Count 37 by
5 reference as if the same were set forth herein in full.

6 159. On or about September 12, 2006, Respondent “distributed or sold,” as those terms
7 are defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Export Clorox Bleach
8 to Cri-Help in North Hollywood, California.

9 160. By distributing or selling the unregistered pesticide Export Clorox Bleach on or
10 about September 12, 2006, Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. §
11 136j(a)(1)(A).

12 COUNT 38: Sale and/or distribution of a misbranded pesticide, 7 U.S.C. § 136j(a)(1)(E).

13 161. Paragraphs 1 through 13 above are hereby incorporated in this Count 38 by
14 reference as if the same were set forth herein in full.

15 162. On or about September 12, 2006, Respondent “distributed or sold,” as those terms
16 are defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Export Clorox Bleach
17 to Cri-Help in North Hollywood, California.

18 163. The labeling accompanying the pesticide Export Clorox Bleach that Respondent
19 sold or distributed on September 12, 2006 failed to contain prominently placed words
20 conspicuously stating the following: “Not Registered for Use in the United States of America”.

21 164. The absence of this required statement on the labeling resulted in the pesticide
22 Export Clorox Bleach being “misbranded” as that term is defined at Section 2(q)(1)(A) of
23 FIFRA, 7 U.S.C. § 136(q)(1)(A).

24 165. By distributing or selling the misbranded pesticide Export Clorox Bleach on
25 September 12, 2006, Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. §
26 136j(a)(1)(E).

27 IV. PROPOSED CIVIL PENALTY

28 Section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1), and the Civil Monetary Penalty

1 Inflation Adjustment Rule, 40 C.F.R. Part 19, authorize the assessment of a civil administrative
 2 penalty of up to \$6,500 for each violation of FIFRA occurring on or after March 15, 2004. For
 3 purposes of determining the amount of the civil penalty to be assessed, FIFRA Section 14(a)(4)
 4 requires EPA to consider the size of Respondent's business, the effect on Respondent's ability to
 5 continue in business and the gravity of the violations alleged. Based on the violations alleged in
 6 this Complaint, and after consideration of the statutory factors enumerated above, EPA proposes
 7 to assess the following civil penalty pursuant to FIFRA Section 14(a) and the FIFRA
 8 Enforcement Response Policy dated July 2, 1990 (a copy of which is enclosed with this
 9 Complaint), which provides a rational, consistent and equitable calculation methodology for
 10 applying the statutory penalty factors enumerated above:

11		
12	Count 1 (Sale and/or distribution of an unregistered pesticide, violating FIFRA Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A))	\$6,500
13	Count 2 (Sale and/or distribution of a misbranded pesticide, violating FIFRA Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E))	\$3,869
14	Count 3 (Sale and/or distribution of an unregistered pesticide, violating FIFRA Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A))	\$6,500
15	Count 4 (Sale and/or distribution of a misbranded pesticide, violating FIFRA Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E))	\$3,869
16	Count 5 (Sale and/or distribution of an unregistered pesticide, violating FIFRA Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A))	\$6,500
17	Count 6 (Sale and/or distribution of a misbranded pesticide, violating FIFRA Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E))	\$3,869
18	Count 7 (Sale and/or distribution of an unregistered pesticide, violating FIFRA Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A))	\$6,500
19	Count 8 (Sale and/or distribution of a misbranded pesticide, violating FIFRA Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E))	\$3,869
20	Count 9 (Sale and/or distribution of an unregistered pesticide, violating FIFRA Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A))	\$6,500
21	Count 10 (Sale and/or distribution of a misbranded pesticide, violating FIFRA Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E))	\$3,869
22	Count 11 (Sale and/or distribution of an unregistered pesticide, violating FIFRA Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A))	\$6,500
23	Count 12 (Sale and/or distribution of a misbranded pesticide, violating FIFRA Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E))	\$3,869
24		
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1	Count 13 (Sale and/or distribution of an unregistered pesticide, violating FIFRA Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A))	\$6,500
2		
3	Count 14 (Sale and/or distribution of a misbranded pesticide, violating FIFRA Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E))	\$3,869
4	Count 15 (Sale and/or distribution of an unregistered pesticide, violating FIFRA Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A))	\$6,500
5		
6	Count 16 (Sale and/or distribution of a misbranded pesticide, violating FIFRA Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E))	\$3,869
7	Count 17 (Sale and/or distribution of an unregistered pesticide, violating FIFRA Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A))	\$6,500
8	Count 18 (Sale and/or distribution of a misbranded pesticide, violating FIFRA Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E))	\$3,869
9		
10	Count 19 (Sale and/or distribution of an unregistered pesticide, violating FIFRA Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A))	\$6,500
11	Count 20 (Sale and/or distribution of a misbranded pesticide, violating FIFRA Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E))	\$3,869
12	Count 21 (Sale and/or distribution of an unregistered pesticide, violating FIFRA Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A))	\$6,500
13		
14	Count 22 (Sale and/or distribution of a misbranded pesticide, violating FIFRA Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E))	\$3,869
15	Count 23 (Sale and/or distribution of an unregistered pesticide, violating FIFRA Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A))	\$6,500
16	Count 24 (Sale and/or distribution of a misbranded pesticide, violating FIFRA Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E))	\$3,869
17		
18	Count 25 (Sale and/or distribution of an unregistered pesticide, violating FIFRA Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A))	\$6,500
19	Count 26 (Sale and/or distribution of a misbranded pesticide, violating FIFRA Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E))	\$3,869
20		
21	Count 27 (Sale and/or distribution of an unregistered pesticide, violating FIFRA Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A))	\$6,500
22	Count 28 (Sale and/or distribution of a misbranded pesticide, violating FIFRA Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E))	\$3,869
23	Count 29 (Sale and/or distribution of an unregistered pesticide, violating FIFRA Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A))	\$6,500
24		
25	Count 30 (Sale and/or distribution of a misbranded pesticide, violating FIFRA Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E))	\$3,869
26	Count 31 (Sale and/or distribution of an unregistered pesticide, violating FIFRA Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A))	\$6,500
27	Count 32 (Sale and/or distribution of a misbranded pesticide, violating FIFRA Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E))	\$3,869
28		

Count 33 (Sale and/or distribution of an unregistered pesticide, violating FIFRA Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A))	\$6,500
Count 34 (Sale and/or distribution of a misbranded pesticide, violating FIFRA Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E))	\$3,869
Count 35 (Sale and/or distribution of an unregistered pesticide, violating FIFRA Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A))	\$6,500
Count 36 (Sale and/or distribution of a misbranded pesticide, violating FIFRA Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E))	\$3,869
Count 37 (Sale and/or distribution of an unregistered pesticide, violating FIFRA Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A))	\$6,500
Count 38 (Sale and/or distribution of a misbranded pesticide, violating FIFRA Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E))	\$3,869
SUBTOTAL	\$197,011
10% Reduction for Gravity Adjustment Factors	-\$19,701
TOTAL	\$177,300

V. NOTICE OF OPPORTUNITY TO REQUEST A HEARING

You have the right to request a formal hearing to contest any material fact set forth in this Complaint or to contest the appropriateness of the proposed penalty. Any hearing requested will be conducted in accordance with the Administrative Procedure Act, 5 U.S.C. § 551 *et seq.*, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22. A copy of the Consolidated Rules of Practice is enclosed with this Complaint.

You must file a written Answer within thirty (30) days of receiving this Complaint to avoid being found in default, which constitutes an admission of all facts alleged in the Complaint and a waiver of the right to a hearing, and to avoid having the above penalty assessed without further proceedings. If you choose to file an Answer, you are required by the Consolidated Rules of Practice to clearly and directly admit, deny, or explain each of the factual allegations contained in this Complaint to which you have any knowledge. If you have no knowledge of a particular fact and so state, the allegation is considered denied. Failure to deny any of the allegations in this Complaint will constitute an admission of the undenied allegation.

1 The Answer shall also state the circumstances and arguments, if any, which are alleged to
2 constitute the grounds of defense, and shall specifically request an administrative hearing, if
3 desired. If you deny any material fact or raise any affirmative defense, you will be considered to
4 have requested a hearing. The Answer must be filed with:

5 Regional Hearing Clerk (ORC-1)
6 U.S. Environmental Protection Agency, Region IX
7 75 Hawthorne Street
8 San Francisco, CA 94105

9 In addition, please send a copy of the Answer and all other documents that you file in this action
10 to:

11 Edgar P. Coral
12 Office of Regional Counsel (ORC-2)
13 U.S. Environmental Protection Agency, Region IX
14 75 Hawthorne Street
15 San Francisco, CA 94105

16 You are further informed that the Consolidated Rules of Practice prohibit any *ex parte*
17 (unilateral) discussion of the merits of any action with the Regional Administrator, Regional
18 Judicial Officer, Administrative Law Judge, or any person likely to advise these officials in the
19 decision of the case, after the Complaint is issued.

20 VI. INFORMAL SETTLEMENT CONFERENCE

21 EPA encourages all parties against whom a civil penalty is proposed to pursue the
22 possibility of settlement through informal conferences. Therefore, whether or not you request a
23 hearing, you may confer informally with EPA through Mr. Coral, the EPA attorney assigned to
24 this case, regarding the facts of this case, the amount of the proposed penalty, and the possibility
25 of settlement. **An informal settlement conference does not, however, affect your obligation
26 to file an Answer to this Complaint.**

27 VII. ALTERNATIVE DISPUTE RESOLUTION

28 The parties also may engage in any process within the scope of the Alternative Dispute
Resolution Act, 5 U.S.C. § 581 *et seq.*, which may facilitate voluntary settlement efforts.
Dispute resolution using alternative means of dispute resolution does not divest the Presiding
Officer of jurisdiction nor does it automatically stay the proceeding.

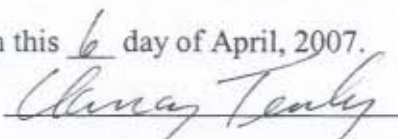
1 VIII. QUICK RESOLUTION

2 Instead of requesting an informal settlement conference or filing an Answer requesting a
3 hearing, you may choose to resolve the proceeding by paying the specific penalty proposed in the
4 Complaint and filing a copy of the check or other instrument of payment with the Regional
5 Hearing Clerk within thirty (30) days after receiving the Complaint. If you wish to resolve the
6 proceeding in this manner instead of filing an answer but need additional time to pay the penalty,
7 you may file a written statement stating that you agree to pay the proposed penalty in accordance
8 with 40 C.F.R § 22.18(a)(1) with the Regional Hearing Clerk within 30 days after receiving the
9 Complaint. The written statement need not contain any response to, or admission of, the
10 allegations in the Complaint. Within sixty (60) days after receiving the Complaint, the full
11 amount of the proposed penalty must be paid. Failure to make such payment within this sixty-
12 day period may subject you to default. Upon receipt of payment in full, the Regional Judicial
13 Officer will issue a Final Order. Payment by a respondent shall constitute a waiver of the
14 respondent's rights to contest the allegations and to appeal the Final Order. In addition, full
15 payment of the proposed penalty shall only resolve Respondent's liability for Federal civil
16 penalties for violations and facts alleged in the Complaint and does not affect the right of EPA or
17 the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions
18 for any violations of law.

18 IX. CONSENT AGREEMENT AND FINAL ORDER

19 EPA has the authority, where appropriate, to modify the amount of the proposed penalty
20 to reflect any settlement reached with you in an informal conference or through alternative
21 dispute resolution. The terms of such an agreement would be embodied in a Consent Agreement
22 and Final Order. A Consent Agreement signed by both parties would be binding as to all terms
23 and conditions specified therein when the Regional Judicial Officer signs the Final Order.

24 Dated at San Francisco, California on this 6 day of April, 2007.

25
26 
27 *for* ENRIQUE MANZANILLA
28 Director, Communities and Ecosystems Division
U.S. Environmental Protection Agency, Region IX

1 CERTIFICATE OF SERVICE

2 I certify that the original ~~and one copy~~ of the foregoing Complaint and Notice of
3 Opportunity for Hearing (Docket No. FIFRA-9-2007-0007) was hand delivered to:

4 Regional Hearing Clerk
5 U.S. Environmental Protection Agency, Region IX
6 75 Hawthorne Street
7 San Francisco, California 94105

8 and that a true and correct copy of the Complaint; the Consolidated Rules of Practice, 40 C.F.R.
9 Part 22; and the FIFRA Enforcement Response Policy were placed in the United States Mail,
10 certified mail, return receipt requested, addressed to the following:

11 Gerald Johnston
12 The Clorox Company
13 1221 Broadway
14 Oakland, CA 94612

15 Dated: April 06, 2007 By: Steven Armstrong (Acting)
16 U.S. Environmental Protection Agency, Region IX
17 Regional Hearing Clerk
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