

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

IN THE MATTER OF

Hydrol Chemical Company, Inc.
520 Commerce Drive
Yeadon, Pennsylvania 19050

Respondent

Hydrol Chemical Company, Inc.
520 Commerce Drive
Yeadon, Pennsylvania 19050

Facility

CONSENT AGREEMENT

Docket No. FIFRA-03-2008-0393

PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director, Land and Chemicals Division, U.S. Environmental Protection Agency, Region III ("Complainant" or "EPA") and Hydrol Chemical Company, Inc. ("Hydrol" or "Respondent") pursuant to Sections 12(a)(1)(A) and 12(a)(1)(E) of the Federal Insecticide, Fungicide and Rodenticide Act ("FIFRA"), as amended, 7 U.S.C. §§ 136j(a)(1)(A) and 136j(a)(1)(E), respectively, Section 14(a) 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 ("Consolidated Rules"), 40 C.F.R. Part 22, with specific reference to the Consolidated Rules set forth at 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3). This Consent Agreement and the accompanying Final Order (collectively "CAFO") address the alleged sale or distribution of two "misbranded" pesticides within the meaning of Section 2(q)(1) of FIFRA, 7 U.S.C. § 136(q)(1) and the alleged sale or

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distribution of one pesticide that had not been registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

I. GENERAL PROVISIONS

2. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
3. Respondent neither admits nor denies the specific factual allegations and conclusions of law set forth in this CAFO, except as provided in Paragraph 2, above.
4. Respondent agrees not to contest EPA's jurisdiction with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of the CAFO.
5. For the purposes of this proceeding only, Respondent hereby expressly waives its rights to a hearing on any issue of law or fact set forth in this Consent Agreement and any right to appeal the accompanying Final Order.
6. Respondent consents to the issuance of this CAFO and agrees to comply with its terms.
7. Respondent shall not deduct for civil taxation purposes the civil penalty specified in this CAFO.
8. Respondent shall bear its own costs and attorney's fees.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

9. In accordance with 40 C.F.R. § 22.18(b)(2) of the Consolidated Rules, Complainant adopts the following findings of fact and conclusions of law.

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10. Respondent is a Pennsylvania Corporation, and is and was, at all times relevant hereto, a “person” doing business in the Commonwealth of Pennsylvania within the meaning of Section 2(s) of FIFRA, 7 U.S.C. § 136(s).
11. Respondent owns and operates an industrial organic chemical facility located at 520 Commerce Drive, Yeadon, Pennsylvania (the “Hydrol Facility” or “Facility”), from which it manufactures and sells industrial organic chemical products, including embalming fluid products.
12. Section 2(u) of FIFRA, 7 U.S.C. §136(u), provides that the term “pesticide” means, in part, “any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.”
13. Pursuant to 40 C.F.R. § 152.3, the term “pesticide” means, in part, “any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, or intended for use as a plant regulator, defoliant, or desiccant.”
14. 40 C.F.R. § 152.3 provides, in pertinent part, that the term “pesticide product” means “a pesticide in the particular form (including composition, packaging, and labeling) in which the pesticide is, or is intended to be, distributed or sold.”
15. 40 C.F.R. § 152.15 further provides, in pertinent part, that:

A substance is considered to be intended for a pesticidal purpose, and thus to be a pesticide requiring registration, if:

 - (a) The person who distributes or sells the substance claims, states, or implies (by labeling or otherwise):
 - (1) That the substance . . . can or should be used as a pesticide; or

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(c) The person who distributes or sells the substance has actual or constructive knowledge that the substance will be used, or is intended to be used, for a pesticidal purpose.

16. Pursuant to Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the term to “distribute or sell” means, with exceptions not relevant to these proceedings, “to distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, release for shipment, or receive and (having so received) deliver or offer to deliver.”

**COUNT 1 - SALE/DISTRIBUTION OF A MISBRANDED PESTICIDE
(Formaldehyde Solution 37: March 2 - June 29, 2006)**

17. Paragraphs 1 through 16 of this Consent Agreement are incorporated by reference.
18. Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), provides that it shall be unlawful for any person in any State to distribute or sell to any person any pesticide that is adulterated or misbranded.
19. Pursuant to Section 2(q)(1) of FIFRA, 7 U.S.C. § 136(q)(1), a pesticide is “misbranded” if, *inter alia*, its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular, or if the label does not contain the assigned EPA establishment number.
20. Pursuant to 40 C.F.R. § 156.10(a)(1), pesticide products must bear labels containing the information specified by FIFRA and its implementing regulations. The contents of the label must show clearly and prominently, *inter alia*, the name, brand, or trademark; the net contents expressed in terms of conventional American units of fluid ounces, pints, quarts, and gallons for liquids and, for solids and semi-solids, in terms of avoirdupois pounds and ounces; the product registration number; the pesticide producing

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establishment number; the ingredient statement (with the active ingredients identified by name and designated as “active ingredients” with their total percentage by weight identified and inert ingredients designated collectively as “inert ingredients” with their total percentage by weight identified); a hazard and precautionary statement; and directions for use of the pesticide.

21. On May 22, 1996, EPA accepted Champion Technologies, Inc.’s (“Champion”) product Formaldehyde Solution 37, a “pesticide” as defined by Section 2(u) of FIFRA, 7 U.S.C. § 136(u), and 40 C.F.R. § 152.3, as a registered pesticidal product and assigned it EPA Registration Number 8133-32. EPA subsequently accepted the minor revisions submitted by Champion to this pesticidal product’s label including changing the product name to Formaldehyde Solution 37 Microbiocide (referred to hereafter as the “Champion Formaldehyde Solution 37 product”).
22. 40 C.F.R. § 152.132 allows a party to distribute a pesticidal product that is registered with EPA by another party provided the registrant files with EPA a Notice of Supplemental Distribution signed by the parties that meets the requirements of this section. Among other requirements of § 152.132 is that the Notice of Supplemental Distribution must include any additional brand names to be used in the sale of this product by the distributor.
23. 40 C.F.R. § 152.132(d) specifies that the product name of the distributor product may be different from the product name of the registrant provided it is not misleading.

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24. On June 25, 1996, Champion, as registrant, filed a Notice of Supplemental Distribution of a Registered Pesticide Product ("Notice of Supplemental Distribution") with EPA, authorizing Hydrol, as distributor, to sell the Champion Formaldehyde Solution 37 product under the name "Hydrol Formaldehyde 37% Solution" or "Formaldehyde Solution 37" provided that Hydrol's label met various other requirements of the Notice of Supplemental Distribution including Hydrol's name and address being on the label.
25. On June 25, 1996, EPA issued to Hydrol a Receipt of Notice of Supplemental Registration acknowledging its receipt of the June 25, 1996 Notice of Supplemental Distribution signed by Champion and Hydrol authorizing Hydrol to distribute and sell the Champion Formaldehyde Solution 37 product under the names "Hydrol Formaldehyde 37% Solution" or "Formaldehyde Solution 37."
26. Pursuant to the June 25, 1996 Notice of Supplemental Distribution, Hydrol subsequently sold and distributed a product listed on its label as "Formaldehyde Solution 37" (referred to hereafter as the "Hydrol Formaldehyde Solution 37 product").
27. The Hydrol Formaldehyde Solution 37 product is a pesticide as defined by Section 2(u) of FIFRA, 7 U.S.C. § 136(u), and 40 C.F.R. § 152.3. EPA assigned the Hydrol Formaldehyde Solution 37 product EPA Registration Number 8133-32-1712.
28. The active ingredient and associated percentage by weight on the EPA-accepted label for both the Champion Formaldehyde Solution 37 product and Hydrol Formaldehyde Solution 37 product was Formaldehyde, 37%.
29. During a June 29, 2006 inspection of the Hydrol Facility, EPA inspectors discovered several 55-gallon drums of a product with the label name Formaldehyde Solution 37.

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30. During EPA's June 29, 2006 inspection of the Hydrol Facility, a Hydrol employee acknowledged that Hydrol buys the Champion Formaldehyde Solution 37 product from Champion, repackages the product into 55-gallon drums, 2300 lb bulk totes, and 4x1 gallon cartons, and places the "Formaldehyde Solution 37" label with the Hydrol Chemical Company name on the repackaged product (i.e., the Hydrol Formaldehyde Solution 37 product).
31. At the time of the violations alleged in this Count, the labels for Hydrol Formaldehyde Solution 37 products at issue in this Consent Agreement contained the following statements:
- a. for use in hatcheries as a fumigant; and
 - b. for use in poultry confinement buildings, mushroom houses, citrus facilities, and for use in disinfecting and fumigating rooms and railroad cars.
32. The above statements are pesticidal claims as that term is used in 40 C.F.R. § 152.15(a).
33. Hydrol Formaldehyde Solution 37 product as repackaged is a "pesticide" as defined by Section 2(u) of FIFRA, 7 U.S.C. § 136(u) and 40 C.F.R. § 152.3, and a "pesticidal product" as defined at 40 C.F.R. § 152.3.
34. Repackaging a container of pesticides and/or applying a label to a pesticide is considered pesticide production pursuant to 40 C.F.R. § 167.3. Pursuant to Section 7(a) of FIFRA, 7 U.S.C. § 136e(a), no person may produce any pesticide in any State unless the establishment in which it is produced is registered with EPA.

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35. From 1974 to the present the Hydrol Facility has been registered with EPA as a pesticide producing establishment and has been assigned EPA Establishment Number 1712 -PA-1.
36. Hydrol is and has been, at all times relevant to the violations alleged in this Consent Agreement, a pesticide “producer” as that term is defined at Section 2(u) of FIFRA, 7 U.S.C. §136(u).
37. At the time of EPA’s June 29, 2006 inspection of the Hydrol Facility, the label for the Hydrol Formaldehyde Solution 37 pesticidal product located at the Facility contained three EPA establishment numbers: 08785-CA-001, 08785-NC-0001, 08785-AL-001. None of these numbers was checked off on the label to indicate which of the three establishments represented by the establishment numbers produced the product. In addition, none of these numbers was the Establishment Number assigned to the Hydrol Facility.
38. The Hydrol Formaldehyde Solution 37 pesticidal product referred to in Paragraph 37 was “misbranded” as that term is defined in Section 2(q)(1) of FIFRA, 7 U.S.C. § 136(q)(1).
39. From March 2, 2006 to June 14, 2006, Respondent sold and/or distributed five shipments of Hydrol Formaldehyde Solution 37 pesticidal products bearing the label as described above in Paragraph 37 to a person or persons at its Facility. In addition, on June 29, 2006, Hydrol offered the Hydrol Formaldehyde Solution 37 pesticidal product bearing the label described in Paragraph 37 for sale or distribution to a person or persons at its Facility.

40. Respondent's sales or distributions and/or offering for sale or distribution of Hydrol Formaldehyde Solution 37 product identified above in Paragraph 39 on six different occasions from March 2, 2006 to June 29, 2006 at its Facility to a person or persons, were sales or distributions of a "misbranded" pesticide product as defined by Section 2(q)(1) of FIFRA, 7 U.S.C. § 136(q)(1), and therefore were unlawful acts under Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), for which penalties may be assessed pursuant to Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

**COUNT 2 - SALE/DISTRIBUTION OF AN UNREGISTERED PESTICIDE
(Formaldehyde Solution 35: February 28, 2006 - June 29, 2006)**

41. Paragraphs 1 through 40 of this Consent Agreement are incorporated by reference.
42. Section 3(a) of FIFRA, 7 U.S.C. § 136a(a), provides, with exceptions not relevant to this CAFO, that no person in any State may distribute or sell to any person any pesticide that is not registered under FIFRA.
43. Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), provides, *inter alia*, with exceptions not relevant to this CAFO, that it shall be unlawful for any person in any State to distribute or sell to (including offering to sell or distribute to) any person any pesticide that is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.
44. During EPA's June 29, 2006 inspection of the Hydrol Facility, EPA discovered several large bulk totes of a product with the label name Formaldehyde Solution 35 Microbiocide.

45. During EPA's June 29, 2006 inspection of the Hydrol Facility, a Hydrol employee acknowledged that Hydrol buys the Champion Formaldehyde Solution 37 product from Champion, repackages the product into large bulk totes, and places Hydrol's Formaldehyde Solution 35 Microbiocide label on the product. In subsequent correspondence with EPA, Hydrol acknowledged that it also reformulates the Champion Formaldehyde Solution 37 product at the Hydrol Facility to lower the percentage of Formaldehyde in the product to 35% in order to produce Formaldehyde Solution 35 Microbiocide.
46. The active ingredient and associated percentage by weight on the label for the Formaldehyde Solution 35 Microbiocide was Formaldehyde, 35%.
47. The labels for the Formaldehyde Solution 35 Microbiocide pesticidal product at issue in this Consent Agreement bore, *inter alia*, the following:
- a. the word "Microbiocide" was part of the product name;
 - b. EPA Registration Number 8133-32-1712;
 - c. three different EPA Establishment Numbers: 08785-CA-001; 08785-NC-001; and 08785-AL-001, although none is checked off so as to indicate which establishment produced this pesticide.
48. The statements listed above in Paragraph 47 are pesticidal claims as that term is used in 40 C.F.R. § 152.15(a).

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49. The Formaldehyde Solution 35 Microbiocide product is and was a “pesticide” as defined by Section 2(u) of FIFRA, 7 U.S.C. §136(u) and 40 C.F.R. § 152.3, and a “pesticidal product” as defined at 40 C.F.R. § 152.3.
50. At no time has EPA ever accepted Formaldehyde Solution 35 Microbiocide as a registered pesticide with EPA Registration Number 8133-32-1712, or any other EPA Registration Number.
51. From February 28, 2006 to June 15, 2006, Respondent sold and/or distributed five shipments of Formaldehyde Solution 35 Microbiocide to a person or persons at its Facility. In addition, on June 29, 2006, Hydrol offered Formaldehyde Solution 35 Microbiocide for sale or distribution to a person or persons at its Facility.
52. Respondent’s sales or distributions of the Formaldehyde Solution 35 Microbiocide pesticide product identified above in Paragraph 51 on six different occasions from February 28, 2006 to June 29, 2006 at its Facility to a person or persons were sales or distributions of an unregistered pesticide, and therefore were unlawful acts under Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), for which penalties may be assessed pursuant to Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

**COUNT 3 - SALE/DISTRIBUTION OF A MISBRANDED PESTICIDE
(Formaldehyde Solution 35: February 28, 2006 - June 29, 2006)**

53. Paragraphs 1 through 52 of this Consent Agreement are incorporated by reference.
54. The labels attached to the Formaldehyde Solution 35 Microbiocide pesticidal product sold or distributed by Hydrol, as described above in Count 2, above, bore EPA

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establishment numbers 08785-CA-001, 08785-NC-0001, 08785-AL-001. None of these numbers was checked off on the label to indicate which of the three establishments produced the product. In addition, none of these numbers was the Establishment Number assigned to the Hydrol Facility by EPA.

55. The labels attached to the Formaldehyde Solution 35 Microbiocide pesticidal products sold or distributed by Hydrol, as described above in Count 2, above, bore EPA Registration No. 8133-32-1712 on the label even though EPA had never issued this or any other registration number for Formaldehyde Solution 35 Microbiocide.
56. The Formaldehyde Solution 35 Microbiocide pesticidal product referred to in Paragraphs 54 and 55, above, was “misbranded” as that term is defined in Section 2(q)(1) of FIFRA, 7 U.S.C. § 136(q)(1), in that the label did not contain an EPA Establishment Number and was false and misleading in that the label indicated that EPA had assigned Formaldehyde Solution 35 Microbiocide an EPA registration number when no such number had been assigned by EPA for this product.
57. From February 28, 2006 to June 15, 2006, Respondent sold and/or distributed five shipments of Formaldehyde Solution 35 Microbiocide to a person or persons at its Facility. In addition, on June 29, 2006, Hydrol offered Formaldehyde Solution 35 Microbiocide for sale or distribution to a person or persons at its Facility.
58. Respondent’s sales or distributions and/or offering for sale or distribution of the Formaldehyde Solution 35 pesticide product identified above in Paragraph 57, above, on six different occasions from February 28, 2006 to June 29, 2006 at its Facility to a person

or persons were sales or distributions of a “misbranded” pesticide as defined by Section 2(q)(1) of FIFRA, 7 U.S.C. § 136(q)(1), and therefore were unlawful acts under Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), for which penalties may be assessed pursuant to Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

III. CIVIL PENALTIES

59. Respondent consents to the assessment of a civil penalty in the amount of Ten Thousand Dollars (\$10,000.00) in full satisfaction of all claims for penalties for the violations alleged in this CAFO. Such civil penalty amount is due and payable immediately upon Respondent’s receipt of a true and correct copy of this CAFO. In order to avoid the assessment of interest, administrative costs and late payment penalties in connection with such civil penalty, as described below, Respondent must pay the civil penalty no later than thirty (30) calendar days after the date on which a true and correct copy of this CAFO is mailed or hand-delivered to Respondent.
60. Complainant finds the aforesaid settlement amount is reasonable based on consideration of a number of factors, including, but not limited to, the statutory factors set forth in Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), which include the appropriateness of the penalty to the size of Respondent’s business, the effect on Respondent’s ability to continue in business, and the gravity of the violation, and is consistent with EPA’s FIFRA Enforcement Response Policy (“FIFRA ERP”) dated July 2, 1990, and with the Penalty Inflation Provisions of 40 C.F.R. Part 19.

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61. Payment of the civil penalty amount required under the terms of Paragraph 59, above, and any interest, administrative fees and late payment penalties, in accordance with Paragraphs 65, 66, and 67, below, via one of the following methods:

- a. Via U.S. Postal Service regular mail of a certified or cashier's check, made payable to the "United States Treasury," sent to the following address:

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

- b. Via overnight delivery of a certified or cashier's check, made payable to the "United States Treasury," sent to the following address:

U.S. Environmental Protection Agency
Fines and Penalties
U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

The U.S. Bank customer service contact for regular and overnight delivery is Natalie Pearson, who may be reached at 314-418-4087.

- c. Via electronic funds transfer ("EFT") to the following account:

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York NY 10045
(Field Tag 4200 of the Fedwire message should read "D 68010727
Environmental Protection Agency")

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- d. Via automatic clearinghouse (“ACH”), also known as Remittance Express (“REX”), to the following account:

PNC Bank
ABA No. 05136706
Environmental Protection Agency
Account 310006
CTX Format
Transaction Code 22 - checking
808 17th Street NW
Washington, D.C. 20074.

The PNC Bank customer service contact, Jesse White, may be reached at 301-887-6548.

- c. Via on-line payment (from bank account, credit card, debit card), access “www.pay.gov” and enter “sfo 1.1” in the search field. Open the form and complete the required fields.
62. All payments by the Respondent shall include Respondent’s full name and address and the EPA Docket Number of this Consent Agreement (FIFRA-03-2008-0393).
63. At the time of payment, Respondent shall send notices of such payment, including a copy of the check, EFT authorization or ACH authorization, as appropriate to each of the following:

Lydia Guy
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region III (Mail Code 3RC00)
1650 Arch Street
Philadelphia, PA 19103-2029

and

James Heenehan
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency
Region III (Mail Code 3RC30)

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1650 Arch Street
Philadelphia, PA 19103-2029

64. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment as specified in this Consent Agreement and Final Order shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.
65. Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a copy of this CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).
66. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the

payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.

67. A late payment penalty charge of six percent per year will be assessed monthly on any portion of the civil penalty which remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
68. Respondent agrees not to deduct for civil taxation purposes the civil penalty specified in this Consent Agreement and the attached Final Order.

IV. CERTIFICATION OF COMPLIANCE

69. As to all relevant provisions of FIFRA allegedly violated as set forth in the Findings of Fact and Conclusions of Law, above, Respondent certifies to EPA that, upon investigation, to the best of Respondent's knowledge and belief, Respondent is currently in compliance with all such relevant provisions and regulations. Specifically, Respondent certifies that it is no longer distributing or selling the product known as "Formaldehyde Solution 35 Microbiocide" and will not distribute or sell such product unless and until such product is registered with EPA pursuant to Section 3 of FIFRA, 7 U.S.C. § 136a, and labeled consistent with the labeling approved by EPA as part of the process of registering such pesticides. In addition, Respondent certifies that it is no longer distributing or selling the pesticide product referred to herein as "Hydrol Formaldehyde Solution 37 product" without the proper EPA Establishment Number on the label.

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V. RESERVATION OF RIGHTS

70. This CAFO resolves only EPA’s civil claims for penalties under FIFRA based on the specific violations which are alleged against Respondent in this Consent Agreement. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under FIFRA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its filing with the EPA Regional Hearing Clerk.

VI. OTHER APPLICABLE LAW

71. Nothing in this CAFO shall relieve Respondent of any duties otherwise imposed upon it by applicable federal, state, or local law, regulation and/or ordinance.

VII. FULL AND FINAL SATISFACTION

72. Payment of the penalty specified in Paragraph 59, above, and any associated interest payments, administrative handling costs and/or late payment fees set forth in Paragraphs

65, 66 and 67, above, shall constitute full and final satisfaction of all civil claims for penalties which Complainant may have under FIFRA for the specific violations alleged against Respondent in this Consent Agreement. Compliance with this CAFO shall not be a defense to any action commenced at any time for any other violation of the federal laws and regulations administered by EPA.

73. The settlement embodied in this Consent Agreement is based in part upon an analysis of Respondent's ability to pay a civil penalty. This analysis is based upon information submitted to Complainant by the Respondent, as listed on Exhibit A to this Consent Agreement. Respondent and its undersigned representative, by such representative's signature to this Consent Agreement, certify that the information submitted to EPA regarding Respondent's ability to pay is accurate and not misleading.
74. Respondent is aware that the submission of false or misleading information to the United States government may subject it to separate civil and/or criminal liability. Complainant reserves the right to seek and obtain appropriate relief if Complainant obtains evidence that the information provided and/or representations made by Respondent to Complainant regarding the matters at issue in the Findings of Fact and Conclusions of Law are false or, in any material respect, inaccurate.

VIII. PARTIES BOUND

75. This Consent Agreement and the accompanying Final Order shall apply to and be binding upon the EPA, the Respondent, Respondent's officers and directors (in their official

capacity) and Respondent's successors and assigns. By his or her signature below, the person signing this Consent Agreement on behalf of Respondent acknowledges that he or she is fully authorized to enter into this Consent Agreement and to bind the Respondent to the terms and conditions of this Consent Agreement and the accompanying Final Order.

IX. EFFECTIVE DATE

76. The effective date of this Consent Agreement and Final Order is the date on which it is filed with the Regional Hearing Clerk after signature by the Regional Judicial Officer or Regional Administrator.

The undersigned representative of Respondent certifies that he is fully authorized by Respondent to execute this Consent Agreement and to legally bind Respondent to this Consent Agreement.

For Respondent Hydrol Chemical Company, Inc.:

Date: _____

By: _____
H. F. Haabestad, Jr., President
Hydrol Chemical Company, Inc.

8.27.08

By: Mark Bartosh
MARK BARTOSH
HYDROL CHEMICAL - V.P.

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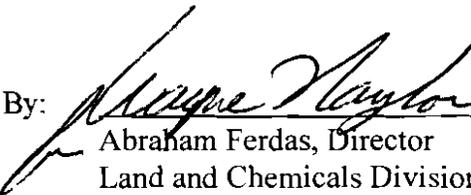
For Complainant United States Environmental Protection Agency, Region III:

Date: 9/02/08

By: 
For James Heenehan
Senior Assistant Regional Counsel

After reviewing the foregoing Consent Agreement and other pertinent information, the Director, Land and Chemicals Division, U.S. Environmental Protection Agency, Region III, recommends that the Regional Administrator or the Regional Judicial Officer issue the Final Order attached hereto.

9/5/08
Date

By: 
Abraham Ferdas, Director
Land and Chemicals Division

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Exhibit A

Documents Submitted by Respondent to Support its Ability-to-Pay Penalty Mitigation Position

- a. 2005 Hydrol Chemical Company Tax Return;
- b. 2006 Hydrol Chemical Company Tax Return;
- c. 2007 Hydrol Chemical Company Tax Return;
- d. Roofing bill dated 03/07/08 of \$38,040 for Hydrol Chemical;
- e. Pages 34 & 35 from a Haas Business Valuation Services showing the December 31, 2004 Fair Market Value Worth of Hydrol Chemical Company;
- f. April 10, 2008 letter from Bud Haabestad to James Heenehan enclosing:
 - i. Hydrol profit/loss statements for 2005, 2006 & 2007;
 - ii. November 25, 2007 invoice billed to Hydrol Chemical for formaldehyde 10-15% MEOH;
 - iii. February 23, 2008 invoice billed to Hydrol Chemical for Formaldehyde 37% M 15%; and
- g. July 2, 2008 letter from Bud Haabestad to James Heenehan enclosing:
 - i. July 6, 2007 invoice billed to Hydrol Chemical for formaldehyde 10-15% MEOH;
 - ii. April 29, 2008 invoice billed to Hydrol Chemical for formaldehyde 10-15% MEOH;
 - iii. November 21, 2007 invoice billed to Hydrol Chemical for Formaldehyde 37% M 15%;
 - iv. May 18, 2008 invoice billed to Hydrol Chemical for Formaldehyde 37% M 15%;
 - v. Undated 2008 memo from Mark Bartosh to Bud Haabestad regarding Hydrol Chemical formaldehyde sales; and
- h. Undated 2008 letter from Bud Haabestad to James Heenehan (received in July 2008) specifying Hydrol Chemical financial status through June 30, 2008.

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

IN THE MATTER OF)
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Hydrol Chemical Company, Inc.)
520 Commerce Drive)
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Facility)

CONSENT AGREEMENT

Docket No. FIFRA-03-2008-0393

FINAL ORDER

The Director, Land and Chemicals Division (formerly known as the Waste and Chemicals Management Division), U.S. Environmental Protection Agency - Region III ("Complainant"), and Hydrol Chemical Company, Inc. ("Respondent"), have executed a document entitled "Consent Agreement" which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22. The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated herein as if set forth at length.

NOW THEREFORE, pursuant to Section 14(a) of the Federal Insecticide, Fungicide and Rodenticide Act ("FIFRA" or "the Act"), as amended, 7 U.S.C. § 136l(a), and based on

representations in the Consent Agreement that the penalty agreed to in the Consent Agreement is based on a consideration of the factors set forth in Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), Respondent Hydrol Chemical Company, Inc., is hereby ordered to pay a civil penalty of Ten Thousand Dollars (\$10,000.00), as set forth in Section III of the Consent Agreement, and to comply with the terms and conditions of the Consent Agreement.

The effective date of this document is the date on which it is filed with the Regional Hearing Clerk after signature by the Regional Administrator or Regional Judicial Officer.

Date:

9/24/08

Renée Sarajian
Regional Judicial Officer
U.S. EPA, Region III

