



1 SYLVIA QUAST  
 2 Regional Counsel  
 3  
 4 Margaret Alkon  
 5 Assistant Regional Counsel  
 6 U.S. Environmental Protection Agency, Region IX  
 7 75 Hawthorne Street  
 8 San Francisco, CA 94105  
 9 (415) 972-3890  
 10 [Alkon.Margaret@epa.gov](mailto:Alkon.Margaret@epa.gov)

11  
 12  
 13 **UNITED STATES**  
 14 **ENVIRONMENTAL PROTECTION AGENCY**  
 15 **REGION IX**  
 16 **75 HAWTHORNE STREET**  
 17 **SAN FRANCISCO, CA 94105**

18  
 19 In the matter of: )  
 20 ) U.S. EPA Docket No. FIFRA-09-2023-0054  
 21 Ross Stores, Inc. )  
 22 ) **CONSENT AGREEMENT**  
 23 ) and  
 24 ) **FINAL ORDER PURSUANT TO SECTIONS**  
 25 Respondent. ) **22.13 AND 22.18**  
 26 )  
 27 )  
 28 )

29 **I. CONSENT AGREEMENT**

30 The United States Environmental Protection Agency (“EPA”) and Ross Stores, Inc.  
 31 (“Respondent”) agree to settle this matter and consent to the entry of this Consent Agreement  
 32 and Final Order (“CAFO”). This CAFO simultaneously initiates and concludes this proceeding  
 33 in accordance with 40 C.F.R. §§22.13(b) and 22.18(b).

34 **A. AUTHORITY AND PARTIES**

35 1. This administrative proceeding for the assessment of a civil administrative penalty  
 36 is initiated pursuant to section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, 7  
 37 U.S.C. § 136, et seq. (hereinafter referred to as “FIFRA” or the “Act”), and the Consolidated  
 38 Rules of Practice Governing the Administrative Assessment of Civil Penalties and the  
 39 Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22.

40 2. Complainant is the Manager of the Toxics Section of the Enforcement and  
 Compliance Assurance Division, EPA Region IX, who has been duly delegated to commence

1 and settle an enforcement action in this matter.

2 3. Respondent is a Delaware corporation headquartered in Dublin, California and  
3 with facilities and businesses in many locations, including California and Hawaii.

4 **B. STATUTORY AND REGULATORY AUTHORITIES**

5 4. Under section 2(s) of FIFRA, 7 U.S.C. §136 s), a person is “any individual,  
6 partnership, association, corporation, or any organized group of persons whether incorporated or  
7 not.”

8 5. Under section 2(u) of FIFRA, 7 U.S.C. §136(u), a pesticide is, among other  
9 things, “any substance or mixture of substances intended for preventing, destroying, repelling, or  
10 mitigating any pest.”

11 6. The term “pest” includes (1) any insect, rodent, nematode, fungus, weed, or (2)  
12 any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-  
13 organism (except viruses, bacteria, or other micro-organisms on or in living man or other living  
14 animals) which the Administrator declares to be a pest under FIFRA section 25(c)(1). Section  
15 2(t) of FIFRA, 7 U.S.C. §136(t).

16 7. The term “to distribute or sell” means to distribute, sell, offer for sale, hold for  
17 distribution, hold for sale, hold for shipment, ship, deliver for shipment, release for shipment, or  
18 receive and (having so received) deliver or offer to deliver. Section 2(gg) of FIFRA, 7 U.S.C. §  
19 136(gg).

20 *Unregistered Pesticide*

21 8. Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), states that it is unlawful  
22 for any person in any State to distribute or sell to any person any pesticide that is not registered  
23 under the Act. See also 40 C.F.R. 152.15, which also provides that no person may distribute or  
24 sell any pesticide that is not registered under the Act, with certain exceptions not applicable here.

25 *Penalty*

26 9. Any registrant, commercial applicator, wholesaler, dealer, retailer, or other  
27 distributor who violates any provision of the Act may be assessed a civil penalty of not more  
28 than \$23,494 for violations that occurred after November 2, 2015 and are assessed on or after  
29 January 6, 2023. Section 14(a)(1) of the Act, 7 U.S.C. § 136l(a)(1), as amended by the Civil  
30 Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19.

1 **C. COMPLAINANT’S ALLEGATIONS**

2 Complainant alleges:

3 10. Respondent is a “person” as that term is defined by section 2(s) of FIFRA, 7  
4 U.S.C. § 136(s), and as such is subject to FIFRA and the regulations promulgated thereunder.

5 11. Respondent is a retailer.

6 **Counts 1-5**

7 12. On or about February 3, 2021, an inspector from the State of Hawaii Department  
8 of Agriculture (HDOA) conducted an inspection at the Ross Dress for Less (Pearl City) store  
9 located at 98-1005 Moanalua Road, Aiea, Hawaii.

10 13. At the time of the HDOA inspection, Respondent was offering for sale the  
11 following products: (1) CIF Power & Shine Multi-Purpose Wipes (Ocean Fresh); (2) CIF Power  
12 & Shine Multi-Purpose Wipes (Citrus Fresh); (3) Domestos Professional Disinfecting Surface  
13 Wipes; (4) CIF Multi-Purpose Disinfectant Spray; and (5) Domestos Multi-Purpose Disinfectant  
14 Spray.

15 14. At all times relevant to this action, CIF Power & Shine Multi-Purpose Wipes  
16 (Ocean Fresh) is labeled as follows: The front label states: “99.9% BACTERIA  
17 ELIMINATION” and “CLEANS & DISINFECTS IN ONE WIPE.” The back label states:  
18 “SUITABLE FOR: ● SINK ● COOKER ● SHOWER ● FRIDGE ● TOILET ● BINS ● TABLE”  
19 and “Eliminates bacteria like Salmonella, E. Coli and staphylococcus aureus” and states  
20 ingredients as “<5% anionic surfactant, Cationic surfactant, Phenoxyethanol, Perfume,  
21 Citronellol, Geraniol Disinfectant agent: Benzalkonium Chloride 0.2% (w/w).” The label  
22 contains neither an EPA product registration number nor an EPA establishment number.

23 15. At all times relevant to this action, CIF Power & Shine Multi-Purpose Wipes  
24 (Citrus Fresh) is labeled as containing 90 wipes and as follows: The front label states: “99.9%  
25 BACTERIA ELIMINATION” and “CLEANS & DISINFECTS IN ONE WIPE.” The back label  
26 states: “SUITABLE FOR: ● SINK ● COOKER ● SHOWER ● FRIDGE ● TOILET ● BINS  
27 ● TABLE” and “Eliminates bacteria like Salmonella, E. Coli and staphylococcus aureus” and  
28 states ingredients as “<5% anionic surfactant, Cationic surfactant, Phenoxyethanol, Perfume,  
29 D’Limonene, Citral Disinfectant agent: Benzalkonium Chloride 0.2% (w/w). Contains  
30 Limonene. May produce an allergic reaction.” The label contains neither an EPA product  
31 registration number nor an EPA establishment number.

1           16.     At all times relevant to this action, Domestos Professional Disinfecting Surface  
2 Wipes (80 count) is labeled as follows: The front label states “Effective against Flu Virus” and  
3 “Eliminates 99.9% Germs” and has the labels “TABLES” “STOVES” and “TOILETS.” The  
4 back label states: “Domestos disinfecting multi-purpose wipes contain the powerful Domestos  
5 formula which ensures effective cleaning and fights \*Germs including E.Coli, Salmonella,  
6 MRSA and Flu Virus (H1N1).” and states ingredients as “<5% Anionic surfactant, Cationic  
7 Surfactant, Phenoxyethanol, Perfume, Citronellol. Disinfecting agent: Didecyldimonium  
8 Chloride 0.22% (w/w) Benzalkonium Chloride 0.3% (w/w).” The label contains neither an EPA  
9 product registration number nor an EPA establishment number.

10           17.     At all times relevant to this action, CIF Multi-Purpose Disinfectant Spray 500 ML  
11 is labeled as follows: The front label states “Effective against viruses” and “multipurpose  
12 disinfectant” and “kills 99.9% Germs” and “TABLES” “DOORKNOBS” “TOILETS” and  
13 “SINKS.” The back label states “PROFESSIONAL MULTIPURPOSE DISINFECTANT” and  
14 lists ingredients as “Alcohol.denat, water (AQUA), sodium bicarbonate, Perfume, Benzalkonium  
15 Chloride, Limonene, Citronellol, Geraniol.” The label contains neither an EPA product  
16 registration number nor an EPA establishment number.

17           18.     At all times relevant to this action, Domestos Multi-Purpose Disinfectant Spray is  
18 labeled as follows: The front label states “Effective against viruses” and “multipurpose  
19 disinfectant” and “kills 99.9% Germs.” The back label states “MULTIPURPOSE  
20 DISINFECTANT” and lists ingredients as “Alcohol.denat, water (AQUA), sodium bicarbonate,  
21 Perfume, Benzalkonium Chloride, Limonene, Citronellol, Geraniol.” The label contains neither  
22 an EPA product registration number nor an EPA establishment number.

23           19.     Bacteria including Salmonella, E. Coli and staphylococcus aureus, fungi, yeasts,  
24 algae, and virus, including the flu virus, and other micro-organisms including “germs” are each  
25 “pests” as that term is defined by FIFRA.

26           20.     CIF Power & Shine Multi-Purpose Wipes (Ocean Fresh), CIF Power & Shine  
27 Multi-Purpose Wipes (Citrus Fresh), Domestos Professional Disinfecting Surface Wipes, CIF  
28 Multi-Purpose Disinfectant Spray, and Domestos Multi-Purpose Disinfectant Spray are each a  
29 “pesticide” as that term is defined by FIFRA.

30           21.     CIF Power & Shine Multi-Purpose Wipes (Ocean Fresh), CIF Power & Shine  
31 Multi-Purpose Wipes (Citrus Fresh), Domestos Professional Disinfecting Surface Wipes, CIF

1 Multi-Purpose Disinfectant Spray, and Domestos Multi-Purpose Disinfectant Spray are each not  
2 a registered pesticide under the Act.

3 22. On or about February 3, 2021, Respondent “distributed or sold” as that term is  
4 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), CIF Power & Shine Multi-Purpose  
5 Wipes (Ocean Fresh), CIF Power & Shine Multi-Purpose Wipes (Citrus Fresh), Domestos  
6 Professional Disinfecting Surface Wipes, CIF Multi-Purpose Disinfectant Spray, and Domestos  
7 Multi-Purpose Disinfectant Spray. In each of these five instances, Respondent violated section  
8 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by offering for sale an unregistered pesticide.

9 **Count 6**

10 23. On March 9, 2021, EPA Inspectors conducted an inspection of the Ross Dress for  
11 Less store located at 5412 Ygnacio Valley Blvd, Concord, California.

12 24. At the time of the EPA inspection, Respondent was offering for sale the product  
13 Avalanche Antimicrobial Tempered Glass Screen Protector.

14 25. At all times relevant to this action, Avalanche Antimicrobial Tempered Glass  
15 Screen Protector is labeled as follows: The front label states “ANTIMICROBIAL” in larger font  
16 size than the text stating “Tempered Glass Screen Protector for iPhone 6.1.” The back label  
17 states “ANTIMICROBIAL” in larger font size than the text stating “Tempered Glass Screen  
18 Protector” and lists benefits that include “Silver-ion infused hybrid glass keeps the growth or  
19 reproduction of some microorganisms (bacteria, fungi, yeasts, algae, and viruses) below the  
20 necessary level within a certain period of time” and “the antimicrobial composition attacks  
21 bacteria while it rests on the surface.” The label contains neither an EPA product registration  
22 number nor an EPA establishment number.

23 26. Avalanche Antimicrobial Tempered Glass Screen Protector is a “pesticide” as that  
24 term is defined by FIFRA.

25 27. Avalanche Antimicrobial Tempered Glass Screen Protector is not a registered  
26 pesticide under the Act.

27 28. At all times relevant to this action, Avalanche Antimicrobial Tempered Glass  
28 Screen Protector did not meet the requirements at 40 CFR 152.25(a) to be exempt from pesticide  
29 regulation. An exemption to the requirement for a pesticide to be registered exists for treated  
30 articles or substances when intended for use, and used, only in the manner specified at 40 CFR  
31 152.25(a)(“An article or substance treated with, or containing, a pesticide to protect the article or

1 substance itself (for example, paint treated with a pesticide to protect the paint coating, or wood  
2 products treated to protect the wood against insect or fungus infestation), if the pesticide is  
3 registered for such use.”). This treated article exemption is available only for the protection of  
4 the product itself, and not for public health uses. The antimicrobial protection claims on the  
5 Avalanche Antimicrobial Tempered Glass Screen Protector were not qualified or limited to the  
6 protection of the product itself and were given greater prominence than other described product  
7 features. For this and other reasons, the Avalanche Antimicrobial Tempered Glass Screen  
8 Protector did not meet the requirements at 40 CFR 152.25(a).

9 29. On or about March 9, 2021, Respondent “distributed or sold” Avalanche  
10 Antimicrobial Tempered Glass Screen Protector as the term “to distribute or sell” is defined by  
11 Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg). On or about March 9, 2021, Respondent violated  
12 section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by offering for sale an unregistered  
13 pesticide.

#### 14 **D. RESPONDENTS’ ADMISSIONS**

15 30. In accordance with 40 C.F.R. § 22.18(b)(2), and for the purpose of this  
16 proceeding, Respondent (i) admits that EPA has jurisdiction over the subject matter of this  
17 CAFO and over Respondent; (ii) neither admits nor denies the specific factual allegations  
18 contained in Section I.C of this CAFO; (iii) consents to any and all conditions specified in this  
19 CAFO, (iv) agrees to pay, and consents to the assessment of, the civil administrative penalty  
20 under Section I.E of this CAFO; (v) waives any right to contest the allegations contained in  
21 Section I.C of this CAFO; and (vi) waives the right to appeal the proposed final order contained  
22 in this CAFO.

#### 23 **E. CIVIL ADMINISTRATIVE PENALTY**

24 31. Respondent consents to the assessment of a civil administrative penalty in the  
25 amount of **FIFTY-FIVE THOUSAND DOLLARS (\$ 55,000)** as final settlement and complete  
26 satisfaction of the civil claims against Respondent arising from the facts alleged in Section I.C of  
27 the CAFO and under the Act.

28 a. Respondent shall pay the civil penalty within thirty (30) days of the effective  
29 date of this CAFO by one of the methods listed below:

- 30 i. Respondent may pay online through the Department of the Treasury  
31 website at [www.pay.gov](http://www.pay.gov). In the Search Public Form field, enter SFO 1.1,

1 click EPA Miscellaneous Payments - Cincinnati Finance Center, and  
2 complete the SFO Form Number 1.1.

- 3  
4 ii. Respondent may also pay the civil penalty using any method, or  
5 combination of methods, provided on the following website:

6  
7 <http://www2.epa.gov/financial/additional-instructions-making-payments-epa>  
8

9 If clarification regarding a particular method of payment remittance is needed,  
10 contact the EPA's Cincinnati Finance Center at (513) 487-2091.

11  
12 b. Respondent shall identify payment with the name and docket number of this  
13 case; and

14 c. Within 24 hours of payment, Respondent shall provide EPA with proof of  
15 payment ("proof of payment" means, as applicable, a copy of the check, confirmation of credit  
16 card or debit card payment, confirmation of wire or automated clearinghouse transfer, and any  
17 other information required to demonstrate that payment has been made according to EPA  
18 requirements, in the amount due, and identified with the name and docket number of this case),  
19 including proof of the date payment was made, along with a transmittal letter, indicating  
20 Respondent's names, the case title, and docket number, to the following addresses:

21 Regional Hearing Clerk  
22 U.S. EPA, Region IX  
23 [r9HearingClerk@epa.gov](mailto:r9HearingClerk@epa.gov)  
24

25 Daniel Haskell  
26 Enforcement and Compliance Assurance Division  
27 U.S. EPA, Region IX  
28 [Haskell.Daniel@epa.gov](mailto:Haskell.Daniel@epa.gov)  
29

30 32. In the event that Respondent fails to pay the civil administrative penalty assessed  
31 above by the due date, Respondent shall pay to EPA a stipulated penalty in the amount of **FIVE**  
32 **HUNDRED DOLLARS (\$500)** for each day that payment is late in addition to the unpaid  
33 balance of the penalty assessed above. Upon EPA's written demand, this stipulated penalty shall  
34 immediately become due and payable.

35 33. If Respondent fails to pay the penalty assessed by this CAFO in full by the date  
36 specified in Paragraph **31**, the entire unpaid balance and accrued interest shall become  
37 immediately due and owing. Respondent's tax identification numbers may be used for collecting  
38 or reporting any delinquent monetary obligation arising from this CAFO (see 31 U.S.C. § 7701).

1 If payment is not received in full by the date specified in Paragraph **31**, interest, penalty and  
2 administrative costs will accrue from the effective date of this CAFO as described at 40 CFR  
3 §13.11. In addition, if this matter is referred to another department or agency (e.g., the  
4 Department of Justice, the Internal Revenue Service), that department or agency may assess its  
5 own administrative costs, in addition to EPA's administrative costs, for handling and collecting  
6 Respondent's overdue debt. Respondent's failure to pay in full the civil administrative penalty by  
7 its due date also may also lead to any or all of the following actions:

8 a. The debt being referred to a credit reporting agency, a collection agency, or to  
9 the Department of Justice for filing of a collection action in the appropriate United States District  
10 Court. 40 C.F.R. §§ 13.13, 13.14, and 13.33. In any such collection action, the validity, amount,  
11 and appropriateness of the assessed penalty and of this CAFO shall not be subject to review.

12 b. The debt being collected by administrative offset (i.e., the withholding of  
13 money payable by the United States to, or held by the United States for, a person to satisfy the  
14 debt the person owes the Government), which includes, but is not limited to, referral to the  
15 Internal Revenue Service for offset against income tax refunds. 40 C.F.R. Part 13, Subparts C  
16 and H.

17 c. EPA may (i) suspend or revoke Respondent's licenses or other privileges; (ii)  
18 suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA  
19 sponsors or funds; (iii) convert the method of payment under a grant or contract from an  
20 advanced payment to a reimbursement method; or (iv) revoke a grantee's or contractor's letter-  
21 of-credit. 40 C.F.R. §§ 13.17.

#### 22 **F. RESPONDENT CERTIFICATION**

23 34. In executing this CAFO, Respondent certifies that the information it has supplied  
24 concerning this matter was at the time of submission, and is at the time of signature to this  
25 CAFO, truthful, accurate, and complete; and that Respondent has corrected the violations alleged  
26 in Section I.C of this CAFO. Under 18 U.S.C. § 1001, submitting false or misleading  
27 information can result in significant penalties, including the possibility of fines and  
28 imprisonment for knowing submission of such information.

#### 29 **G. RETENTION OF RIGHTS, BINDING EFFECT, ETC.**

30 35. This Consent Agreement constitutes the entire agreement between the Respondent  
31 and EPA. Full payment of the civil penalty and any applicable interest charges or late fees or



1 penalties as set forth in this CAFO shall constitute full settlement and satisfaction of civil penalty  
2 liability against Respondent for the violations alleged in Section I.C of this CAFO.

3 36. In accordance with 40 C.F.R. § 22.18(c), this CAFO only resolves Respondent's  
4 liabilities for federal civil penalties for the violations specifically alleged in Section I.C of this  
5 CAFO. Nothing in this CAFO is intended to or shall be construed to resolve: (i) any civil liability  
6 for violations of any provision of any federal, state, or local law, statute, regulation, rule,  
7 ordinance, or permit not specifically alleged in Section I.C of this CAFO; or (ii) any criminal  
8 liability. EPA specifically reserves any and all authorities, rights, and remedies available to it  
9 (including, but not limited to, injunctive or other equitable relief or criminal sanctions) to address  
10 any violation of this CAFO or any violation not specifically alleged in Section I.C of this CAFO.  
11 This CAFO does not exempt, relieve, modify, or affect in any way Respondent's duties to  
12 comply with all applicable federal, state, and local laws, regulations, rules, ordinances, and  
13 permits.

14 37. Except as set forth in Paragraph **33** above, EPA and Respondent shall each bear  
15 its own fees, costs, and disbursements in this action.

16 38. For the purposes of state and federal income taxation, Respondent shall not claim  
17 a deduction for any civil penalty payment made pursuant to this CAFO.

18 39. This CAFO constitutes an enforcement action for purposes of considering  
19 Respondent's compliance history in any subsequent enforcement action. This CAFO will be  
20 available to the public and does not contain any confidential business information. Respondent  
21 further consents to accept electronic service of the fully executed CAFO, by electronic mail, to  
22 the following address: tracey.meyer@ros.com. Respondent understands that this e-mail address  
23 may be made public when the CAFO and Certificate of Service are filed and uploaded to a  
24 searchable database.

25 40. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), the effective date of  
26 this CAFO shall be the date on which the accompanying Final Order, having been signed by the  
27 Regional Judicial Officer, is filed.

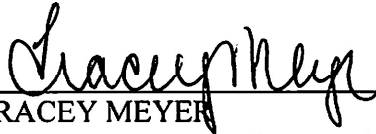
28 41. The provisions of this CAFO shall be binding on Respondent and on  
29 Respondent's officers, directors, employees, agents, servants, authorized representatives,  
30 successors, and assigns.

31 42. The undersigned representatives of each party to this Consent Agreement certify

1 that each is duly authorized by the party whom he or she represents to enter into the terms and  
2 conditions of this Consent Agreement and Final Order and bind that party to it.

3  
4 **ROSS STORES, INC.:**

5  
6  
7 Date: 4/7/23 By:

  
\_\_\_\_\_

8 TRACEY MEYER  
9 Vice President, Compliance and Regulatory Counsel  
10 Ross Stores, Inc.  
11  
12

1 **UNITED STATES ENVIRONMENTAL PROTECTION AGENCY:**

2  
3 **MATTHEW** Digitally signed by  
4 **SALAZAR** MATTHEW SALAZAR  
5 Date: 2023.04.24  
10:57:05 -07'00'

6 Date: April 24, 2023 By:

7 **MATT SALAZAR**  
8 **Manager, Toxics Section**  
9 **Enforcement and Compliance Assurance Division**  
10 **U.S. Environmental Protection Agency,**  
11 **Region IX**  
12  
13

1 **II. FINAL ORDER**

2  
3 IT IS HEREBY ORDERED that this Consent Agreement and Final Order (EPA  
4 Docket No. FIFRA-09-2023-0054) be entered and that Respondent shall pay a civil  
5 administrative penalty in the amount of **FIFTY-FIVE THOUSAND DOLLARS (\$ 55,000)**  
6 plus interest in accordance with the terms of this Consent Agreement and Final Order.  
7  
8

9 BEATRICE WONG Digitally signed by  
BEATRICE WONG  
Date: 2023.05.01  
16:18:38 -07'00'

10  
11 Beatrice Wong Date  
12 Regional Judicial Officer  
13 U.S. EPA, Region IX

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that the foregoing Consent Agreement and Final Order in the matter of Ross  
3 Stores, Inc. (FIFRA-09-2023-0054) was filed with the Regional Hearing Clerk, U.S. EPA,  
4 Region IX, 75 Hawthorne Street, San Francisco, CA 94105, and that a true and correct copy of  
the same was sent to the following parties via electronic mail, as indicated below:

5 **RESPONDENT**

6 Tracey Meyer  
7 Vice President  
8 Ross Stores, Inc.  
9 Tracey.Meyer@ros.com

10 William L. Troutman  
11 Counsel  
12 Norton Rose Fulbright US  
13 William.Troutman@nortonrosefulbright.com

14 **COMPLAINANT**

15 Margaret Alkon  
16 Assistant Regional Counsel (ORC-2-2)  
17 United States Environmental Protection Agency, Region IX  
18 Alkon.Margaret@epa.gov

19 \_\_\_\_\_  
20 Ponly J. Tu Date  
21 Regional Hearing Clerk  
22 U.S. EPA - Region IX  
23  
24  
25  
26  
27  
28