

U. S. ENVIRONMENTAL PROTECTION AGENCY
REGION 1 (NEW ENGLAND)

In the Matter of:)
)
)
Chemco Corporation)
300 Canal Street)
Lawrence, MA 01840) Docket No. FIFRA-01-2020-0031
)
Respondent.) **CONSENT AGREEMENT**
) **and**
Proceedings under Section 14(a)) **FINAL ORDER**
of the Federal Insecticide, Fungicide,)
and Rodenticide Act, as amended,)
7 U.S.C. Section 136l(a).)
_____)

I. INTRODUCTION

1. The United States Environmental Protection Agency-Region 1 (“EPA”), as Complainant, and Chemco Corporation as Respondent (“Chemco” or “Respondent”), enter into this Consent Agreement and Final Order (“CAFO” or “Consent Agreement”) by mutual consent. The CAFO informs Respondent of EPA’s intention to assess a penalty against Respondent for alleged violations of Section 12 of the Federal Insecticide, Fungicide and Rodenticide Act, as amended (“FIFRA”), 7 U.S.C. § 136j, and implementing regulations at 40 C.F.R. Parts 150 – 180 (the “FIFRA Regulations”). The CAFO also informs Chemco of its right to request a hearing.

2. This CAFO simultaneously commences and concludes the cause of action described herein, pursuant to 40 C.F.R. §§ 22.13(b) and 22.18(b) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules”), at 40 C.F.R. Part 22, and Section 14(a) of FIFRA, 7 U.S.C. § 136l(a). Complainant and Respondent

(collectively, the “Parties”) agree that settlement of this matter is in the public interest and that entry of this Consent Agreement without litigation is the most appropriate means of resolving this matter.

3. Therefore, before any hearing or the taking of any testimony, without adjudication of any issue of fact or law herein, the Parties agree to comply with the terms of this Consent Agreement.

II. PRELIMINARY STATEMENT

4. Chemco Corporation is a company incorporated under the laws of the Commonwealth of Massachusetts with its principal place of business located at 300 Canal Street in Lawrence, MA (the “Establishment”).

5. Respondent is a *person*¹ as defined by Section 2(s) of FIFRA, 7 U.S.C. § 136(s) and is also a *producer* as defined by Section 2(w) of FIFRA, 7 U.S.C. § 136(w), and 40 C.F.R. § 167.3.

6. Respondent operates the Establishment as a pesticide-producing *establishment* under Section 7 of FIRA, 7 U.S.C. § 136e. Under Sections 7(a) and (b) of FIFRA, 7 U.S.C. §§ 136e(a) and (b), and 40 C.F.R. § 167.20, the Establishment has been registered as a pesticide-producing establishment and assigned the EPA Establishment Number (EPA Est. No.) “42587-MA-1.”

7. Respondent *produces, repackages, distributes or sells* a variety of specialty chemicals that include, among others, three *sanitizers* under the brand names

¹ Words that appear in italics upon first use indicate terms that are defined in Section 2 of FIFRA, 7 U.S.C. § 136, and/or the FIFRA Regulations. Such terms are relevant to the EPA findings specified in this CAFO and, unless otherwise indicated, are intended to be used as so defined.

“**Doggone II** Roller Grill Food Contact Surface Sanitizer” (“Doggone II”), “**Sani 750** Ice Machine Sanitizer” (“Sani 750”), and “**Chemcocide 1000** Sanitizer” (“Chemcocide 1000”). The Doggone II, Sani 750, and Chemcocide 1000 products (collectively, the “Products”) are *pesticide products*, each of which is identified by the EPA registration number (EPA Reg. No.) indicated:

- a. Doggone II, EPA Reg. No. 1839-189-42587;
- b. Sani 750, EPA Reg. No. 10324-81-42587; and,
- c. Chemcocide 1000, EPA Reg. No. 1839-86-42587.

8. Each of the Products is a “pesticide,” as defined by Section 2(u) of FIFRA, 7 U.S.C. § 136(u), and the FIFRA Regulations.

9. Respondent conducts at least a portion of its business as a *supplemental distributor* for a number of pesticide products that are, or were, registered to another party as the “primary” *registrant*. At all times relevant to the violations alleged in this CAFO, each of the Products identified in Paragraph 7 is or was such a “distributor product.” *See* 40 C.F.R. § 152.132.

10. On February 12, 2018, under Sections 8 and 9 of FIFRA, 7 U.S.C. §§ 136f and 136g, the Massachusetts Department of Agricultural Resources (“MADAR”), which is authorized by EPA to conduct FIFRA inspections, conducted a compliance inspection at the Establishment (the “Inspection”).

11. During the Inspection, the duly-authorized MADAR inspector collected documentary samples of the *label* (known as a “bin label”) from each of the Doggone II, Sani 750, and Chemcocide 1000 products, each of which, at the time, was packaged, labeled and released for shipment.

12. During the Inspection, the MADAR inspector collected a physical sample of each of the Doggone II, Sani 750, and Chemcocide 1000 products for laboratory analysis. Each of the Products from which a sample was collected was packaged, labeled and released for shipment.

13. On February 22, 2018, the duly-authorized MADAR inspector returned to the Establishment and collected an additional physical sample from the same *batch* of the Doggone II product (batch no. 7218) from which a sample had been collected during the Inspection on February 12, 2018. The Doggone II product from which a sample was collected on February 22, 2018 was packaged, labeled and released for shipment.

14. On April 27, 2018, the duly-authorized MADAR inspector returned to the Establishment and collected another physical sample from the Doggone II product, this time from batch no. 7472. The Doggone II product from which the sample was collected on April 27, 2018 was packaged, labeled and released for shipment.

15. On August 9, 2019, EPA issued a letter to Chemco, entitled “Opportunity to Show Cause (FIFRA/SC-2019-004)” (“Show Cause letter”), through which EPA provided Respondent an opportunity to respond to the violations EPA described in the Show Cause letter. Such violations are substantially the same as those alleged in this Consent Agreement.

16. Under Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), it is unlawful for any person in any State to distribute or sell to any person any pesticide which is *adulterated* or *misbranded*.

17. Under Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), and 40 C.F.R. § 152.15, with certain exceptions not relevant to the facts of this case, it is

unlawful for any person in any *State* to distribute or sell to any person any pesticide that is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a. The FIFRA regulations at 40 C.F.R. Part 152 set forth procedures, requirements and criteria concerning the registration of pesticides under Section 3 of FIFRA.

18. Under FIFRA Section 2(c)(1)-(3), 7 U.S.C. § 136(c)(1)-(3), a pesticide is “adulterated” if: (1) its strength or purity falls below the professed standard of quality as expressed on its *labeling* under which it is sold; (2) any substance has been substituted wholly or in part for the pesticide; or (3) any valuable constituent of the pesticide has been wholly or in part abstracted.

19. Under FIFRA Section 2(q)(1), 7 U.S.C. § 136(q)(1), a pesticide is “misbranded” if: (a) its labeling bears any statement, design, or graphic representation relative to the pesticide or its ingredients which is false or misleading in any particular [Sec. 2(q)(1)(A)]; or (b) any word, statement, or other information required by FIFRA to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use [Sec. 2(q)(1)(E)].

20. The FIFRA prohibition against the distribution or sale of adulterated or misbranded pesticides is important because it helps ensure that end users and members of the public have access to fully compliant and effective pesticides and that, for each, end users will have the most accurate, up-to-date, and compliant information available about pesticides in the marketplace as well as the establishments where they are produced.

21. The FIFRA prohibition against the distribution or sale of unregistered

pesticides is important because Section 3 registration requirements lie at the core of FIFRA's regulatory scheme and serve a fundamental purpose of ensuring that no pesticide is distributed, sold, or used in a manner that may pose an unreasonable risk to human health or the environment. The registration requirements under Section 3 of FIFRA also help ensure that pesticide end users and members of the public have accurate, up-to-date, and compliant information about pesticides found in the marketplace.

22. Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), authorizes EPA to assess a civil penalty of up to \$5,000 for each violation of FIFRA and the FIFRA Regulations promulgated under FIFRA. Pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461 note, as amended through the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 ("Penalty Inflation Act"), Pub. L. 114-74, Section 701 (Nov. 2, 2015), and EPA's Civil Monetary Penalty Inflation Adjustment Rule at 40 C.F.R. Part 19 ("Penalty Inflation Rule"), the statutory maximum penalty amount in FIFRA Section 14(a) was increased to \$19,936 for violations occurring after November 2, 2015 where penalties are assessed on or after February 6, 2019. *See* 24 Fed. Reg. 2056 (Feb 6, 2019) and 84 Fed. Reg. 5955 (Feb 25, 2019).

23. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in this CAFO. For the purposes of this proceeding, Respondent waives any defenses it might have as to jurisdiction and venue and, without admitting or denying EPA's findings or allegations of violation herein, consents to the terms of this CAFO.

24. Respondent acknowledges that it has been informed of its right to request a hearing and hereby waives its right to request a judicial or administrative hearing on any issue of law or fact set forth in this CAFO. Respondent also waives its right to

appeal the Final Order accompanying the Consent Agreement.

25. By signing this CAFO, Respondent certifies that it is presently operating in compliance with FIFRA and the FIFRA Regulations promulgated thereunder, that it has fully addressed the violations alleged by EPA herein, and that the information it has provided to EPA during the course of the EPA investigation of this matter is true and complete, to the best of its knowledge and belief.

III. EPA FINDINGS

26. At all times relevant to the violations alleged in Section IV of this CAFO, below, Respondent produced, distributed, sold, offered for sale, shipped, and/or delivered for shipment the Doggone II, Sani 750, and Chemcocide 1000 pesticides.

27. Laboratory analysis of the samples collected, on February 12 and 22, 2018, from batch no. 7218 of the Doggone II product showed that the concentration of the active ingredient (quaternary ammonium²) was 0.0072%.

28. Laboratory analysis of the sample collected, on April 27, 2018, from batch no. 7472 of the Doggone II product showed that the concentration of the active ingredient (quaternary ammonium) was 0.0074%.

29. The EPA-accepted label for the Doggone II pesticide (EPA Reg. No. 1839-189-42587) states that the product contains 0.02% quaternary ammonium.

30. At the time of the Inspection and at all times relevant to the violations alleged by EPA, Chemco produced, distributed, and sold the Sani 750 product as a

² In this CAFO, the term “quaternary ammonium” is used for convenience since the compound, as listed on the Doggone II label, is “Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 0.01% and Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 0.01%.” This active ingredient is one of a group of quaternary ammonium compounds, commonly known as “Quats.”

distributor product under the supplemental registration number “EPA Reg. No. 10324-81-42587.”

31. The supplemental registration for the Sani 750 product was first approved, on April 6, 2004, with the primary registrant as Mason Chemical Company.

32. The supplemental registration for Sani 750 (EPA Reg. No. 10324-81-42587) was cancelled on July 14, 2009.

33. At the time of the Inspection and at all times relevant to the violations alleged by EPA, the label or *labeling* for the Doggone II product contained (or failed to contain, as may be applicable) the following statements or claims:

- a. Under the ACTIVE INGREDIENTS portion of the label, “Alkyl (60% Ci4, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 0.01% and Alkyl (68% Ci2, 32% C14) dimethyl ethylbenzyl ammonium chlorides 0.01%” [equivalent to 0.02% quaternary ammonium compounds].
- b. In the portion of the label marked CONTAINER STORAGE, “*CONTAINER STORAGE: Triple rinse (or equivalent). Then offer for recycling or reconditioning or puncture or and dispose of in a sanitary landfill, or by incineration, or if allowed by state and local authorities, by burning. If burned stay out of smoke.*”
- c. In the PESTICIDE STORAGE portion of the label, the statement “*Store in area inaccessible to children*” was absent.

34. At the time of the Inspection and at all times relevant to the violations alleged by EPA, the label or *labeling* for the Chemcocide 1000 product contained, among other things, the following statements or claims:

- a. Under the PESTICIDE STORAGE portion of the label, “*Store in a dry place no lower in temperature than 50° F or higher than 120° F.*”
- b. In the CONTAINER DISPOSAL portion of the label, “*Do not reuse empty container. Wrap container and put in trash.*”

IV. ALLEGATIONS OF VIOLATION

FIRST COUNT

Distribution or Sale of Adulterated Pesticides (Doggone II)

35. The EPA-approved label for the Doggone II product lists the active ingredient (quaternary ammonium compounds) concentration as 0.02%, specifically, “*Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 0.01% and Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 0.01%.*”

36. The laboratory analysis of the samples of Doggone II collected, on February 12, 2018 and February 22, 2018, from batch no. 7218, as described in Paragraph 27, above, showed the percent of quaternary ammonium compounds in the Doggone II product sampled was below the required composition of 0.02%.

37. The laboratory analysis of the sample of Doggone II collected on April 27, 2018 from batch no. 7472, as described in Paragraph 28, above, showed the percent of quaternary ammonium compounds in the Doggone II product sampled was below the required composition of 0.02%.

38. Based on the results of the laboratory analyses conducted of each of the samples from the Doggone II product, as referenced in Paragraphs 36 and 37 above, such Doggone II pesticide was adulterated as defined by Section 2(c)(1) of FIFRA, at 7 U.S.C. § 136(c)(1).

39. Based on the Inspection and EPA’s subsequent investigation, Respondent distributed or sold the Doggone II pesticide in an adulterated state on multiple occasions between February 12, 2018 and August 9, 2019.

40. Accordingly, on multiple occasions Respondent violated FIFRA Section 12(a)(1)(E), each of which was an unlawful act under Section 12(a)(1)(E) and a violation for which penalties may be assessed pursuant to Section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1).

SECOND COUNT

Distribution or Sale of Unregistered Pesticides (Sani 750)

41. Based on the Inspection and EPA's subsequent investigation, Respondent distributed or sold the Sani 750 product on multiple occasions between February 12, 2018 and August 9, 2019.

42. Respondent's distribution or sale of the Sani 750 product, as referenced in the preceding Paragraph 41, occurred subsequent to the July 14, 2009 cancellation of the supplemental registration for the Sani 750 product (*EPA Reg. No. 10324-81-42587*).

43. Respondent's distribution or sale of the Sani 750 pesticide on multiple occasions between February 12, 2018 and August 9, 2019 constituted distribution or sale of an unregistered pesticide under Section 12(a)(1)(A) of FIFRA.

44. Accordingly, on multiple occasions Respondent violated FIFRA Section 12(a)(1)(A), each of which was an unlawful act under Section 12(a)(1)(A) and a violation for which penalties may be assessed pursuant to Section 14(a)(1) of FIFRA.

THIRD COUNT

Distribution or Sale of Misbranded Pesticides (Doggone II and Chemcocide 1000)

45. Based on the Inspection and EPA's subsequent investigation, Respondent distributed or sold the Doggone II product on multiple occasions between February 12, 2018 and August 9, 2019.

46. At the time of the distributions and sales referenced in the preceding

Paragraph 45 and at all times relevant to the violations alleged by EPA, the language found on the EPA-accepted master label for the Doggone II pesticide contained, among other things, the following statements or claims:

- a. In the portion of the label marked CONTAINER DISPOSAL, “*Nonrefillable container. Do not reuse or refill container. Clean container after emptying. (Containers 5 gallons or less) Triple rinse as follows: Fill container ¼ full with water and recap. Agitate vigorously. Follow Pesticide Disposal instructions for rinsate disposal. Drain for 10 seconds after flow begins to drip. Repeat procedure two more times, then offer for recycling or reconditioning. If not available, puncture and dispose in a sanitary landfill.*”
- b. In the PESTICIDE STORAGE portion of the label, “*Store in area inaccessible to children.*”

47. Based on the Inspection and EPA investigation, at the time of the distributions and sales referenced in Paragraph 45, the language found on the Doggone II label, as described in Paragraph 33, differed substantially from the language on the accepted master label, as described in the preceding Paragraph 46, required by FIFRA and the FIFRA Regulations.

48. Based on the Inspection and EPA investigation, Respondent distributed or sold the Chemcocide 1000 product on multiple occasions between February 12, 2018 and August 9, 2019.

49. At the time of the distributions and sales referenced in the preceding Paragraph 48 and at all times relevant to the violations alleged by EPA, the language found on the EPA-accepted master label for the Chemcocide 1000 pesticide contained, among other things, the following statements or claims:

- a. Under the PESTICIDE STORAGE portion of the label, “*Store in a tightly closed container in area inaccessible to children.*”
- b. In the CONTAINER DISPOSAL portion of the label,

CONTAINER DISPOSAL - <mandatory language – choose applicable directions>	
For products only with household/residential use sites	Nonrefillable container. Do not reuse or refill this container. Offer for recycling, if available.
For products with industrial, institutional, and commercial use sites.	Nonrefillable container. Do not reuse or refill this container. Offer for recycling, if available. Triple rinse container promptly after emptying.
For containers 5 gallons or less	Triple rinse as follows: Fill container ¼ full with water and recap. Agitate vigorously. Follow Pesticide Disposal instructions for rinsate disposal. Drain for 10 seconds after flow begins to drip. Repeat procedure two more times, then offer for recycling or reconditioning. If not available, puncture and dispose in a sanitary landfill.

50. Based on the Inspection and EPA investigation, at the time of the distributions and sales referenced in Paragraph 48, the language found on the Chemcocide 1000 label, as described in Paragraph 34, differed substantially from the language on the accepted master label, as described in the preceding Paragraph 49, required by FIFRA and the FIFRA Regulations.

51. Respondent's distributions or sales of the misbranded Doggone II and Chemcocide 1000 pesticides, as described in Paragraphs 45 through 50 above, represented multiple violations of FIFRA Section 12(a)(1)(E), each of which was an unlawful act under Section 12(a)(1)(E) and a violation for which penalties may be assessed pursuant to Section 14(a)(1) of FIFRA.

V. TERMS OF SETTLEMENT

52. In light of the above, and taking into account the factors enumerated in Section 14(a) of FIFRA, the December 2009 FIFRA Enforcement Response Policy issued by the Waste and Chemical Enforcement Division of the EPA Headquarters Office of Enforcement and Compliance Assurance in Washington, D.C., the Penalty Inflation Act

and Penalty Inflation Rule, and other factors as justice may require, including Respondent's ability to pay the penalty and EPA findings under 40 C.F.R. § 13.18(a), EPA has determined that it is fair and appropriate that Respondent pay a civil penalty in the amount of fifty-six thousand five hundred forty-three dollars (\$56,543) in settlement of the violations alleged herein.

53. Respondent shall pay the total penalty of \$56,543, in three installments, within 90 days of the effective date of this CAFO, in the following manner:

- a. Payment of the first installment in the amount of \$26,543 is due within 30 calendar days of the effective date of this CAFO. If the due date for this payment falls on a weekend or federal holiday, then the due date is the next business day.
- b. Payment of the second installment totaling \$15,094, an amount that includes \$94 in interest at a rate of 5 percent per annum, is due within 60 calendar days of the effective date of this CAFO. If the due date for this payment falls on a weekend or federal holiday, then the due date is the next business day.
- c. Payment of the second installment totaling \$15,094, an amount that includes \$94 in interest at a rate of 5 percent per annum, is due within 90 calendar days of the effective date of this CAFO. If the due date for this payment falls on a weekend or federal holiday, then the due date is the next business day.
- d. Each payment shall be made by remitting a check or making an electronic payment, as described below. Each check or other payment shall reference "*In the Matter of Chemco Corporation*, Consent Agreement and Final Order, EPA Region 1," Respondent's name and address, and the EPA Docket Number of this action (FIFRA-01-2020-0031), shall be in the amounts stated above, and shall be payable to "Treasurer, United States of America." Each payment shall be remitted as follows:

If remitted by regular U.S. mail:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

If remitted by any overnight commercial carrier:

U.S. Bank
Government Lockbox 979077
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, Missouri 63101

If remitted by wire transfer (any wire transfer must be sent directly to the Federal Reserve Bank in New York City using the following information):

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read:
“D 68010727 Environmental Protection Agency”

If remitted through the Automated Clearing House (ACH) for receiving US currency, use this information:

U.S. Treasury REX / Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 -- checking

Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, Maryland 20737

- e. Respondent shall forward notice of each payment, within 24 hours of payment, and a copy of the payment check or payment receipt, by first class mail or commercial delivery service,* to:

Wanda I. Santiago, Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100 (Mail Code: 04-6)
Boston, MA 02109-3912

and

Hugh W. Martinez, Senior Enforcement Counsel
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100 (Mail Code: 04-3)
Boston, MA 02109-3912

**Notice and a copy of each payment should also be given to Mr. Martinez via e-mail, at Martinez.hugh@epa.gov.*

54. If Respondent fails to pay all or any portion of the civil penalty, Respondent will be subject to an action to compel payment, plus interest, enforcement expenses and a nonpayment penalty. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States, as well as a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty (or any portion thereof) on the date it is due under this CAFO if such penalty (or portion thereof) is not paid in full by such due date. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b)(2). In addition, a penalty charge of six percent (6%) per year and an amount to cover the costs of collection will be assessed on any portion of the debt that remains delinquent more than ninety (90) days after payment is due. Should assessment of the penalty charge on the debt be required, it will be assessed as of the first day payment is due, under 31 C.F.R. § 901.9(d). In any action to compel payment of civil penalties owed under this CAFO, the validity, amount, and appropriateness of the penalty shall not be subject to review.

55. The civil penalty due and any interest, non-payment penalties, or charges that arise pursuant to this CAFO shall represent penalties assessed by EPA and shall not be deductible for the purposes of Federal taxes. Accordingly, Respondent agrees to treat all payments made pursuant to this CAFO as penalties within the meaning of Internal Revenue Service regulations, including 26 C.F.R. § 1.162-21, and further agrees not to use these payments in any way as, or in furtherance of, a tax deduction under Federal,

State or local law.

56. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 14(a) of FIFRA for the violations alleged in Section IV of this CAFO.

57. This CAFO in no way relieves Respondent of any criminal liability, and EPA reserves all its other criminal and civil enforcement authorities, including the authority to seek injunctive relief and the authority to take any action to address imminent hazards. Compliance with this CAFO shall not be a defense to any action subsequently commenced pursuant to Federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with said laws and regulations.

58. Each of the Parties shall bear its own costs and attorneys' fees in the action resolved by this CAFO, and Respondent specifically waives any right to seek attorneys' fees under the Equal Access to Justice Act, 5 U.S.C. § 504.

59. Complainant and Respondent, by entering into this Consent Agreement, each give their respective consent to accept digital signatures hereupon. Respondent further consents to accept electronic service of the fully executed CAFO, by electronic mail, to the following addresses: paullewis@chemco.net and mdonahue@enomartin.com.

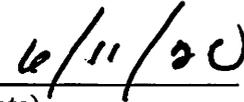
60. The terms and conditions of this CAFO may not be modified or amended except upon the written agreement of both parties, and approval of the Regional Judicial Officer.

61. The undersigned representative(s) of Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this CAFO and to execute and legally bind Respondent to it.

For Respondent, Chemco Corporation:



(Signature)
[Print Name, Title]
[Address]



(Date)

For U.S. EPA - Region 1:

(Signature)
Karen McGuire, Director
Enforcement and Compliance Assurance Division
U.S. EPA - Region 1

(Date)

(Signature)
Hugh W. Martinez, Senior Enforcement Counsel
Office of Regional Counsel
U.S. EPA - Region 1

(Date)

VI. FINAL ORDER

Pursuant to 40 C.F. R. § 22.18(b) and (c) of the Consolidated Rules, the foregoing Consent Agreement resolving this matter is incorporated by reference into this Final Order and is hereby ratified. The Respondent, Chemco Corporation, is ordered to pay the civil penalty amount specified in the Consent Agreement, in the manner indicated. The terms of the Consent Agreement will become effective on the date it is filed with the Regional Hearing Clerk.

(Date)

LeAnn W. Jensen, Regional Judicial Officer
U.S. EPA – Region 1