

and in accordance with 40 CFR § 22.18(b), this Consent Agreement and Final Order (CAFO) will conclude this matter.

II. Preliminary Statements

4. The authority to take action under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), is vested in the Administrator of EPA. The Administrator of EPA has delegated this authority under FIFRA to EPA Region 4 by EPA Delegation 5-14 dated May 11, 1994.
5. Pursuant to 40 CFR § 22.5(c)(4) the following individual represents EPA in this matter and is authorized to receive service for EPA in this proceeding:

Elizabeth O'Sullivan
Associate Regional Counsel
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303
(404) 562-9696.
6. Respondent is a "person" as defined by Section 2(s) of FIFRA, 7 U.S.C. § 136(s), and as such is subject to FIFRA and the regulations promulgated thereunder.
7. The Respondent manufactures "E-Z Clean All Purpose Hand Cleaner Antibacterial with Pumice, Blue Gel" and the "E-Z Clean All Purpose Hand Cleaner Antibacterial with Pumice, Blue Crème" ("Antibacterial Hand Cleaner Products") at its facilities in Newton, North Carolina and Rock Hill, South Carolina.
8. The Respondent is a "producer" as defined by Section 2(w) of FIFRA, 7 U.S.C. §136(w), and 40 C.F.R. §167.3 and 40 C.F.R. §169.1.
9. Section 12(a)(1)(A) of FIFRA, 7 U.S.C. §136j(a)(1)(A), states that it shall be unlawful for any person in any state to distribute or sell to any person a pesticide that is not registered.

10. The Antibacterial Hand Cleaner Products are antimicrobial pesticides as defined in Section 2(mm) of FIFRA, 7 U.S.C. §136(mm) because the labeling contains a pesticidal claim. An “antimicrobial pesticide” means a pesticide that is intended to disinfect, sanitize, reduce, or mitigate growth or development of microbiological organisms.
11. Respondent “distributes or sells” pesticides as defined by Section 2(gg) of FIFRA.
12. At the time of the inspection, the Antibacterial Hand Cleaner Products being distributed by Respondent were not registered as pesticides with EPA as required by Section 3(a) of FIFRA, 7 U.S.C. §136a (a).
13. It is a violation of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. §136j (a)(1)(E), for any person to distribute or sell any pesticide which is misbranded.
14. On June 21, 2005, an inspector from the State of North Carolina obtained five Bills of Lading documenting the shipment of misbranded products from Respondent.
15. Establishments that produce pesticides are required to be registered with the Administrator of EPA as set forth in Section 7(a) of FIFRA, 7 U.S.C. §136e (a).
16. Respondent’s facilities located at 520-Clanton Road, Charlotte, North Carolina, 28217; 3561 Plateau Road Newton, North Carolina 28658; and 698 Bryant Blvd., Rock Hill, South Carolina 29732, have not been registered with EPA as pesticide-producing facilities.
17. It is a violation of Section 12(a)(2)(L) of FIFRA, 7 U.S.C. §136j (a)(2)(L) for any person to violate Section 7(a) of FIFRA, 7 U.S.C. §136e (a).

III. Consent Agreement

18. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above.
19. Respondent does not admit or deny the allegations in this CAFO.
20. Respondent waives its right to a hearing on the allegations contained herein and its right to appeal the proposed final order accompanying the consent agreement.
21. Respondent consents to the assessment of a payment and agrees to the payment plan as set forth in this CAFO.
22. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of FIFRA.
23. Compliance with this CAFO shall resolve the allegations of the violations contained herein. This CAFO shall not otherwise affect any liability of Respondent to the United States. Other than as expressed herein, neither EPA nor Complainant waives any right to bring an enforcement action against Respondent for violation of any federal or state statute, regulation or permit, to initiate an action for imminent and substantial endangerment, or to pursue criminal enforcement.
24. Complainant and Respondent agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of FIFRA.

IV. Final Order

25. Respondent will pay a total of TEN THOUSAND DOLLARS (\$10,000) over twenty four months from the effective date of this CAFO. Respondent shall make a minimum monthly payment of \$416.66, every month until the total balance is paid.
26. Respondent shall pay the installments by forwarding a cashier's or certified check, payable to the "Treasurer, United States of America," to the following address:

U.S. Environmental Protection Agency
Cincinnati Accounting Operations
Mellon Lockbox 371099M
Pittsburgh, PA 15251-7099.

**The check shall reference on its face the name and the Docket Number of the CAFO
"E-Z Cleaners, LLC FIFRA 04-2007-3033"**

27. At the time of each payment, Respondent shall send a separate copy of the check, and a written statement that the payment is being made in accordance with this CAFO, to the following persons at the following addresses:

Regional Hearing Clerk
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303;

– Dawn Johnson (APT-PS)
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303;

and

Saundi Wilson
Office of Environmental Accountability
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303.

28. For the purposes of state and federal income taxation, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for any payment made pursuant to this CAFO. Any attempt by Respondent to deduct any such payments shall constitute a violation of this CAFO.
29. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the balance of the total payment, if the penalty is not paid by the date required. A charge will also be assessed to cover the administrative costs, both direct and indirect, of overdue debts. In addition, a late payment penalty charge shall be applied on any principle amount not paid within 90 days of the due date.
30. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
31. This CAFO shall be binding upon the Respondent, its successors and assigns.
32. The undersigned representative of the party to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally binds that party to this CAFO.

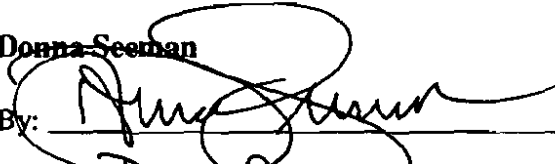
V. Effective Date

33. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

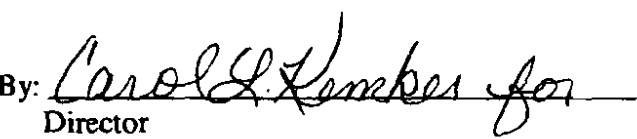
In the Matter of:

E-Z Cleaners
Docket No. FIFRA-04-2007-3033


AGREED AND CONSENTED TO:

Donna Seeman
 By:  Date: 9-8-2008
 Name: Donna Seeman (Typed or Printed)
 Title: Owner (Typed or Printed)

U.S. Environmental Protection Agency

By:  Date: 9/5/08
 Director
 Air, Pesticides and Toxics
 Management Division
 61 Forsyth Street
 Atlanta, Georgia 30303

APPROVED AND SO ORDERED this 12th day of Sept. 2008.


 Susan B. Schub
 Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that on the date set out below, I filed the original and one copy of the foregoing Consent Agreement and Final Order and served a true and correct copy of the foregoing Consent Agreement and Final Order, In the Matter of EZ Cleaners, Docket Number: FIFRA-04-2007-3033, to the addressees listed below.

The Honorable Susan L. Biro
U.S. Environmental Protection Agency
Mail Code 1900L
1200 Pennsylvania Avenue, NW
Washington, DC 20460

(via pouch mail and fax)

Donna Seeman
EZ Cleaners
698 Bryant Blvd.
Rock Hill, SC 29732

(via Certified Mail, Return Receipt Requested)

Dawn Johnson
Pesticides Management Section
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, GA 30303

(via EPA's internal mail)


Elizabeth O'Sullivan
Associate Regional Counsel
Office of Environmental Accountability
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, GA 30303

(via EPA's internal mail)

Saundi Wilson
Office of Environmental Accountability
U.S. EPA Region 4
61 Forsyth Street
Atlanta, GA 30303

(via EPA's internal mail)

Date: 9-12-08



Patricia A. Bullock, Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
Atlanta Federal Center
61 Forsyth St., SW
Atlanta, GA 30303
(404) 562-9511