

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY



BEFORE THE ADMINISTRATOR

IN THE MATTER OF	)	
	)	
BEHNKE LUBRICANTS INC.,	)	DOCKET NO. FIFRA-05-2007-0025
	)	
	)	
RESPONDENT	)	

ORDER SCHEDULING HEARING

This proceeding arises under the authority of Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA"), as amended, 7 U.S.C. § 1361(a).

The parties have filed their prehearing exchange in this matter pursuant to the undersigned's Prehearing Order entered on June 27, 2007. Both parties state that they reserve the right to supplement their prehearing exchange and supplemental prehearing exchange.

Both parties are reminded that this proceeding is governed by the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (the "Rules of Practice"), 40 C.F.R. §§ 22.1-22.32. Sections 22.19(a) and 22.22(a) of the Rules of Practice, 40 C.F.R. §§ 22.19(a), 22.22(a), provide that documents or exhibits that have not been exchanged and witnesses whose names have not been exchanged at least fifteen (15) days before the hearing date shall not be admitted into evidence or allowed to testify unless good cause is shown for failing to exchange the required information.

Further, the parties are advised that every motion filed in this proceeding must be served in sufficient time to permit the filing of a response by the other party and to permit the issuance of an order on the motion before the deadlines set by this order or any subsequent order. Section 22.16(b) of the Rules of Practice, 40 C.F.R. § 22.16(b), allows a fifteen-day (15) period for

responses to motions and Section 22.7(c), 40 C.F.R. § 22.7(c), provides for an additional five (5) days to be added thereto when the motion is served by mail. The parties are hereby notified that the undersigned will not entertain last minute motions to amend or supplement the prehearing exchange absent extraordinary circumstances.

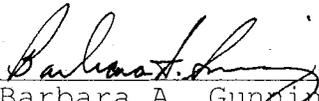
As the parties have not reached a settlement in this matter, they shall strictly comply with the requirements of this order and prepare for a hearing. In connection therewith, on or before **March 7, 2008**, the parties shall file a joint set of stipulated facts, exhibits, and testimony. See Section 22.19(b)(2) of the Rules of Practice, 40 C.F.R. § 22.19(b)(2). The time allotted for the hearing is limited. Therefore, the parties must make a good faith effort to stipulate, as much as possible, to matters which cannot reasonably be contested so that the hearing can be concise and focused solely on those matters which can only be resolved after a hearing.

The Hearing in this matter will be held beginning at 9:00 a.m. on Monday, **March 31, 2008** in Waukesha County, Wisconsin, continuing if necessary on April 1-4 and 7-9, 2008.<sup>1/</sup> The Regional Hearing Clerk will make appropriate arrangements for a courtroom and retain a stenographic reporter. The parties will be notified of the exact location and of other procedures pertinent to the hearing when those arrangements are complete. Individuals requiring special accommodation at this hearing, including wheelchair access, should contact the Regional Hearing Clerk at least five business days prior to the hearing so that appropriate arrangements can be made.

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<sup>1/</sup> As previously noted in the Prehearing Order dated June 27, 2007, the Supplemental Rules Governing the Administrative Assessment of Civil Penalties Under the Federal Insecticide, Fungicide, and Rodenticide Act at 40 C.F.R. § 22.35(b) provide that the hearing shall be held in the county, parish, or incorporated city of the residence of the Respondent, unless otherwise agreed in writing by all parties. Respondent, in its prehearing exchange, states that it wants the hearing to be held in Waukesha County or Menomonee Falls, Wisconsin. In order to conduct this hearing, an appropriate facility, including security, must be found. The hearing will not be conducted in a conference room at the local library as suggested by Respondent.

IF EITHER PARTY DOES NOT INTEND TO ATTEND THE HEARING OR HAS GOOD CAUSE FOR NOT BEING ABLE TO ATTEND THE HEARING AS SCHEDULED, IT SHALL NOTIFY THE UNDERSIGNED AT THE EARLIEST POSSIBLE MOMENT.

  
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Barbara A. Gunning  
Administrative Law Judge

Dated: January 14, 2008  
Washington, DC

**In the Matter of Behnke Lubricants, Inc., Respondent.**  
**Docket No. FIFRA-05-2007-0025**

CERTIFICATE OF SERVICE

I certify that the foregoing **Order Scheduling Hearing**, dated January 14, 2008, was sent this day in the following manner to the addressees listed below.



Mary Angeles  
Legal Staff Assistant

Original and One Copy by Pouch Mail to:

Sonja Brooks-Woodard  
Regional Hearing Clerk  
U.S. EPA, Region V, MC-13J  
77 West Jackson Blvd., 13<sup>th</sup> Floor  
Chicago, IL 60604-3590

Copy by Pouch Mail to:

Nidhi O'Meara, Esq.  
James J. Cha, Esq.  
Associate Regional Counsel  
U.S. EPA, Region V, C-14J  
77 West Jackson Blvd.  
Chicago, IL 60604-3590

Copy by Regular Mail to:

Bruce A. McIlnay, Esq.  
Linda S. Isnard, Esq.  
Elizabeth M. Roat, Esq.  
McIlnay & Button, Ltd.  
1150 Washington Street  
Grafton, WI 53024

**Dated: January 14, 2008**  
**Washington, D.C.**