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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
SAN FRANCISCO, CALIFORNIA

In the Matter of:	)	
	)	
Frontline Group LLC	)	Docket No. FIFRA-09-2023-0096
	)	
	)	COMPLAINT AND NOTICE OF
	)	OPPORTUNITY FOR HEARING
	)	
_____ Respondent.	)	

I. PRELIMINARY STATEMENT

This is a civil administrative action brought pursuant to section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (“FIFRA”), 7 U.S.C. § 136l(a), for the assessment of a civil administrative penalty against Frontline Group LLC for a violation of section 12 of FIFRA, 7 U.S.C. § 136j.

Complainant is the Manager of the Toxics Section in the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region IX, who has been duly delegated the authority to issue this Complaint and Notice of Opportunity for Hearing (“Complaint”) pursuant to EPA Region 9 Delegation R9-5-14 (Feb. 11, 2013) and EPA Administrator Delegation 5-14 (May 11, 1994, updated Feb. 4, 2016).

Respondent is Frontline Group LLC (“Respondent”), a wholesaler incorporated in Ohio that sold consumable products, personal protective equipment, and safety gear and apparel throughout the United States through online sales.

## II. APPLICABLE STATUTORY AND REGULATORY SECTIONS

1. Section 2(s) of FIFRA, 7 U.S.C. § 136(s), provides that “person” means “any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.”
2. Section 2(t) of FIFRA, 7 U.S.C. § 136(t), provides that “pest” means “any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism (except viruses, bacteria, or other living micro-organisms on or in living man or other living animals) which the Administrator declares to be a pest under Section 25(c)(1) of FIFRA, 7 U.S.C. § 136 w(c)(1).”
3. Section 2(u) of FIFRA, 7 U.S.C. § 136(u), provides that a “pesticide” means, in part, “any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.”
4. 40 C.F.R. § 152.15 states, in pertinent part, that “a pesticide is any substance (or mixture of substances) intended for a pesticidal purpose...” and 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) that: (1) the substance (either by itself or in combination with any other substance) can or should be used as a pesticide...or (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.”

5. Section 2(mm)(A)(i) of FIFRA, 7 U.S.C. § 136(mm)(A)(i), defines the term “antimicrobial pesticide,” in part, as “a pesticide that is intended to disinfect, sanitize, reduce or mitigate growth or development of microbial organisms.”
6. Section 2(p)(1) of FIFRA, 7 U.S.C. § 136(p)(1), provides that the term “label” means “the written, printed, or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers.” Section 2(p)(2)(A) of FIFRA, 7 U.S.C. § 136(p)(2)(A), provides that the term “labeling” means “all labels and all other written, printed, or graphic matter...accompanying the pesticide or device at any time.”
7. Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), provides that the term “distribute or sell” means “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.”
8. Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), provides that it shall be unlawful for any person to distribute or sell to any person a pesticide which is not registered with EPA under section 3 of FIFRA.

### III. ALLEGATIONS

9. Paragraphs 1 through 8 above are hereby realleged and incorporated by reference.
10. At all times relevant to this Complaint, Respondent was a corporation and therefore a "person" as defined in section 2(s) of FIFRA, 7 U.S.C. § 136(s).
11. At all times relevant to this Complaint, Respondent sold consumable products, personal protective equipment, and safety gear and apparel wholesale throughout the United States through online sales.

12. As a wholesaler and by doing business in the United States, Respondent is subject to the requirements of FIFRA and its implementing regulations.
13. On or about February 11, 2021, Respondent sold numerous boxes containing 19-ounce cans of the product, “Lysol Disinfectant Spray” intended for export (“Lysol Disinfectant Spray intended for export”).
14. The label on the product, “Lysol Disinfectant Spray intended for export,” contains the following language: “Kills 99.9% of Viruses and Bacteria” and “Disinfectant Spray.”
15. “Virus[es],” and “bacteria” are “pests” as defined in section 2(t) of FIFRA, 7 U.S.C. § 136(t).
16. Based on its name and the claims on its label, the product, “Lysol Disinfectant Spray intended for export,” is a “pesticide” pursuant to section 2(u) of FIFRA, 7 U.S.C. § 136(u), and 40 C.F.R. § 152.15 and specifically, an “antimicrobial pesticide” pursuant to section 2(mm)(A)(i) of FIFRA, 7 U.S.C. § 136(mm)(A)(i).
17. The labeling on the bulk package of the pesticide, “Lysol Disinfectant Spray intended for export” states that the pesticide is “Not registered for use in the United States of America” and repeats this statement in French.
18. The label of the pesticide, “Lysol Disinfectant Spray intended for export,” contains directions for use in French and English.
19. The label of the pesticide, “Lysol Disinfectant Spray intended for export,” directs consumers to a foreign government entity, the Ministry of Environment, for disposal information and uses metric system measurements for length and Celsius measurements for temperature.

20. Based on the labeling on the bulk packaging and label on the can, the pesticide “Lysol Disinfectant Spray intended for export” is not intended for use in the United States and is not registered with EPA under section 3 of FIFRA, 7 U.S.C. § 136a.

**COUNT 1: Distribution and sale of an unregistered pesticide**

21. Paragraphs 1 through 20 above are hereby realleged and incorporated by reference.

22. On or about February 11, 2021, Respondent sold the pesticide, “Lysol Disinfectant Spray intended for export,” to Many Farms Community School in Many Farms, Arizona.

23. Thus, on or about February 11, 2021, Respondent “distributed or sold” the pesticide, “Lysol Disinfectant Spray intended for export,” as defined in section 2(gg) of FIFRA, 7 U.S.C. § 136(gg).

24. Respondent’s “distribution or sale” of the pesticide, “Lysol Disinfectant Spray intended for export,” on or about February 11, 2021, constitutes one (1) violation of section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), which provides that it is unlawful for any person to distribute or sell to any person a pesticide which is not registered with EPA under section 3 of FIFRA, 7 U.S.C. § 136a.

**IV. PROPOSED CIVIL PENALTY**

Section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1), and the Civil Monetary Penalty Inflation Adjustment Rule at 40 C.F.R. Part 19 provide that any registrant, commercial applicator, wholesaler, dealer, retailer, or other distributor who violates any provision of FIFRA may be assessed a civil penalty of not more than \$23,494 for each offense that occurred after November 2, 2015 and is assessed on or after January 6, 2023. Based on the size of the business of Respondent, Respondent’s ability to pay, the effect on the Respondent’s ability to continue in business, and the gravity of the violation alleged above, Complainant requests that the

Administrator assess a civil penalty of up to \$23,494 against Respondent for each violation that occurred after November 2, 2015.

V. NOTICE OF OPPORTUNITY TO REQUEST HEARING

You have the right to request a formal hearing to contest any material fact set forth in this Complaint or to contest the appropriateness of the proposed penalty. Any hearing requested will be conducted in accordance with the Administrative Procedure Act, 5 U.S.C. § 551 *et seq.*, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits (“Consolidated Rules of Practice”) at 40 C.F.R. Part 22. A copy of the Consolidated Rules of Practice is enclosed with this Complaint.

**You must file a written Answer within thirty (30) days of receiving this Complaint to avoid being found in default, which constitutes an admission of all facts alleged in the Complaint and a waiver of the right to a hearing and to avoid having the above penalty assessed without further proceedings.** If you choose to file an Answer, you are required by the Consolidated Rules of Practice to clearly and directly admit, deny, or explain each of the factual allegations contained in this Complaint to which you have any knowledge. If you have no knowledge of a particular fact and so state, the allegation is considered denied. Failure to deny any of the allegations in this Complaint will constitute an admission of the undenied allegation.

The Answer shall also state the circumstances and arguments, if any, which are alleged to constitute the grounds of defense, and shall specifically request an administrative hearing, if desired. If you deny any material fact or raise any affirmative defense, you will be considered to have requested a hearing. The Answer must be filed with:

Regional Hearing Clerk (ORC-1)  
U.S. Environmental Protection Agency, Region IX  
75 Hawthorne Street  
San Francisco, CA 94105

In addition, please send a copy of the Answer and all other documents that you file in this action to:

Catherine Schluter  
Office of Regional Counsel (ORC-2-1)  
U.S. Environmental Protection Agency, Region IX  
75 Hawthorne Street  
San Francisco, CA 94105  
schluter.catherine@epa.gov

Catherine Schluter is the attorney assigned to represent EPA in this matter and can be contacted at schluter.catherine@epa.gov or (415) 972-3911. You are further informed that the Consolidated Rules of Practice prohibit any *ex parte* (unilateral) discussion of the merits of any action with the Regional Administrator, Regional Judicial Officer, Administrative Law Judge, or any person likely to advise these officials in the decision of the case, after the Complaint is issued.

#### VI. INFORMAL SETTLEMENT CONFERENCE

EPA encourages all parties against whom a civil penalty is proposed to pursue the possibility of settlement through informal conferences. Therefore, regardless of whether you request a hearing or not, you may confer informally with EPA through Ms. Schluter, the EPA attorney assigned to this case, regarding the facts of this case, the amount of the proposed penalty, and the possibility of settlement. **An informal settlement conference does not, however, affect your obligation to file an Answer to this Complaint.**

#### VII. ALTERNATIVE DISPUTE RESOLUTION

The parties also may engage in any process within the scope of the Alternative Dispute Resolution Act, 5 U.S.C. § 581 *et seq.*, which may facilitate voluntary settlement efforts. Dispute resolution using alternative means of dispute resolution does not divest the Presiding Officer of jurisdiction nor does it automatically stay the proceeding.

VIII. CONSENT AGREEMENT AND FINAL ORDER

EPA has the authority, where appropriate, to modify the amount of the proposed penalty to reflect any settlement reached with you in an informal conference or through alternative dispute resolution. The terms of such an agreement would be embodied in a Consent Agreement and Final Order. A Consent Agreement signed by both parties would be binding as to all terms and conditions specified therein when the Regional Judicial Officer signs the Final Order.

Dated on this 25th day of September 2023.

**MATTHEW  
SALAZAR**

Digitally signed by MATTHEW  
SALAZAR  
Date: 2023.09.25 09:33:57  
-07'00'

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Matt Salazar, PE  
Manager, Toxics Section  
Enforcement & Compliance Assurance Division  
U.S. Environmental Protection Agency, Region IX



CERTIFICATE OF SERVICE

In the Matter of Frontline Group LLC

EPA Docket No. FIFRA-09-2023-0096

I certify that the foregoing Complaint, Notice of Proposed Penalty, and Notice of Opportunity for Hearing, was filed via email with the Regional Hearing Clerk, United States Environmental Protection Agency, Region 9 at R9HearingClerk@epa.gov and that a true and correct copy of (1) the Complaint, Notice of Proposed Penalty, and Notice of Opportunity for Hearing; (2) the Consolidated Rules of Practice at 40 C.F.R. Part 22; (3) the FIFRA Enforcement Response Policy; and (4) the Amendments to EPA's Civil Penalty Policies to Account for Inflation (effective January 15, 2022) and Transmittal of the 2022 Civil Monetary Penalty Inflation Adjustment Rule was sent via Certified Mail, with verification of delivery requested, to:

Brad Gooden, President  
4510 Bridgeway Ave  
Columbus, Ohio 43219

Certified Mail No. 7019 0140 0000 7662 2070

*Carol Sachs*

SEP 28 2023

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Enforcement and Compliance Assurance Division, ECAD  
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