



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF  
ENFORCEMENT AND  
COMPLIANCE ASSURANCE

**SENT VIA E-MAIL TO JILL.JACOBSON@ELECTROLUX.COM**

May 27, 2020

Jill Jacobson  
Vice President and General Counsel  
Electrolux Home Products, Inc.  
10200 David Taylor Drive  
Charlotte, NC 28262

Re: Stop Sale, Use, or Removal Order (SSURO) to Electrolux Home Products, Inc.

Ms. Jacobson:

Enclosed please find a Stop Sale, Use, or Removal Order (Order) issued by the U.S. Environmental Protection Agency to Electrolux Home Products, Inc. (Electrolux), concerning Frigidaire-brand dehumidifier and air conditioner products that incorporate nanosilver and are labeled with pesticidal claims. The enclosed Order requires that Electrolux stop all distributions and sales of such products, except for the distributions provided for by the Order, and is effective immediately upon receipt by Electrolux.

Section 13(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 136k(a), authorizes the Administrator of EPA to issue an order prohibiting the sale, use, or removal of any pesticide by any person who owns, controls, or has custody of such pesticide whenever there is reason to believe that the pesticide is in violation of any provision of FIFRA or has been or is intended to be distributed or sold in violation of any provision of FIFRA. EPA has reason to believe that Electrolux has been distributing or selling an unregistered pesticide product identified as the Frigidaire-brand dehumidifier and air conditioner products that incorporate filters containing nanosilver and are labeled with pesticidal claims. The distribution or sale of an unregistered pesticide is an unlawful act pursuant to Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

The issuance of this Order shall not act as a waiver by EPA of any enforcement or other authority available to EPA under federal law, including EPA's authority to seek civil penalties under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), for the violations alleged in this Order or any other violation.

If you have any questions about this matter, you may contact Ms. Adrienne Trivedi, Pesticides and Tanks Enforcement Branch, at (202) 564-7862 or Trivedi.Adrienne@epa.gov.

Sincerely,

*Michael E. Bellot*

Michael E. Bellot  
Associate Director  
Waste and Chemical Enforcement Division  
Office of Civil Enforcement

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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
OFFICE OF ENFORCEMENT AND COMPLIANCE ASSURANCE**

<b>IN THE MATTER OF:</b>	)	
	)	
<b>Electrolux Home Products, Inc.</b>	)	<b>STOP SALE, USE, OR REMOVAL ORDER</b>
<b>Charlotte, North Carolina</b>	)	
	)	<b>Docket No. FIFRA-HQ-2020-5010</b>
	)	
<b>Respondent</b>	)	
_____	)	

**I. AUTHORITIES**

1. Section 13(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (“FIFRA”), 7 U.S.C. § 136k(a), authorizes the Administrator of the U.S.

Environmental Protection Agency (EPA) to issue an order prohibiting the sale, use, or removal of any pesticide or device by any person who owns, controls, or has custody of such pesticide or device whenever there is reason to believe, on the basis of inspection or tests, the pesticide or device is in violation of any provision of FIFRA, or the pesticide or device has been or is intended to be distributed or sold in violation of any provision of FIFRA.

2. This authority has been delegated from the EPA Administrator to the Director and Associate Director of the Waste and Chemical Enforcement Division, Office of Civil Enforcement, Office of Enforcement and Compliance Assurance.

**II. BASIS FOR THE ORDER**

3. Section 3(a) of FIFRA, 7 U.S.C. § 136a(a), states that “no person in any State may distribute or sell to any person any pesticide that is not registered under this subchapter.”

4. Section 2(s) of FIFRA, 7 U.S.C. § 136(s), defines a “person” as “any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.”

5. Section 2(gg) of FIFRA, 7 U.S.C § 136(gg), states that the term “to 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.”

6. Section 2(u) of FIFRA, 7 U.S.C. § 136(u), defines a “pesticide,” in part, as “any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.”

7. The regulation set forth at 40 C.F.R. § 152.15 provides 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):

(1) That the substance (either by itself or in combination with any other substance) can or should be used as a pesticide; or

(2) That the substance consists of or contains an active ingredient and that it can be used to manufacture a pesticide; or

(b) The substance consists of or contains one or more active ingredients and has no significant commercially valuable use as distributed or sold other than (1) use for pesticidal purpose (by itself or in combination with any other substance), (2) use for manufacture of 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.”

8. Section 2(t) of FIFRA, 7 U.S.C. § 136(t), defines a “pest” as “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 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].”

9. The regulation set forth at 40 C.F.R. § 152.5 provides that “[a]n organism is declared to be a pest under circumstances that make it deleterious to man or the environment,” including if the organism is “[a]ny fungus, bacterium, virus, prion, or other microorganism, except for those on or in living man or other living animals and those on or in processed food or processed animal feed, beverages, drugs [ ] and cosmetics [ ].”

10. Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), provides that it shall be unlawful for any person in any State to sell or distribute to any person any pesticide that is unregistered.

11. Section 17(c) of FIFRA, 7 U.S.C. § 136o(c), and the regulations implementing that provision set forth at 19 C.F.R. §§ 12.110 - 12.117, establish that importers of pesticides must submit to EPA, prior to the arrival of the shipment in the United States, a Notice of Arrival of Pesticides and Devices (“Notice of Arrival”) on U.S. Environmental Protection Agency (EPA) Form 3540-1, or must file an electronic alternative to the Notice of Arrival, with the filing of entry documentation, via any CBP-authorized electronic data interchange system.

12. Section 12(a)(2)(N) of FIFRA, 7 U.S.C. § 136j(a)(2)(N), provides that it shall be unlawful for any person who is a registrant, wholesaler, dealer, retailer, or other distributor to fail to file reports required by FIFRA.

13. Respondent Electrolux Home Products, Inc., is a “person” as that term is defined by Section 2(s) of FIFRA, 7 U.S.C. § 136(s).

14. On or about January 16, 2020, EPA Region 4 reviewed documentation in the U.S. Customs and Border Protection (CBP) Automated Commercial Environment (ACE) system that showed the import of Frigidaire-brand dehumidifier products by Respondent into the United States through the Port of Savannah. EPA Region 4 conducted an Internet search for the products and observed that advertising for the dehumidifiers included claims that the dehumidifiers provide an antimicrobial benefit. EPA Region 4 observed that no Notice of Arrival had been filed for the imported products.

15. On or about January 23, 2020, Respondent’s broker for the shipment that had arrived in Savannah submitted to EPA Region 4 copies and photographs of packaging for three models of Frigidaire-brand dehumidifier products that were included in the shipment. EPA Region 4 observed the words “antibacterial filter” on the product labeling provided.

16. On or before February 13, 2020, EPA Region 4 reviewed advertising material for the Frigidaire-brand dehumidifier products on Respondent’s website, [www.frigidaire.com](http://www.frigidaire.com), and observed the following claims:

- a. “Protects your home from mold and mildew caused by excess moisture – and helps eliminate bacteria in the air that can make breathing difficult”; and
- b. “Our removable, washable filter reduces bacteria, room odors and other airborne particles for a healthier, more comfortable environment.”

17. On or about March 3, 2020, EPA Region 2 conducted an inspection of a shipment of Frigidaire-brand dehumidifier products imported by Respondent at the Port of Newark/New York. EPA Region 2 observed the words “antibacterial filter” on the product labels and that no Notice of Arrival was submitted for this shipment.

18. On or about March 4, 2020, EPA Region 2 received Notices of Arrivals for three additional shipments of Frigidaire-brand dehumidifier products imported by Respondent at the Port of Newark/New York. Upon inspection of the product label submitted with the Notices of Arrival, EPA Region 2 observed the words “antibacterial filter” on the label.

19. On or about March 10, 11, and 13, 2020, EPA Region 9 conducted an inspection of two shipments of Frigidaire-brand dehumidifier products imported by Respondent at the Port of Los Angeles, and during those inspections, discovered Frigidaire-brand air conditioners that Respondent had also imported with the words “antibacterial filter” either directly on their labels or included in the marketing material on [www.frigidaire.com](http://www.frigidaire.com).

20. Between approximately March 19 and April 29, 2020, CBP Officers at the Port of Los Angeles conducted inspections, on EPA’s behalf, of eight shipments of products imported by Respondent, including Frigidaire-brand air conditioner products, and provided photographs of the air conditioner products in those shipments to Region 9. EPA Region 9 reviewed those photographs and observed the words “washable antibacterial filter” on some of the product labels, and “antibacterial mesh filter” on others.

21. On or about March 20, 2020, officials at the CBP central examination site in the port area of Chicago conducted an inspection under the guidance of EPA Region 5 of various models of Frigidaire-brand dehumidifier and air conditioner products imported by Respondent. Upon review of photographs CBP had taken during inspection, EPA Region 5 observed the

words “washable antimicrobial filters” on the labels of the dehumidifier and air conditioner products.

22. On or about the same time, EPA Region 5 also observed, on Respondent’s website, [www.frigidaire.com](http://www.frigidaire.com), the same claims as set forth above in paragraph 16 regarding the Frigidaire-brand dehumidifier products.

23. On or about March 26, March 30, and April 6, 2020, CBP officials, on EPA’s behalf, inspected three shipping containers holding Frigidaire-brand dehumidifier products that had arrived at a CBP warehouse location in Worcester, Massachusetts, took photographs of the products at each inspection, and shared those photographs with EPA Region 1. Upon review of the photographs provided by CBP, EPA Region 1 observed the words “washable antibacterial filter” on the Frigidaire-brand dehumidifier product labels.

24. Since February 2020, Respondent has provided information to EPA about the Frigidaire-brand dehumidifier and air conditioner products that it was importing, identified by model number in Table A. The information demonstrated to EPA that the filters in the products contained a pesticide – nanosilver; that the filters were intended to have a pesticidal effect on bacteria; and that the intended result was improved air quality for the consumer.

25. Based on the information EPA reviewed as a result of its inspections and from Respondent, EPA determined that the Frigidaire-brand dehumidifier and air conditioner products Respondent imported are pesticides that must be registered before being distributed or sold.

26. Respondent’s Frigidaire-brand dehumidifier and air conditioner products have never been registered with EPA.



27. EPA has reason to believe that Respondent distributed unregistered pesticide products when it imported the Frigidaire-brand dehumidifier and air conditioner products, in violation of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

### **III. ORDER**

28. Respondent is ordered to immediately cease any distribution, sale, use, or removal of all dehumidifier and air conditioner products that incorporate nanosilver and are labeled or marketed with claims indicating they are intended for use against pests, including but not limited to those products identified by model number in Table A (“Products”).

29. This Order shall pertain to all inventory of the Products that are within the ownership, control, or custody of Respondent, wherever they are located.

30. The Products shall not be sold, offered for sale, held for sale, shipped, delivered for shipment, received; or, having been so received, delivered, offered for delivery, moved, or removed, for any reason, other than in accordance with the provisions of this Order and any provisions of any written modifications to this Order.

31. Respondent has proposed to EPA that it be allowed to rework the Products in order to make their sale or distribution compliant with FIFRA. Specifically, Respondent proposed that it be permitted to: consolidate the Products at facilities it has designated, systematically replace the Products’ filters that contain nanosilver with filters that do not contain any pesticidal substances, and remove any pesticidal claims on the labeling and in marketing materials associated with each of the Products (“Rework Plan”). As part of the Rework Plan, Respondent proposed to hire an independent monitor to oversee the rework and send regular updates to EPA on the movements of Products intended for rework and their status as it changes.

32. Pursuant to the terms of EPA's acceptance of Respondent's Rework Plan on May 13, 2020, the following provisions are established as part of this Order:

- a. All Products in the United States that are owned by, are in the custody of, or are controlled by Respondent may be transported as necessary to consolidate them at the rework locations identified in Respondent's Rework Plan. No Products shall be distributed except for the sole purpose of relocating them for inclusion in the Rework Plan.
- b. Respondent will document such movements and rework activities and report to EPA in accordance with the terms set forth in the Rework Plan.
- c. Products will be released for distribution in commerce on a rolling basis upon confirmation by the independent monitor that the rework of those products, as specified in the Rework Plan, has been completed.
- d. The distribution, sale and use of such products that have been reworked and released shall not be deemed a violation of this Order, provided the products are fully compliant with FIFRA.

33. Respondent is directed to maintain records of the disposition (e.g., disposal) of the filters containing nanosilver that will be removed from the Products and submit those records to EPA upon request, and, when the disposition for all filters is complete, report to EPA the dates, method, quantity and locations of such disposition. Disposition of the filters containing nanosilver must comply with all applicable federal, state and local laws.

34. All reporting to EPA provided by this Order and the Rework Plan shall be submitted to Adrienne Trivedi at [trivedi.adrienne@epa.gov](mailto:trivedi.adrienne@epa.gov).

#### **IV. OTHER MATTERS**

35. Respondent shall provide a copy of this Order to all members of its board of directors and to executives, officers, employees, and agents whose duties might reasonably include compliance with any provision of this Order or the Rework Plan, as well as to any contractor or monitor retained to perform work required under this Order.

36. Any violation of this Order may result in the imposition of civil or criminal penalties as prescribed by Section 14 of FIFRA, 7 U.S.C. § 136l.

37. The issuance of this Order shall not act as a waiver by EPA of any enforcement or other authority available to EPA under federal law.

38. This Order shall be effective immediately upon receipt by an agent, owner, or operator of Respondent.

39. This Order shall remain in effect unless and until revoked, terminated, suspended or modified in writing by EPA.

40. Respondent may seek federal judicial review of the Order pursuant to Section 16 of FIFRA, 7 U.S.C. § 136n.

41. For any additional information about this Order, please contact Adrienne Trivedi, attorney, at (202) 564-7862.

5/27/2020

Date

*Michael E. Bellot*

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Michael E. Bellot  
Associate Director  
Waste and Chemical Enforcement Division  
Office of Civil Enforcement  
Office of Enforcement and Compliance Assurance  
U.S. Environmental Protection Agency

**Table A**

MODEL NAME			MODEL NUMBER
<i>Brand</i>	<i>Product Category</i>	<i>BTU / Pints</i>	
Frigidaire	DEHUMIDIFIER	22 pints	FFAD2233W1
Frigidaire	DEHUMIDIFIER	35 pints	FFAD3533W1
Frigidaire	DEHUMIDIFIER	50 pints	FFAD5033W1
Frigidaire	DEHUMIDIFIER	60 pints	FFAD6022W1
Frigidaire	DEHUMIDIFIER	50 pints	FFAP5033W1
Frigidaire	MINI COMPACT RAC	5000	FFRA051WA1
Frigidaire	MINI COMPACT RAC	5000	FFRA051WAE
Frigidaire	MINI COMPACT RAC	5000	FFRA051ZA1
Frigidaire	MINI COMPACT RAC	5000	FFRA052WA1
Frigidaire	MINI COMPACT RAC	5000	FFRA052WAE
Frigidaire	MINI COMPACT RAC	5000	FFRA052ZA1
Frigidaire	COMPACT ROOM AIR	6000	FFRA061ZAE
Frigidaire	MINI COMPACT RAC	6000	FFRA062WA1
Frigidaire	MINI COMPACT RAC	6000	FFRA062WAE
Frigidaire	MINI COMPACT RAC	6000	FFRA062ZA1
Frigidaire	COMPACT ROOM AIR	8000	FFRA081ZAE
Frigidaire	COMPACT ROOM AIR	8000	FFRA082WA1
Frigidaire	COMPACT ROOM AIR	8000	FFRA082WAE
Frigidaire	COMPACT ROOM AIR	8000	FFRA082ZA1
Frigidaire	COMPACT ROOM AIR	10000	FFRA101ZAE
Frigidaire	COMPACT ROOM AIR	10000	FFRA102WA1
Frigidaire	COMPACT ROOM AIR	10000	FFRA102WAE
Frigidaire	COMPACT ROOM AIR	10000	FFRA102ZA1
Frigidaire	COMPACT ROOM AIR	12000	FFRA121ZAE
Frigidaire	COMPACT ROOM AIR	12000	FFRA122WA1
Frigidaire	COMPACT ROOM AIR	12000	FFRA122WAE
Frigidaire	COMPACT ROOM AIR	12000	FFRA122ZA1
Frigidaire	HEAVY DUTY RAC	28000	FFRA2822U2
Frigidaire	HEAVY DUTY RAC	28000	FFRA282WAE
Frigidaire	MINI COMPACT RAC	5000	FFRE053WA1

Frigidaire	MINI COMPACT RAC	5000	FFRE053WAE
Frigidaire	MINI COMPACT RAC	5000	FFRE053ZA1
Frigidaire	MINI COMPACT RAC	6000	FFRE063WA1
Frigidaire	MINI COMPACT RAC	6000	FFRE063WAE
Frigidaire	MINI COMPACT RAC	6000	FFRE063ZA1
Frigidaire	MINI COMPACT RAC	8000	FFRE083WA1
Frigidaire	MINI COMPACT RAC	8000	FFRE083WAE
Frigidaire	COMPACT ROOM AIR	8000	FFRE083ZA1
Frigidaire	COMPACT ROOM AIR	10000	FFRE103WA1
Frigidaire	COMPACT ROOM AIR	10000	FFRE103WAE
Frigidaire	COMPACT ROOM AIR	10000	FFRE103ZA1
Frigidaire	COMPACT ROOM AIR	12000	FFRE123WA1
Frigidaire	COMPACT ROOM AIR	12000	FFRE123WAE
Frigidaire	COMPACT ROOM AIR	12000	FFRE123ZA1
Frigidaire	MEDIAN RAC	15000	FFRE153WA1
Frigidaire	MEDIAN RAC	15000	FFRE153WAE
Frigidaire	MEDIAN RAC	15000	FFRE153ZA1
Frigidaire	MEDIAN RAC	18000	FFRE1833U2
Frigidaire	MEDIAN RAC	18000	FFRE183WAE
Frigidaire	HEAVY DUTY RAC	22000	FFRE2233U2
Frigidaire	HEAVY DUTY RAC	22000	FFRE223WAE
Frigidaire	HEAVY DUTY RAC	25000	FFRE2533U2
Frigidaire	HEAVY DUTY RAC	25000	FFRE253WAE
Frigidaire	SLIDE OUT CHAS RAC	8000	FFRH0822R1
Frigidaire	SLIDE OUT CHAS RAC	8000	FFRH0822RE
Frigidaire	SLIDE OUT CHAS RAC	11000	FFRH1122U1
Frigidaire	SLIDE OUT CHAS RAC	11000	FFRH1122UE
Frigidaire	MEDIAN RAC	18000	FFRH1822R2
Frigidaire	MEDIAN RAC	18000	FFRH1822RE
Frigidaire	HEAVY DUTY RAC	25000	FFRH2522R2
Frigidaire	HEAVY DUTY RAC	25000	FFRH2522RE
Frigidaire	SLIDER ROOM AIR	8000	FFRS0822S1
Frigidaire	SLIDER ROOM AIR	8000	FFRS0822SE
Frigidaire	SLIDE ROOM AIR	10000	FFRS1022R1
Frigidaire	SLIDE ROOM AIR	10000	FFRS1022RE

Frigidaire	THRU WALL ROOM AIR	8000	FFTA083WA1
Frigidaire	THRU WALL ROOM AIR	10000	FFTA103WA1
Frigidaire	THRU WALL ROOM AIR	10000	FFTA103WA2
Frigidaire	THRU WALL ROOM AIR	12000	FFTA123WA1
Frigidaire	THRU WALL ROOM AIR	12000	FFTA123WA2
Frigidaire	THRU WALL ROOM AIR	14000	FFTA142WA2
Frigidaire	THRU WALL ROOM AIR	8000	FFTH082WA1
Frigidaire	THRU WALL ROOM AIR	10000	FFTH102WA2
Frigidaire	THRU WALL ROOM AIR	12000	FFTH122WA2
Frigidaire	THRU WALL ROOM AIR	14000	FFTH142WA2
Frigidaire Gallery	DEHUMIDIFIER	50 pints	FGAC5044W1
Frigidaire	PORTABLE ROOM AIR	8000	FHPC082AB1
Frigidaire	PORTABLE ROOM AIR	10000	FHPC102AB1
Frigidaire	PORTABLE ROOM AIR	13000	FHPC132AB1
Frigidaire	PORTABLE ROOM AIR	13000	FHPH132AB1
Frigidaire	MINI COMPACT RAC	6000	FHWW063WB1
Frigidaire	MINI COMPACT RAC	6000	FHWW063WBE
Frigidaire	MINI COMPACT RAC	8000	FHWW083WB1
Frigidaire	MINI COMPACT RAC	8000	FHWW083WBE
Frigidaire	COMPACT ROOM AIR	10000	FHWW103WB1
Frigidaire	COMPACT ROOM AIR	10000	FHWW103WBE
Frigidaire	COMPACT ROOM AIR	12000	FHWW123WB1
Frigidaire	COMPACT ROOM AIR	12000	FHWW123WBE
Frigidaire	MEDIAN RAC	15000	FHWW153WB1
Frigidaire	MEDIAN RAC	15000	FHWW153WBE
Frigidaire Gallery	PORTABLE ROOM AIR	13000	GHPC132AB1
Frigidaire Gallery	COMPACT ROOM AIR	6000	GHWW063WB1
Frigidaire Gallery	COMPACT ROOM AIR	8000	GHWW083WB1