



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7**

11201 Renner Boulevard
Lenexa, Kansas 66219

CERTIFIED U.S. MAIL
RETURN RECEIPT REQUESTED

Melvin Raymond, Esq.
Raymond Law Firm
4387 Laclede Ave.
St. Louis, Missouri 63108

Re: Notice of Potential Violation and Opportunity to Confer
Federal Insecticide, Fungicide, and Rodenticide Act
In the Matter of Wilson's Pest Control Inc.

Dear Mr. Raymond:

You are receiving this letter due to your representation of Wilson's Pest Control Inc. (Respondent). The U.S. Environmental Protection Agency (EPA) has identified pesticides as highly toxic substances that present significant environmental and health concerns. Exposure to certain pesticides may lead to injury or death. The sale and use of incorrectly labeled or formulated pesticides may pose a danger to human health or the environment. As a result of these potential dangers, the EPA regulates the registration, distribution, sale, and use of pesticides pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and related regulations in the Code of Federal Regulations (C.F.R.).

On June 15, 2022, the EPA conducted an inspection at Respondent's facility located at 2400 North Grand Boulevard in St. Louis, Missouri. The inspection was conducted to determine Respondent's compliance status with the requirements of FIFRA. The inspection report was provided to Respondent on July 21, 2022. The EPA has completed its review of the information collected and has determined that Respondent is in violation of the following requirements of FIFRA and the C.F.R.:

1. Sale or Distribution of unregistered pesticides [Repackaging]: Section 3(a) of FIFRA, 7 U.S.C. § 136a(a), requires a person to register a pesticide in accordance with the procedure described in Section 3(c) of FIFRA, 7 U.S.C. § 136a(c), before distributing or selling it to another person. Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), provides that 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 regulation 40 C.F.R. § 165.3 defines the term "repackage" as transferring a pesticide formulation from one container to another without a change in the composition of the formulation, the labeling content, or the product's EPA registration number, for sale or distribution. The regulation at 40 C.F.R. § 165.70(b) provides the conditions under which a registrant may allow a person to repackage the registrant's pesticide product into refillable containers and to distribute or sell such repackaged product under the registrant's existing registration. The regulation at 40 C.F.R. § 165.70(c) states that repackaging a pesticide product

without either obtaining a registration or meeting all of the conditions in 40 C.F.R. § 165.70(b) is a violation of Section 12 of FIFRA.

During the inspection, the following pesticidal products were determined to be repackaged by Respondent without obtaining a registration nor meeting all of the conditions of 40 C.F.R. § 165.70(b), and therefore unregistered, and were being offered for sale:

- a. Professional Pest Control Concentrate, Permethrin Insecticide 36.8% (EPA Reg No. 70506-7-72693) (EPA Est No. 1386-OH-1) in 16 oz and 32 oz containers;
- b. Professional Pest Control Concentrate, Termiticide/Insecticide (EPA Reg No. 70506-7-72693) (EPA Est No. 1386-OH-1);
- c. Wilson's Termite & Carpenter Ant Control (EPA Reg No. 228-459-54705) (EPA Est. No. 48498-CA-1);
- d. Wilson's Pest Control Professional Growth Regulator (Tekko Pro - EPA Reg No. 53883-335);
- e. Contrac Rodenticide Blocks (EPA Reg No. 12455-76);
- f. Final Rodenticide Blocks (EPA Reg No. 12455-91);
- g. Talon G Rodenticide Blocks (EPA Reg No. 100-1050);
- h. Maki Mini Blocks (EPA Reg No. 7173-202);
- i. Contrac Rodenticide Pellets (EPA Reg No. 12455-76);
- j. Final Rodenticide Pellets (EPA Reg No. 12455-91); and
- k. Talon G Rodenticide Pellets (EPA Reg No. 100-1050).

Respondent's distribution or sales of the repackaged pesticides listed above without obtaining a registration nor meeting all of the conditions of 40 C.F.R. § 165.70(b) constitutes the distribution of unregistered pesticides in violation of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A). Selling unregistered pesticides endangers human health and the environment.

2. Misbranding: Pursuant to Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), it is unlawful for any person to distribute or sell to any person any pesticide which is adulterated or misbranded. Section 2q of FIFRA, 7 U.S.C. § 136(q) provides several requirements for labelling of pesticides and provides that failure to follow such requirements constitutes misbranding.

During the inspection, the following products were being offered for sale with either no labelling or labelling not in compliance with Section 2q of FIFRA, 7 U.S.C. § 136(q), and therefore misbranded:

- a. Professional Pest Control Concentrate, Permethrin Insecticide 36.8% (EPA Reg No. 70506-7-72693) (EPA Est No. 1386-OH-1) in 16 oz and 32 oz containers;
- b. Professional Pest Control Concentrate, Termiticide/Insecticide (EPA Reg No. 70506-7-72693) (EPA Est No. 1386-OH-1);
- c. Wilson's Termite & Carpenter Ant Control (EPA Reg No. 228-459-54705) (EPA Est. No. 48498-CA-1);
- d. Wilson's Pest Control Professional Growth Regulator (Tekko Pro - EPA Reg No. 53883-335);
- e. Contrac Rodenticide Blocks (EPA Reg No. 12455-76);
- f. Final Rodenticide Blocks (EPA Reg No. 12455-91);
- g. Talon G Rodenticide Blocks (EPA Reg No. 100-1050);
- h. Maki Mini Blocks (EPA Reg No. 7173-202);

- i. Contrac Rodenticide Pellets (EPA Reg No. 12455-76);
- j. Final Rodenticide Pellets (EPA Reg No. 12455-91); and
- k. Talon G Rodenticide Pellets (EPA Reg No. 100-1050).

Respondent's distribution or sales of the mislabeled and misbranded pesticides listed above are violations of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E). Selling misbranded pesticides without proper labelling endangers human health and the environment.

As you know, on July 1, 2022, the EPA issued a Stop Sale, Use or Removal Order (SSURO) to Respondent regarding these products. The EPA's primary concern is Respondent's return to full compliance as expeditiously as possible. While we appreciate Respondent's efforts to date to come into compliance, the EPA has continuing concerns whether some requirements are being met and would like to discuss them with you. The EPA also believes that these violations are significant enough to warrant the assessment of a civil penalty. Section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a), authorizes civil penalties for violations of FIFRA. To be fair and consistent in its assessment of penalties, the EPA uses the FIFRA Enforcement Response Policy to calculate penalties. A link to this document is included in the Additional Sources of Information enclosure.

By this letter, the EPA invites Respondent to negotiate a fair resolution of this matter before any complaint is filed. The EPA is extending to you an opportunity to advise the agency, either in person, via conference call, or in writing, of any further information the EPA should consider with respect to the alleged violations. A settlement of this matter through Respondent's return to full compliance and payment of an appropriate civil penalty would be memorialized in a Consent Agreement and Final Order to be signed by an authorized representative of Respondent and the EPA. If Respondent believes it does not have the financial ability to pay the proposed penalty and wants EPA to consider its financial condition, Respondent should notify EPA during the settlement discussions so we can further discuss the circumstances and determine the appropriate financial documentation to substantiate this claim.

If Respondent is interested in participating in pre-filing negotiations, please contact Britt Bieri, in the Office of Regional Counsel, within **10 calendar days** of receipt of this letter at (913) 551-7647. EPA generally provides a period of 60 days to reach settlement before considering more formal enforcement options.

Respondent may also wish to consider performing a Supplemental Environmental Project. A SEP is a voluntary project purchased or performed by Respondent that provides significant environmental benefits and has a nexus to the environmental harm threatened or caused by the violations. A full description of the EPA's policy concerning the use of SEPs in settlement actions can be found at the link included in the Additional Sources of Information enclosure.

The EPA also encourages consideration of innovative compliance tools and supplemental environmental projects in administrative settlements whenever appropriate. In addition, there are a number of tools available to discuss, but we believe that audits and public accountability through increased transparency may be appropriate in this matter. Information on supplemental environmental projects and injunctive relief tools can be found in the Additional Sources of Information enclosure.

Your attention to this matter is greatly appreciated. If you have any questions, please do not hesitate to contact Britt Bieri at (913) 551-7647, or Andrew Landry, Compliance Officer, at (913) 551-7509.

Sincerely,

DAVID COZAD

Digitally signed by DAVID
COZAD
Date: 2023.04.13 08:10:05
-05'00'

David Cozad
Director
Enforcement and Compliance Assurance Division

Enc: Additional Sources of Information

cc: Dawn Wall (e-copy)
Missouri Department of Agriculture
dawn.wall@mda.mo.gov

Additional Sources of Information

- Information on FIFRA and the implementing regulations:
<https://www.epa.gov/agriculture>
- Federal Insecticide, Fungicide, and Rodenticide Act Enforcement Response Policy
<https://www.epa.gov/sites/production/files/documents/fifra-erp1209.pdf>
- Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22:
<https://www.epa.gov/enforcement/consolidated-rules-practice-40-C.F.R.-part-22-administrative-assessment-civil-penalties-1>
- Information on Small Businesses and Enforcement
<https://www.epa.gov/compliance/small-business-resources-information-sheet>
- “Using All Appropriate Injunctive Relief Tools in Civil Enforcement Settlements,” April 26, 2021:
<https://www.epa.gov/enforcement/using-all-appropriate-injunctive-relief-tools-civil-enforcement-settlements>
- Information on Supplemental Environmental Projects:
<https://www.epa.gov/enforcement/supplemental-environmental-projects-seps>

