



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**REGION 5**

**77 WEST JACKSON BOULEVARD**

**CHICAGO, IL 60604-3590**

**June 6, 2022**

**VIA EMAIL ONLY**

Ms. Tracy Heinzman  
Partner  
Wiley Rein LLP  
2050 M Street NW  
Washington, DC 20036

[theinzman@wiley.law](mailto:theinzman@wiley.law)

Consent Agreement and Final Order  
In the Matter of Buzz Products, Pty. Ltd.  
Docket Number **FIFRA-05-2022-0010**

Ms. Heinzman:

Enclosed please find a copy of a fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. This document was filed on June 6, 2022 with the Regional Hearing Clerk.

The civil penalty in the amount of \$56,600.00 is to be paid in the manner described in paragraphs 48-49 of the CAFO.

Thank you for your cooperation in resolving this matter.

Sincerely,

EMMA

GLOEKLER

Emma Gloekler

Enforcement Officer

Pesticides and Toxics Compliance Section

Digitally signed by EMMA  
GLOEKLER  
Date: 2022.05.26 10:18:41  
-05'00'

Cc: Keith A. Matthews, Attorney at Law

Wiley Rein LLP

[kmatthews@wiley.law](mailto:kmatthews@wiley.law)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

<b>In the Matter of:</b>	)	<b>Docket No. FIFRA-05-2022-0010</b>
	)	
<b>Buzz Products Pty. Ltd.</b>	)	<b>Proceeding to Assess a Civil Penalty</b>
<b>Australia</b>	)	<b>Under Section 14(a) of the</b>
	)	<b>Insecticide, Fungicide, and</b>
<b>in care of its U.S. Agent,</b>	)	<b>Rodenticide Act, 7 U.S.C. § 136l(a)</b>
	)	
<b>Ceva Logistics LLC</b>	)	
<b>Torrance, California</b>	)	
	)	
<b>Respondent.</b>	)	
<hr/>	)	

**Consent Agreement and Final Order**  
**Preliminary Statement**

1. This is an administrative action commenced and concluded under Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 136l(a), and Sections 22.13(b) and 22.18(b)(2) and (3) of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (Consolidated Rules) as codified at 40 C.F.R. Part 22.

2. The Complainant is the Director of the Enforcement & Compliance Assurance Division, U.S. Environmental Protection Agency (EPA), Region 5.

3. Respondent is Buzz Products Pty. Ltd. (Buzz Products), a limited company doing business at 18 Studley Street, Abbotsford, Victoria, Australia in care of its U.S. Agent, Ceva Logistics, a limited liability company with a place of business located in Torrance, California.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO, and to the terms of this CAFO.

### **Jurisdiction and Waiver of Right to Hearing**

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

9. Respondent certifies that it is complying with FIFRA, 7 U.S.C. §§ 136 to 136y.

### **Statutory and Regulatory Background**

10. The importation of pesticides into the United States is governed by Sections 17(c) and (e) of FIFRA, 7 U.S.C. §§ 136o(c) and 136o(e), and the regulations promulgated thereunder by the Secretary of the Treasury in consultation with the Administrator of EPA. These regulations are found at 19 C.F.R. Part 12.110 *et seq.* See also 19 C.F.R. § 12.1(b).

11. The regulation at 19 C.F.R. § 12.111 states in pertinent part that imported pesticides must be registered under Section 3 of FIFRA.

12. The regulation at 19 C.F.R. § 12.112(a) states in pertinent part that an importer desiring to import pesticides or devices into the United States shall submit to the EPA, prior to the arrival of the shipment in the United States, a Notice of Arrival of Pesticides or Devices (NOA) on U.S. EPA Form 3540-1.

13. The regulation at 19 C.F.R. § 141.18 states, in pertinent part, that a nonresident corporation may not enter merchandise into the United States for consumption unless it has a resident agent authorized to accept service of process against the nonresident corporation.

14. The term “to distribute or sell” is defined in Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), as “to distribute, sell, offer for sale, hold for distribution, hold for shipment, or receive and (having so received) deliver or offer to deliver.”

15. Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), states 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.

16. 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 Section 3 of FIFRA.

17. 40 C.F.R. § 152.15(a) states, in pertinent part, that no person may distribute or sell any pesticide product that is not registered under FIFRA. It further states that a substance is considered to be intended for a pesticidal purpose, and thus to be a pesticide requiring registration, if the person who distributes or sells the substance claims, states, or implies (by labeling or otherwise) that the substance can or should be used as a pesticide.

18. The term “importer” is defined at 19 C.F.R. § 101.1 as the person primarily liable for the payment of any duties on the merchandise, or an authorized agent acting on his behalf. The importer may be the importer of record.

19. The term “pest” is defined at Section 2(t) of FIFRA, 7 U.S.C. § 136(t), as (1) any insect, rodent, nematode, fungus, weed, or (2) 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 of EPA declares to be a pest under FIFRA. See also 40 C.F.R. § 152.5(d).

20. The term “pesticide” is defined in Section 2(u) of FIFRA, 7 U.S.C. § 136(u), to include any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.

21. The term “person” is defined in Section 2(s) of FIFRA, 7 U.S.C. § 136(s), as any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.

### **Factual Allegations and Alleged Violations**

22. Respondent is, and was at all times relevant to this CAFO, a limited company and, therefore, is a “person” as that term is defined in Section 2(s) of FIFRA, 7 U.S.C. § 136(s).

23. Respondent is, and was at all times relevant to this CAFO, an “importer” as that term is defined in 19 C.F.R. § 101.1.

24. Ceva Logistics, located at 19600 S. Western Avenue, Torrance, California 90251, is the resident agent for Buzz Products pursuant to 19 C.F.R. § 141.18.

25. At all times relevant to this CAFO, Respondent was importing one or more pesticides into the United States.

26. The labeling affixed to the quantities of **United Away Sanitizing Wipe** claims, states, or implies that the product can or should be used to reduce bacteria on surfaces.

27. **United Away Sanitizing Wipe** is a pesticide as defined by FIFRA and its regulations.

28. At the time of each import shipment identified above, **United Away Sanitizing Wipe** was a “pesticide” as defined at Section 2(u) of FIFRA, 7 U.S.C. § 136(u).

29. At the time of each import shipment identified above, **United Away Sanitizing Wipe** was not registered under section 3 of FIFRA, 7 U.S.C. § 136(a).

30. Buzz Products imported 60,480 units of a pesticide, **United Away Sanitizing Wipe**, from Cambodia to the United States (Entry No. 004-10842513), which arrived in the United States through the Port of Chicago on or about April 2, 2022.

31. Buzz Products submitted an NOA for Entry No. 004-10842513 for EPA review on or about May 6, 2022.

32. Buzz Products also imported 6,960 units of a pesticide, **United Away Sanitizing Wipe**, from Cambodia to the United States (Entry No. 004-10940861), which arrived in the United States through the Port of Chicago on or about April 6, 2022.

33. Buzz Products submitted an NOA for Entry No. 004-10940861 for EPA review on or about May 6, 2022.

34. Buzz Products also imported 30,240 units of a pesticide, **United Away Sanitizing Wipe**, from Cambodia to the United States (Entry No. 004-11008155), which arrived in the United States through the Port of Chicago on or about May 1, 2022.

35. Buzz Products submitted an NOA for Entry No. 004-11008155 for EPA review on or about April 29, 2022.

36. Buzz Products also imported 47,200 units of a pesticide, **United Away Sanitizing Wipe**, from Cambodia to the United States (Entry No. 004-11008205), which arrived in the United States through the Port of Chicago on or about May 1, 2022.

37. Buzz Products submitted an NOA for Entry No. 004-11008205 for EPA review on or about April 29, 2022.

38. Respondent did not submit NOAs to the EPA for the two import shipments under Entry No. 004-10842513 and 004-10940861 prior to the arrival of the shipments into the U.S.

#### **Counts 1-4**

39. The preceding paragraphs are incorporated by reference.

40. All the units in each of the four import shipments of **United Away Sanitizing Wipe**, as described above were not registered as required under Section 3 of FIFRA.

41. Each of the four import shipments of **United Away Sanitizing Wipe** described above constituted the distribution or sale of an unregistered pesticide in violation of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

42. Respondent's four violations of Section 12(a)(1)(A) of FIFRA subject Respondent to the issuance of an Administrative Complaint assessing a separate civil penalty under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), for each of the four violations.

#### **Counts 5-6**

43. The preceding paragraphs are incorporated by reference.

44. Respondent's failure to submit NOAs to the EPA for each shipment of **United Away Sanitizing Wipe**, Entry Numbers 004-10842513 and 004-10940861, prior to the arrival of the shipments into the U.S., constitutes two violations of Section 12(a)(2)(N) of FIFRA.

45. Respondent's two violations of Section 12(a)(2)(N) of FIFRA subjects Respondent to the issuance of an Administrative Complaint assessing a separate civil penalty under Section 14(a) of FIFRA, for each of the two violations.

#### **Civil Penalty and Other Relief**

46. Respondent is a wholesaler, dealer, retailer or other distributor within the meaning of Section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1).

47. Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), requires the Administrator to consider the size of the business of the person charged, the effect on the person's ability to continue in business, and the gravity of the violation, when assessing an administrative penalty under FIFRA.

48. Based on an evaluation of the facts alleged in this CAFO, the factors in Section 14(a)(4) of FIFRA and EPA's Enforcement Response Policy for the Federal Insecticide,

Fungicide, and Rodenticide Act, dated December 2009, Complainant has determined the appropriate penalty to settle this action is \$56,600.

49. Within thirty (30) days after the effective date of this CAFO, Respondent must pay a \$56,600 civil penalty for the FIFRA violations. Respondent must pay the penalty by electronic funds transfer, payable to the “Treasurer, United States of America,” and sent to:

Federal Reserve Bank of New York  
ABA No. 021030004  
Account No. 68010727  
SWIFT address FRNYUS33  
33 Liberty Street  
New York, New York 10045  
Field Tag 4200 of the Fedwire message should read:  
“D 68010727 Environmental Protection Agency”

In the comment or description field of the electronic funds transfer, state “Buzz Products Pty. Ltd., in care of its U.S. Agent Ceva Logistics LLC,” and the docket number of this CAFO.

To pay on-line, go to [www.pay.gov](http://www.pay.gov). Use the Search Public Forms option on the tool bar and enter SFO 1.1 in the search field. Open the form and complete the required fields. In the comment or description field of the electronic funds transfer, state “Buzz Products Pty. Ltd., in care of its U.S. Agent Ceva Logistics LLC” and the docket number of this CAFO.

Respondent must send a notice of payment that states Respondent’s name and the case docket number to EPA at the following addresses when it pays the penalty:

Regional Hearing Clerk (E-19J)  
[R5hearingclerk@epa.gov](mailto:R5hearingclerk@epa.gov)

Emma Gloekler (ECP-17J)  
[gloekler.emma@epa.gov](mailto:gloekler.emma@epa.gov)

Matthew R. Dawson (C-14J)  
[dawson.matthew@epa.gov](mailto:dawson.matthew@epa.gov)

50. This civil penalty is not deductible for federal tax purposes.

51. If Respondent does not pay the civil penalty in a timely manner, EPA may refer the matter to the Attorney General who will recover such amount by action in the appropriate United States district court under Section 14(a)(5) of FIFRA, 7 U.S.C. § 136l(a)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

52. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date payment was due at a rate established by the Secretary of the Treasury. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

### **General Provisions**

53. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses for their respective attorneys/representatives: [dawson.matthew@epa.gov](mailto:dawson.matthew@epa.gov) (for Complainant), and [theinzman@wiley.law](mailto:theinzman@wiley.law) (for Respondent).

54. This CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts alleged in this CAFO.

55. This CAFO does not affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

56. This CAFO does not affect Respondent's responsibility to comply with FIFRA and other applicable federal, state, and local laws.

57. This CAFO is a "final order" for purposes of EPA's Enforcement Response Policy for FIFRA.

58. The terms of this CAFO bind Respondent, its successors, and assigns.

59. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

60. Each party agrees to bear its own costs and attorney's fees, in this action.

61. This CAFO constitutes the entire agreement between the parties.

**In the Matter of:  
Buzz Products Pty. Ltd., in care of its U.S. Agent Ceva Logistics LLC,**

26 May 2022

Date



Barry Gold, CEO  
Buzz Products Pty. Ltd.

**In the Matter of:  
Buzz Products Pty. Ltd., in care of its U.S. Agent Ceva Logistics LLC,**

**United States Environmental Protection Agency, Complainant**

**MICHAEL  
HARRIS**

Digitally signed by  
MICHAEL HARRIS  
Date: 2022.05.31  
12:59:16 -05'00'

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Michael D. Harris  
Director  
Enforcement and Compliance Assurance Division

**In the Matter of:**  
**Buzz Products Pty. Ltd., in care of its U.S. Agent Ceva Logistics LLC,**  
**Docket No. FIFRA-05-2022-0010**

**Final Order**

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

**ANN COYLE** Digitally signed by ANN  
COYLE  
Date: 2022.06.02  
09:31:22 -05'00'

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Ann L. Coyle  
Regional Judicial Officer  
United States Environmental Protection Agency  
Region 5

Consent Agreement and Final Order  
Buzz Products Pty. Ltd.  
Docket Number: [FIFRA-05-2022-0010](#)

**CERTIFICATE OF SERVICE**

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, docket number [FIFRA-05-2022-0010](#), which was filed on [June 6, 2022](#), in the following manner to the following addressees:

Copy by E-mail to  
Attorney for Complainant: Mr. Matthew R. Dawson  
[dawson.matthew@epa.gov](mailto:dawson.matthew@epa.gov)

Copy by E-mail to  
Respondent: Ms. Tracy Heinzman  
[theinzman@wiley.law](mailto:theinzman@wiley.law)

Mr. Keith A. Matthews  
[kmatthews@wiley.law](mailto:kmatthews@wiley.law)

Copy by E-mail to  
Regional Judicial Officer: Ms. Ann Coyle  
[coyle.ann@epa.gov](mailto:coyle.ann@epa.gov)

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Isidra Martinez  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 5