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**U.S. EPA REGION 8  
HEARING CLERK**

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

IN THE MATTER OF:	)	
	)	Docket No. FIFRA-08-2024-0021
<b>F AND I HOLDINGS, LLC</b>	)	
	)	FIFRA SECTION 13(a)
	)	
447 W. Pumpkin Patch Drive	)	STOP SALE, USE, or
Saratoga Springs, Utah 84045	)	REMOVAL ORDER
	)	
Respondent.	)	
	)	
	)	
	)	

**I. AUTHORITY**

1. This Stop Sale, Use, or Removal Order (Order) is issued pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency by section 13(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (FIFRA), 7 U.S.C. § 136k(a), which authorizes the Administrator of 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 that 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. The undersigned EPA official has been duly authorized to issue this Order.

**II. GOVERNING LAW**

3. 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 distribute or sell to any person any pesticide that is not registered under section 3 of FIFRA, 7 U.S.C. § 136a.
4. Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), provides that it shall be unlawful for any person in any state to distribute or sell to any person any pesticide that is misbranded.
5. Section 12(a)(2)(S) of FIFRA, 7 U.S.C. § 136j(a)(2)(S), provides that it shall be unlawful for any person to violate any regulation issued under section 3(a) or section 19 of FIFRA.
6. 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.”
7. Section 2(t) of FIFRA, 7 U.S.C. § 136(t), defines “pest” in part, as any “form of terrestrial or aquatic plant or animal life or virus, bacteria, or other microorganism (except viruses, bacteria, or other

microorganisms on or in living man or other living animals) which the Administrator declares to be a pest under section 25(c)(1).”

8. Pursuant to the authority in section 25(c)(1) of FIFRA, 7 U.S.C. § 136w(c)(1), the Administrator established that “an organism is declared to be a pest under circumstances that make it deleterious to man or the environment, if it 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 . . . .” 40 C.F.R. § 152.5(d).
9. Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), defines “to distribute or sell” as “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.”
10. The implementing regulation, 40 C.F.R. § 152.3, further defines the term “distribute or sell” as “the acts of distributing, selling, offering for sale, holding for sale, shipping, holding for shipment, delivering for shipment, or receiving and (having so received) delivering or offering to deliver, or releasing for shipment to any person in any state.”
11. Section 2(h) of FIFRA, 7 U.S.C. § 136(h), defines a “device” as “any instrument or contrivance (other than a firearm) which is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life (other than man and other than bacteria, virus, or other microorganism on or in living man or other living animals).”
12. Section 2(p) of FIFRA, 7 U.S.C. § 136(p), defines “label” as “the written, printed, or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers” and defines “labeling” in part, as “all labels and all other written, printed, or graphic matter (A) accompanying the pesticide or device at any time; or (B) to which reference is made on the label or in literature accompanying the pesticide. . . .”
13. 40 C.F.R. § 152.500(b) states that a device is subject to the requirements set forth in
  - (1) FIFRA sec. 2(q)(1) and 40 C.F.R. part 156, with respect to labeling;
  - (2) FIFRA sec. 7 and 40 C.F.R. part 167, with respect to establishment registration and reporting;
  - (3) FIFRA sec. 8 and 40 C.F.R. part 169, with respect to books and records;
  - (4) FIFRA sec. 9, with respect to inspection of establishments;
  - (5) FIFRA sec. 12, 13, and 14, with respect to violations, enforcement activities, and penalties;
  - (6) FIFRA sec. 17, with respect to import and export of devices;
  - (7) FIFRA sec. 25(c)(3), with respect to child-resistant packaging; and
  - (8) FIFRA sec. 25(c)(4), with respect to the Agency's authority to declare devices subject to certain provisions of the Act.

14. FIFRA’s labeling requirements at 40 C.F.R. part 156 for pesticides and devices require that labels for pesticide products contain several pieces of information, including the producing establishment number, hazard and precautionary statements, and directions for use. *See* 40 C.F.R. § 156.10(a).

### **III. BASIS FOR THE ORDER**

15. Respondent, F AND I HOLDINGS, LLC, is a limited liability company organized under the laws of the state of Delaware and is therefore a “person” as that term is defined by section 2(s) of FIFRA, 7 U.S.C. § 136(s), subject to FIFRA and its implementing regulations.
16. On January 24, 2024, Respondent imported a shipment with entry number 8UU-00234609 through the port of Salt Lake City, Utah.
17. The products in shipment with entry number 8UU-00234609 contained 4,400 Patriot Pure Personal Water Filters.
18. On January 25, 2024, an EPA inspector put a Hold Intact on the shipment with entry number 8UU-00234609.
19. On or about January 25, 2024, EPA requested the following information from the Broker, Circulus CHB Inc.:
  - a. photo images of product labeling
  - b. websites where the products are offered for sale
  - c. an intended use statement from the manufacturer
  - d. all associated shipping documents
  - e. identification of the shipment’s current physical location
20. On January 31, 2024, the Broker submitted the following information for EPA review:
  - a. photo images of product labeling
  - b. photos of the instruction manual that is shipped with the products
  - c. shipping documents
  - d. websites where the products are offered for sale
21. The labels for the Patriot Pure Personal Water Filters had the following language:
  - a. “Water Filter”
  - b. “Water Source: Tap Water or natural renewable fresh water”
22. The claims on the label and instruction manual indicated that the **Patriot Pure Personal Water Filters** are pesticide devices, intended for trapping, destroying, repelling, or mitigating any pest.
23. The **Patriot Pure Personal Water Filters** labels did not include a registration number assigned under FIFRA section 7 to the establishment in which the products were produced, making them misbranded pursuant to section 2(q)(1)(D) of FIFRA, 7 U.S.C. § 136(q)(1)(D).

24. Respondent distributed or sold, and continues to distribute or sell, the **Patriot Pure Personal Water Filters** in violation of section 12(a)(1)(F) of FIFRA, 7 U.S.C. § 136j(a)(1)(F), which prohibits the sale of misbranded devices.

#### IV. ORDER

25. Pursuant to the authority of section 13(a) of FIFRA, 7 U.S.C. § 136k(a), EPA hereby orders Respondent to immediately cease the sale, use, or removal of all the **Patriot Pure Personal Water Filters** under its ownership, control, or custody, wherever such products are located, except in accordance with the provisions of this Order.
26. The **Patriot Pure Personal Water Filters** 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.
27. Should Respondent seek an exception to this Order's prohibitions, Respondent may submit a request to EPA, in accordance with the following:
- a) Requests must be made in writing by electronic mail to Christine Tokarz, Enforcement and Compliance Assurance Division, United States Environmental Protection Agency, at [tokarz.christine@epa.gov](mailto:tokarz.christine@epa.gov).
  - b) Any request for movement or removal must include a written accounting of the products to be moved, including the quantity (type, number, and volume of containers) to be moved, the address of the facility from which the products will be moved, the address of the destination facility, and an explanation of the reasons for the request.
  - c) If the movement or removal is for the purposes of disposal, Respondent must provide written proof of disposal to EPA, including proof of compliance with all applicable federal, state, and local laws.
  - d) Any movement or removal of any **Patriot Pure Personal Water Filters** made without prior written authorization from EPA in accordance with this paragraph constitutes a violation of this Order and the distribution or sale of an unregistered and misbranded pesticide in violation of FIFRA.
28. Within 30 days of receipt of this Order, Respondent must submit to EPA a written accounting of the **Patriot Pure Personal Water Filters** subject to this Order. The accounting must be submitted to Christine Tokarz, at the email address above, and must include the following:
- a) An accounting of all existing product inventory at any of Respondent's facilities or warehouses, including the location(s) where the products are held, quantities, and container sizes;
  - b) A list of each shipment of **Patriot Pure Personal Water Filters** en route to any of Respondent's establishments from any person on or after the date of this Order.

The list shall include the quantities being shipped, including number and types of containers, and amount held by each type of container, the name and address or addresses from which the shipment was shipped and the destination establishment(s); and

- c) A list of each shipment of **Patriot Pure Personal Water Filters** en route from any of Respondent's establishments to any person on or after the date of this Order. The list shall include the quantities being shipped, including number and types of containers, and amounts held by each type of container, the establishment from which the shipment was shipped and the destination establishment(s).
- d) Respondent must provide EPA with an updated accounting at least every 30 days thereafter until Respondent no longer has **Patriot Pure Personal Water Filters** in its ownership, custody, or control.
- e) The information requested herein must be provided whether Respondent regards part or all of it as a trade secret or confidential business information. Respondent is entitled to assert a claim of business confidentiality in accordance with the regulations at 40 C.F.R. § 2.203(b) by labeling such information at the time it is submitted to EPA as "trade secret" or "proprietary" or "company confidential" or other suitable notice. Information subject to a properly made claim of business confidentiality will be disclosed by EPA to the public only in accordance with the procedures set forth at 40 C.F.R. part 2, subpart B. If Respondent does not make a proper claim at the time that it submits the information in the manner described in 40 C.F.R. § 2.203(b), EPA may make this information available to the public without further notice to Respondent.

## V. OTHER MATTERS

- 29. Respondent may seek federal judicial review of this Order pursuant to section 16 of FIFRA, 7 U.S.C. § 136n.
- 30. The issuance of this Order shall not constitute a waiver by EPA of its remedies, either judicial or administrative, under FIFRA or any other federal environmental law to address this matter or any other matters or unlawful acts not specified in this Order.
- 31. This Order shall be effective immediately upon receipt by Respondent or any of Respondent's agents.
- 32. Section 12(a)(2)(I) of FIFRA, 7 U.S.C. § 136j(a)(2)(I), provides that it shall be unlawful for any person to violate any order issued under section 13 of FIFRA.
- 33. This Order shall remain in effect unless and until revoked, terminated, suspended, or modified in writing by EPA.
- 34. If any provision of this Order is subsequently held to be invalid, illegal, or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby and they shall remain in full force and effect.

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY REGION 8**

Date: \_\_\_\_\_

By: \_\_\_\_\_

David Cobb, Section Supervisor  
Toxics and Pesticides Enforcement Section  
Enforcement and Compliance Assurance Division