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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
SAN FRANCISCO, CALIFORNIA

In the Matter of:	)	
	)	
Vast Enterprises Inc. dba	)	Docket No. FIFRA-09-2023-0065
Liquid Packaging Company,	)	COMPLAINT AND NOTICE OF
	)	OPPORTUNITY FOR HEARING
	)	
<u>Respondent.</u>	)	

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 Vast Enterprises Inc. dba Liquid Packaging Company for violations 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 Vast Enterprises Inc. dba Liquid Packaging Company (“Respondent”), a California corporation whose principal offices are located at 7739 Monroe Street in Paramount, California.

## 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(w) of FIFRA, 7 U.S.C. § 136(w), provides that the term “producer” means “the person who manufactures, prepares, compounds, propagates, or processes any pesticide, device or active ingredient used in producing a pesticide and the term “produce” means “to manufacture, prepare, compound, propagate, or process any pesticide or device or active ingredient used in producing a pesticide.”
8. Section 2(dd) of FIFRA, 7 U.S.C. § 136(dd), provides that the term “establishment” means “any place where a pesticide or device or active ingredient used in producing a pesticide is produced, or held, for distribution or sale.”
9. Section 2(q)(1) of FIFRA, 7 U.S.C. § 136(q)(1), provides that a pesticide is “misbranded” if “(A) its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular.”
10. 40 C.F.R. § 156.10(a)(5) states that, “[p]ursuant to section 2(q)(1)(A) of the Act, a pesticide...is misbranded if its labeling is false or misleading in any particular including both pesticidal and non-pesticidal claims.”

11. 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.”
12. 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.
13. Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), provides that it shall be unlawful for any person to distribute or sell to any person any pesticide which is adulterated or misbranded.
14. Section 7(a) of FIFRA, 7 U.S.C. § 136e(a), provides that no person shall produce any pesticide subject to this subchapter in any State unless the establishment in which it is produced is registered with the Administrator.
15. Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L), provides that it shall be unlawful for any person who is a producer to violate any of the provisions of section 136e of FIFRA.

### III. ALLEGATIONS

16. Paragraphs 1 through 15 above are hereby alleged and incorporated by reference.
17. 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).
18. At all times relevant to this Complaint, Respondent owned and/or operated a facility located at 7739 Monroe Street in Paramount, California (“Facility”).

19. On or about July 1, 2021, Respondent held for distribution and/or shipment numerous boxes containing 1-gallon bottles of the product, “Perfect Professional Advanced Multi-Surface Sanitizer,” at the Facility.
20. The label on the product, “Perfect Professional Advanced Multi-Surface Sanitizer,” contained the following language: “Kills 99.9% of Germs,” “Multi-Surface Sanitizer,” “Broad Spectrum Sanitizer,” and “Combats Coronavirus.”
21. “Germs” and “coronavirus” are “pests” as defined in section 2(t) of FIFRA, 7 U.S.C. § 136(t).
22. Based on its name and the claims on its label, the product, “Perfect Professional Advanced Multi-Surface Sanitizer,” 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).
23. The pesticide, “Perfect Professional Advanced Multi-Surface Sanitizer,” is not registered with EPA under section 3 of FIFRA, 7 U.S.C. § 136a.

**COUNTS 1-4: Distribution and sale of an unregistered pesticide**

24. Paragraphs 1 through 23 above are hereby realleged and incorporated by reference.
25. On or about August 3, 2020, October 15, 2020, and March 1, 2021, Respondent sold the pesticide, “Perfect Professional Advanced Multi-Surface Sanitizer,” to the same customer in three (3) separate transactions.
26. On or about July 1, 2021, Respondent held for distribution and/or shipment the pesticide, “Perfect Professional Advanced Multi-Surface Sanitizer, at the Facility.

27. Thus, on or about August 3, 2020, October 15, 2020, March 1, 2021 and July 1, 2021, Respondent “distributed or sold” the pesticide, “Perfect Professional Advanced Multi-Surface Sanitizer,” as defined in section 2(gg) of FIFRA, 7 U.S.C. § 136(gg).
28. Respondent’s “distributions or sales” of the pesticide, “Perfect Professional Advanced Multi-Surface Sanitizer,” on or about August 3, 2020, October 15, 2020, March 1, 2021 and July 1, 2021 constitute four (4) violations 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.

**COUNT 5: Distribution and sale of a misbranded pesticide**

29. Paragraphs 1 through 28 above are hereby realleged and incorporated by reference.
30. On or about July 1, 2021, the label on the pesticide, “Perfect Professional Advanced Multi-Surface Sanitizer,” bore an EPA registration number even though the pesticide is not registered with EPA under section 3 of FIFRA.
31. Based on the label on the pesticide, “Perfect Professional Advanced Multi-Surface Sanitizer,” bearing an EPA registration number when it is not registered with EPA, the pesticide is “misbranded” pursuant to Section 2(q)(1)(A) of FIFRA, 7 U.S.C. § 136(q)(1)(A), and 40 C.F.R. § 156.10(a)(5).
32. Consequently, Respondent’s “distribution or sale” of the pesticide, “Perfect Professional Advanced Multi-Surface Sanitizer,” on or about July 1, 2021 constitutes one (1) violation of section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), which provides that it is unlawful for any person to distribute or sell to any person a pesticide which is adulterated or misbranded.

**COUNT 6: Production of a pesticide at an unregistered establishment**

33. Paragraphs 1 through 32 above are hereby realleged and incorporated by reference.
34. At all times relevant to this Complaint, Respondent manufactured, prepared, compounded, propagated and/or processed the pesticide, “Perfect Professional Advanced Multi-Surface Sanitizer,” at the Facility on at least one occasion.
35. Therefore, at all times relevant to this Complaint, Respondent “produced” the pesticide, “Perfect Professional Advanced Multi-Surface Sanitizer,” as defined at section 2(w) of FIFRA, 7 U.S.C. § 136(w), at the Facility on at least one occasion and was therefore a “producer,” as defined at section 2(w) of FIFRA, 7 U.S.C. § 136(w).
36. At all times relevant to this Complaint, the Facility was an “establishment” pursuant to section 2(dd) of FIFRA, 7 U.S.C. § 136(dd).
37. But, at all times relevant to this Complaint, the Facility was not registered with EPA to produce any pesticide, as required under section 7(a) of FIFRA, 7 U.S.C. § 136e(a).
38. Consequently, Respondent’s production of the pesticide, Perfect Professional Advanced Multi-Surface Sanitizer, at the Facility on at least one occasion constitutes a violation of Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L), which provides that it is unlawful for any person who is a producer to violate any of the provisions of section 136e of FIFRA.

**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. When determining an appropriate civil penalty, section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), requires EPA to consider the appropriateness of such penalty to 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. To determine the appropriate penalty to be assessed in this matter, Complainant considered the facts of this matter against those statutory factors by applying the EPA’s December 2009 FIFRA Enforcement Response Policy (the “Policy”) and the Memorandum dated January 12, 2022 entitled, *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*. This Policy provides a rational, consistent, and equitable methodology for applying the statutory penalty factors to a particular case. A copy of the Policy and relevant inflation amendment are enclosed with this Complaint. Based on the violations alleged in this Complaint, and after consideration of the statutory factors enumerated above, EPA proposes to assess the following civil penalty:

Count	Alleged Violation	Penalty
1	12(a)(1)(A)	\$9,148
2	12(a)(1)(A)	\$9,148
3	12(a)(1)(A)	\$9,148
4	12(a)(1)(A)	\$9,148
5	12(a)(1)(E)	\$7,980
6	12(a)(2)(L)	\$7,980
<b>Total</b>		<b>\$52,552</b>

#### 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:

Carol Bussey  
Office of Regional Counsel (ORC-2)  
U.S. Environmental Protection Agency, Region IX  
75 Hawthorne Street  
San Francisco, CA 94105  
bussey.carol@epa.gov

Carol Bussey is the attorney assigned to represent EPA in this matter and can be contacted at bussey.carol@epa.gov or (415) 972-3950.

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. Bussey, 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. QUICK RESOLUTION

Instead of requesting an informal settlement conference or filing an Answer requesting a hearing, you may choose to resolve the proceeding by paying the specific penalty proposed in the Complaint and filing a copy of the check or other instrument of payment with the Regional Hearing Clerk within thirty (30) days after receiving the Complaint. If you wish to resolve the proceeding in this manner instead of filing an answer but need additional time to pay the penalty, you may file a written statement stating that you agree to pay the proposed penalty in accordance with 40 C.F.R § 22.18(a)(1) with the Regional Hearing Clerk within 30 days after receiving the

Complaint. The written statement need not contain any response to, or admission of, the allegations in the Complaint. Within sixty (60) days after receiving the Complaint, the full amount of the proposed penalty must be paid. Failure to make such payment within this sixty-day period may subject you to default. Upon receipt of payment in full, the Regional Judicial Officer will issue a Final Order. Payment by a respondent shall constitute a waiver of the respondent's rights to contest the allegations and to appeal the Final Order. In addition, full payment of the proposed penalty shall only resolve Respondent's liability for Federal civil penalties for violations and facts alleged in the Complaint and 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.

#### IX. 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 14 day of June 2023.

**MATTHEW  
SALAZAR** Digitally signed by  
MATTHEW SALAZAR  
Date: 2023.06.14  
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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 Vast Enterprises Inc. dba Liquid Packaging Company

EPA Docket No. FIFRA-09-2023-0065

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:

Robert Mouren-Laurens  
President  
Vast Enterprises, Inc dba Liquid Packaging  
7739 Monroe Street  
Paramount, CA 90723

Scott Carpenter  
Agent for Service of Process  
2424 SE Bristol St., Suite 300  
Newport Beach, California 92660

Certified Mail No. **7019 0140 0000 7661 7670**

**CAROL  
SACHS**

Digitally signed by  
CAROL SACHS  
Date: 2023.06.15  
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Carol Sachs  
Enforcement and Compliance Assurance Division, ECAD  
US EPA, Region 9  
75 Hawthorne Street  
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