

Section III

Statutory & Regulatory Background

5. Congress enacted FIFRA in 1947 and later amended it in 1972. The general purpose of FIFRA is to provide the basis for regulation, sale, distribution and use of pesticides in the United States. 7 U.S.C. § 136, *et seq.*
6. Section 2(s) of FIFRA, 7 U.S.C. § 136(s), defines the term “person” to mean 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 the term “pest” to mean (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-organism on or in living man or other living animal) which the Administrator declares to be a pest under Section 25(c)(1).
8. Section 2(u) of FIFRA, 7 U.S.C. § 136(u), defines the term “pesticide” to mean any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.
9. Section 2(w) of FIFRA, 7 U.S.C. § 136(w), defines the term “producer” to mean a person who manufactures, prepares, compounds, propagates, or processes any pesticide or device or active ingredient used in producing a pesticide, and defines the term “produce” to mean to manufacture, prepare, compound, propagate, or process any pesticide or device or active ingredient used in producing a pesticide.
10. Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), defines the phrase “to distribute or sell” to mean 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.
11. Section 2(mm) of FIFRA, 7 U.S.C. § 136(mm), defines the term “antimicrobial pesticide” to mean a pesticide that is intended to disinfect, sanitize, reduce, or mitigate growth of microbiological organisms, or protect inanimate objects, industrial processes or systems, surfaces, water, or other chemical substances from contamination, fouling, or deterioration caused by bacteria, viruses, fungi, protozoa, algae, or slime.
12. 40 C.F.R. § 158.2203 defines the term “disinfectant” to mean a substance, or mixture of substances, that destroys or irreversibly inactivates bacteria, fungi and viruses, but not necessarily bacterial spores, in the inanimate environment.

13. 40 C.F.R. § 158.2203 defines the term “fungicide” to mean a substance, or mixture of substances, that destroys fungi (including yeasts) and fungal spores pathogenic to man or other animals in the inanimate environment.
14. 40 C.F.R. § 158.2203 defines the term “sanitizer” to mean a substance, or mixture of substances, that reduces the bacteria population in the inanimate environment by significant numbers, but does not destroy or eliminate all bacteria.
15. 40 C.F.R. § 158.2203 defines the term “virucide” to mean a substance, or mixture of substances, that destroys or irreversibly inactivates viruses in the inanimate environment.
16. 40 C.F.R. § 152.3 defines the term “pesticide product” to mean a pesticide in the particular form (including composition, packaging, and labeling) in which the pesticide is, or is intended to be, distributed or sold.
17. Section 25(c)(1) of FIFRA, 7 U.S.C. § 136w(c)(1), authorizes the Administrator to declare a pest any form of plant or animal life (other than man and other than bacteria, virus, and other micro-organisms on or in living man or other living animals) which is injurious to health or the environment.
18. Pursuant to 40 C.F.R. § 152.5, an organism is declared to be a “pest” under circumstances that make it deleterious to man or the environment, if it is any 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.
19. Pursuant to 40 C.F.R. § 152.15, no person may distribute or sell any pesticide product that is not registered under the Act.
20. Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), states that it shall be unlawful for any person to distribute or sell any pesticide that is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.
21. Section 7 of FIFRA, 7 U.S.C. § 136e(a), states that no person shall produce any pesticide subject to this subchapter or active ingredient used in producing a pesticide subject to this subchapter in any State unless the establishment in which it is produced is registered with the EPA.
22. Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L), states that it shall be unlawful for any person who is a producer to violate any of the provisions of Section 7 of FIFRA, 7 U.S.C. § 136e.

Section IV

General Factual Allegations

23. Respondent is a limited liability company registered to do business in Missouri and is therefore a “person” within the meaning of Section 2(s) of FIFRA, 7 U.S.C. § 136(s).
24. Michael J. Balano is the organizer and registered agent of MJB Worldwide LLC.
25. “Outlaw Products” is a registered and active fictitious name of MJB Worldwide LLC.
26. On or about May 24, 2020, EPA received a tip and complaint regarding the sale or distribution of pesticide products under the brand name “Outlaw.” “Outlaw” pesticide products were not a registered pesticide with the EPA as required by 7 U.S.C. §136a(a). EPA thereafter contacted MJB Worldwide LLC about the unlawful sale/distribution of pesticide products.
27. On or about November 12, 2020, Michael J. Balano signed an affidavit stating that MJB Worldwide LLC had ceased all production of “Outlaw” disinfectant in all forms.
28. In November of 2020, MJB Worldwide LLC began producing a new version of “Outlaw” disinfectant wipes. At all relevant times to this action, the wipes were not registered with the EPA.
29. On or about May 22, 2020, Michael J. Balano signed a statement (1) admitting he had begun production of the new version of “Outlaw” disinfectant wipes in November of 2020 and (2) certifying that MJB Worldwide LLC had ceased all production of any disinfectant wipes.
30. On or about January 6, 2021, the EPA conducted an inspection of the Hy-Vee grocery store located at 8900 W. 135th Street, in Overland Park, Kansas, and found that “Outlaw Germ Justice Disinfectant Wipes,” (“Disinfectant Wipes”) distributed by MJB Worldwide LLC, were being offered for sale at that location.
31. The ingredients in “Outlaw Germ Justice Disinfectant Wipes” observed during the January 6, 2021 inspection include dimethyl benzyl ammonium chloride – 2.5% and dimethyl ethylbenzyl ammonium chloride – 2.5%, also known as quaternary ammonium compounds.
32. “Outlaw Germ Justice Disinfectant Wipes” has printed on its label (1) the terms “disinfectant wipes,” “disinfectant-cleaner-food contact and non-food contact sanitizer-virucide-fungicide,” (2) instructions “to clean and deodorize,” and (3) that it can be used “on hands and surfaces.”
33. “Outlaw Germ Justice Disinfectant Wipes” labels make claims to disinfect, sanitize, reduce, or mitigate growth of microbiological organisms, and therefore contains an antimicrobial pesticide under 7 U.S.C. § 136(mm).

34. “Outlaw Germ Justice Disinfectant Wipes” is a pesticide product because it contains a pesticide in a package in which the pesticide is, or is intended to be, distributed or sold.
35. “Outlaw Germ Justice Disinfectant Wipes” is not a registered pesticide with the EPA as required by 7 U.S.C. §136a(a).
36. MJB Worldwide LLC does not have a registered establishment as required for the production of pesticides under Section 7 of FIFRA, 7 U.S.C. § 136e(a).
37. The distribution or sale the pesticide contained in “Outlaw Germ Justice Disinfectant Wipes” by Respondent to any person is unlawful under 7 U.S.C. § 136j(a)(1)(A), and the distribution or sale the pesticide product “Outlaw Germ Justice Disinfectant Wipes” by Respondent to any person is unlawful under 40 C.F.R. § 152.15.
38. The production of the pesticide contained in “Outlaw Germ Justice Disinfectant Wipes” by Respondent to any person is unlawful under 7 U.S.C. § 136j(a)(2)(L).
39. On or about April 14, 2021, Complainant sent to Hy-Vee, Inc. a letter requesting copies of any and all documents (e.g., receiving records, invoices, bills of lading, etc.) reflecting the distribution of “Outlaw Germ Justice Disinfectant Wipes” to and by Hy-Vee, Inc. On or about April 26, 2021, Hy-Vee, Inc. provided to Complainant forty-seven invoices reflecting purchases of “Outlaw Products” by multiple Hy-Vee locations.

Section V

Violations

40. The Complainant hereby states and alleges that Respondent has violated FIFRA and federal regulations promulgated thereunder as follows:

Count 1

41. The facts stated in paragraphs 23 through 39 are realleged and incorporated as if fully stated herein.
42. On or about June 23, 2020, Respondent sold or distributed a quantity of “Disinfectant Wipes” to a Hy-Vee store that Respondent has identified as store #154 located at 9400 E. State Route 350, Raytown, Missouri 64133.
43. On the date of the sale and/or distribution of the pesticide product sold as “Disinfectant Wipes,” the products was not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.
44. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide whose registration has been cancelled or which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

45. Pursuant to Section 14 of FIFRA, 7 U.S.C. § 136l, and based on the facts stated in paragraphs 23 through 39, it is proposed that a civil penalty be assessed against Respondent.

Count 2

46. The facts stated in paragraphs 23 through 39 are realleged and incorporated as if fully stated herein.

47. On or about September 1, 2020, Respondent sold or distributed a quantity of “Disinfectant Wipes” to a Hy-Vee store that Respondent has identified as store number #1658 located at 2951 SW Wanamaker, Topeka, Kansas 66614.

48. On the date of the sale and/or distribution of the pesticide products sold as “Disinfectant Wipes,” the products were not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

49. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide whose registration has been cancelled or which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

50. Pursuant to Section 14 of FIFRA, 7 U.S.C. § 136l, and based on the facts stated in paragraphs 23 through 39, it is proposed that a civil penalty be assessed against Respondent.

Count 3

51. The facts stated in paragraphs 23 through 39 are realleged and incorporated as if fully stated herein.

52. On or about July 1, 2020, Respondent sold or distributed a quantity of “Disinfectant Wipes” to a Hy-Vee store that Respondent has identified as store #1509 located at 8900 W. 135th Street, Overland Park, Kansas 66221.

53. On the date of the sale and/or distribution of the pesticide products sold as “Disinfectant Wipes,” the product was not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

54. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide whose registration has been cancelled or which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

55. Pursuant to Section 14 of FIFRA, 7 U.S.C. § 136l, and based on the facts stated in paragraphs 23 through 39, it is proposed that a civil penalty be assessed against Respondent.

Count 4

56. The facts stated in paragraphs 23 through 39 are realleged and incorporated as if fully stated herein.

57. On or about July 1, 2020, Respondent sold or distributed a quantity of “Disinfectant Wipes” to a Hy-Vee store that Respondent has identified as store #2 located at 8900 W. 135th Street, Overland Park, Kansas 66221.

58. On the date of the sale and/or distribution of the pesticide product sold as “Disinfectant Wipes,” the product was not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

59. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide whose registration has been cancelled or which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

60. Pursuant to Section 14 of FIFRA, 7 U.S.C. § 136l, and based on the facts stated in paragraphs 23 through 39, it is proposed that a civil penalty be assessed against Respondent.

Count 5

61. The facts stated in paragraphs 23 through 39 are realleged and incorporated as if fully stated herein.

62. On or about June 18, 2020, Respondent sold or distributed a quantity of “Disinfectant Wipes” to a Hy-Vee store that Respondent has identified as store #1033 located at 625 SW US 40 Highway, Blue Springs, Missouri 64014.

63. On the date of the sale and/or distribution of the pesticide product sold as “Disinfectant Wipes,” the product was not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

64. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide whose registration has been cancelled or which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

65. Pursuant to Section 14 of FIFRA, 7 U.S.C. § 136l, and based on the facts stated in paragraphs 23 through 39, it is proposed that a civil penalty be assessed against Respondent.

Count 6

66. The facts stated in paragraphs 23 through 39 are realleged and incorporated as if fully stated herein.

67. On or about June 24, 2020, Respondent sold or distributed a quantity of “Disinfectant Wipes” to a Hy-Vee store that Respondent has identified as store #1033 located at 625 SW US 40 Highway, Blue Springs, Missouri 64014.

68. On the date of the sale and/or distribution of the pesticide product sold as “Disinfectant Wipes,” the product was not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

69. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide whose registration has been cancelled or which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

70. Pursuant to Section 14 of FIFRA, 7 U.S.C. § 136l, and based on the facts stated in paragraphs 23 through 39, it is proposed that a civil penalty be assessed against Respondent.

Count 7

71. The facts stated in paragraphs 23 through 39 are realleged and incorporated as if fully stated herein.

72. On or about July 11, 2020, Respondent sold or distributed a quantity of “Disinfectant Wipes” to a Hy-Vee store that Respondent has identified as store #1033 located at 625 SW US 40 Highway, Blue Springs, Missouri 64014.

73. On the date of the sale and/or distribution of the pesticide product sold as “Disinfectant Wipes,” the product was not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

74. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide whose registration has been cancelled or which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

75. Pursuant to Section 14 of FIFRA, 7 U.S.C. § 136l, and based on the facts stated in paragraphs 23 through 39, it is proposed that a civil penalty be assessed against Respondent.

Count 8

76. The facts stated in paragraphs 23 through 39 are realleged and incorporated as if fully stated herein.

77. On or about July 15, 2020, Respondent sold or distributed a quantity of “Disinfectant Wipes” to a Hy-Vee store that Respondent has identified as store #1033 located at 625 SW US 40 Highway, Blue Springs, Missouri 64014.

78. On the date of the sale and/or distribution of the pesticide product sold as “Disinfectant Wipes,” the product was not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

79. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide whose registration has been cancelled or which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

80. Pursuant to Section 14 of FIFRA, 7 U.S.C. § 136l, and based on the facts stated in paragraphs 23 through 39, it is proposed that a civil penalty be assessed against Respondent.

Count 9

81. The facts stated in paragraphs 23 through 39 are realleged and incorporated as if fully stated herein.

82. On or about July 22, 2020, Respondent sold or distributed a quantity of “Disinfectant Wipes” to a Hy-Vee store that Respondent has identified as store #1033 located at 625 SW US 40 Highway, Blue Springs, Missouri 64014.

83. On the date of the sale and/or distribution of the pesticide product sold as “Disinfectant Wipes,” the product was not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

84. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide whose registration has been cancelled or which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

85. Pursuant to Section 14 of FIFRA, 7 U.S.C. § 136l, and based on the facts stated in paragraphs 23 through 39, it is proposed that a civil penalty be assessed against Respondent.

Count 10

86. The facts stated in paragraphs 23 through 39 are realleged and incorporated as if fully stated herein.

87. On or about June 29, 2020, Respondent sold or distributed a quantity of “Disinfectant Wipes” to a Hy-Vee store that Respondent has identified as store #1034 located at 1307 E North Avenue, Belton, Missouri 64012.

88. On the date of the sale and/or distribution of the pesticide product sold as “Disinfectant Wipes,” the product was not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

89. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide whose registration has been cancelled or which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

90. Pursuant to Section 14 of FIFRA, 7 U.S.C. § 136l, and based on the facts stated in paragraphs 23 through 39, it is proposed that a civil penalty be assessed against Respondent.

Count 11

91. The facts stated in paragraphs 23 through 39 are realleged and incorporated as if fully stated herein.

92. On or about June 29, 2020, Respondent sold or distributed a quantity of “Disinfectant Wipes” to a Hy-Vee store that Respondent has identified as store #1076 located at 3100 W. Broadway, Columbia, Missouri 65203.

93. On the date of the sale and/or distribution of the pesticide product sold as “Disinfectant Wipes,” the product was not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

94. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide whose registration has been cancelled or which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

95. Pursuant to Section 14 of FIFRA, 7 U.S.C. § 136l, and based on the facts stated in paragraphs 23 through 39, it is proposed that a civil penalty be assessed against Respondent.

Count 12

96. The facts stated in paragraphs 23 through 39 are realleged and incorporated as if fully stated herein.

97. On or about August 6, 2020, Respondent sold or distributed a quantity of “Disinfectant Wipes” to a Hy-Vee store that Respondent has identified as store #1076 located at 3100 W. Broadway, Columbia, Missouri 65203.

98. On the date of the sale and/or distribution of the pesticide product sold as “Disinfectant Wipes,” the product was not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

99. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide whose registration has been cancelled or which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

100. Pursuant to Section 14 of FIFRA, 7 U.S.C. § 136l, and based on the facts stated in paragraphs 23 through 39, it is proposed that a civil penalty be assessed against Respondent.

Count 13

101. The facts stated in paragraphs 23 through 39 are realleged and incorporated as if fully stated herein.

102. On or about August 26, 2020, Respondent sold or distributed a quantity of “Disinfectant Wipes” to a Hy-Vee store that Respondent has identified as store #1159 located at 3500 Dodge Street, Dubuque, IA 52003.

103. On the date of the sale and/or distribution of the pesticide product sold as “Disinfectant Wipes,” the product was not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

104. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide whose registration has been cancelled or which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

105. Pursuant to Section 14 of FIFRA, 7 U.S.C. § 136l, and based on the facts stated in paragraphs 23 through 39, it is proposed that a civil penalty be assessed against Respondent.

Count 14

106. The facts stated in paragraphs 23 through 39 are realleged and incorporated as if fully stated herein.

107. On or about July 14, 2020, Respondent sold or distributed a quantity of “Disinfectant Wipes” to a Hy-Vee store that Respondent has identified as store #1160 located at 2395 NW Arterial, Dubuque, Iowa 52002.

108. On the date of the sale and/or distribution of the pesticide product sold as “Disinfectant Wipes,” the product was not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

109. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide whose registration has been cancelled or which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

110. Pursuant to Section 14 of FIFRA, 7 U.S.C. § 136l, and based on the facts stated in paragraphs 23 through 39, it is proposed that a civil penalty be assessed against Respondent.

Count 15

111. The facts stated in paragraphs 23 through 39 are realleged and incorporated as if fully stated herein.

112. On or about August 24, 2020, Respondent sold or distributed a quantity of “Disinfectant Wipes” to a Hy-Vee store that Respondent has identified as store #1160 located at 2395 NW Arterial, Dubuque, Iowa 52002.

113. On the date of the sale and/or distribution of the pesticide product sold as “Disinfectant Wipes,” the product was not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

114. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide whose registration has been cancelled or which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

115. Pursuant to Section 14 of FIFRA, 7 U.S.C. § 136l, and based on the facts stated in paragraphs 23 through 39, it is proposed that a civil penalty be assessed against Respondent.

Count 16

116. The facts stated in paragraphs 23 through 39 are realleged and incorporated as if fully stated herein.

117. On or about August 26, 2020, Respondent sold or distributed a quantity of “Disinfectant Wipes” to a Hy-Vee store that Respondent has identified by Respondent as store #1162 located at 400 S. Locust Street, Dubuque, Iowa 52003.

118. On the date of the sale and/or distribution of the pesticide product sold as “Disinfectant Wipes,” the product was not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

119. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide whose registration has been cancelled or which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

120. Pursuant to Section 14 of FIFRA, 7 U.S.C. § 136l, and based on the facts stated in paragraphs 23 through 39, it is proposed that a civil penalty be assessed against Respondent.

Count 17

121. The facts stated in paragraphs 23 through 39 are realleged and incorporated as if fully stated herein.

122. On or about June 11, 2020, Respondent sold or distributed a quantity of “Disinfectant Wipes” to a Hy-Vee store that Respondent has identified as store #1219 located at 7117 N. Prospect Avenue, Kansas City, Missouri 64119.

123. On the date of the sale and/or distribution of the pesticide product sold as “Disinfectant Wipes,” the product was not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

124. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide whose registration has been cancelled or which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

125. Pursuant to Section 14 of FIFRA, 7 U.S.C. § 136l, and based on the facts stated in paragraphs 23 through 39, it is proposed that a civil penalty be assessed against Respondent.

Count 18

126. The facts stated in paragraphs 23 through 39 are realleged and incorporated as if fully stated herein.

127. On or about August 4, 2020, Respondent sold or distributed a quantity of “Disinfectant Wipes” to a Hy-Vee store that Respondent has identified as store #1219 located at 7117 N. Prospect Avenue, Kansas City, Missouri 64119.

128. On the date of the sale and/or distribution of the pesticide product sold as “Disinfectant Wipes,” the product was not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

129. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide whose registration has been cancelled or which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

130. Pursuant to Section 14 of FIFRA, 7 U.S.C. § 136l, and based on the facts stated in paragraphs 23 through 39, it is proposed that a civil penalty be assessed against Respondent.

Count 19

131. The facts stated in paragraphs 23 through 39 are realleged and incorporated as if fully stated herein.

132. On or about September 9, 2020, Respondent sold or distributed a quantity of “Disinfectant Wipes” to a Hy-Vee store that Respondent has identified as store #1320 located at 8301 N St. Clair Avenue, Kansas City, Missouri 64151.

133. On the date of the sale and/or distribution of the pesticide product sold as “Disinfectant Wipes,” the product was not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

134. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide whose registration has been cancelled or which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

135. Pursuant to Section 14 of FIFRA, 7 U.S.C. § 136l, and based on the facts stated in paragraphs 23 through 39, it is proposed that a civil penalty be assessed against Respondent.

Count 20

136. The facts stated in paragraphs 23 through 39 are realleged and incorporated as if fully stated herein.

137. On or about June 18, 2020, Respondent sold or distributed a quantity of “Disinfectant Wipes” to a Hy-Vee store that Respondent has identified as store #1260 located at 1525 E. 23rd Street, Independence, Missouri 64055.

138. On the date of the sale and/or distribution of the pesticide product sold as “Disinfectant Wipes,” the product was not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

139. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide whose registration has been cancelled or which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

140. Pursuant to Section 14 of FIFRA, 7 U.S.C. § 136l, and based on the facts stated in paragraphs 23 through 39, it is proposed that a civil penalty be assessed against Respondent.

Count 21

141. The facts stated in paragraphs 23 through 39 are realleged and incorporated as if fully stated herein.

142. On or about August 11, 2020, Respondent sold or distributed a quantity of “Disinfectant Wipes” to a Hy-Vee store that Respondent has identified as store #1303 located at 3721 W Truman Boulevard, Jefferson City, Missouri 65109.

143. On the date of the sale and/or distribution of the pesticide product sold as “Disinfectant Wipes,” the product was not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

144. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide whose registration has been cancelled or which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

145. Pursuant to Section 14 of FIFRA, 7 U.S.C. § 136l, and based on the facts stated in paragraphs 23 through 39, it is proposed that a civil penalty be assessed against Respondent.

Count 22

146. The facts stated in paragraphs 23 through 39 are realleged and incorporated as if fully stated herein.

147. On or about August 4, 2020, Respondent sold or distributed a quantity of “Disinfectant Wipes” to a Hy-Vee store that Respondent has identified as store #1321 located at 207 NE Englewood Road, Kansas City, Missouri 64118.

148. On the date of the sale and/or distribution of the pesticide product sold as “Disinfectant Wipes,” the product was not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

149. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide whose registration has been cancelled or which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

150. Pursuant to Section 14 of FIFRA, 7 U.S.C. § 136l, and based on the facts stated in paragraphs 23 through 39, it is proposed that a civil penalty be assessed against Respondent.

Count 23

151. The facts stated in paragraphs 23 through 39 are realleged and incorporated as if fully stated herein.

152. On or about June 23, 2020, Respondent sold or distributed a quantity of “Disinfectant Wipes” to a Hy-Vee store that Respondent has identified as store #1322 located at 5330 NW 64th Street, Kansas City, Missouri 64151.

153. On the date of the sale and/or distribution of the pesticide product sold as “Disinfectant Wipes,” the product was not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

154. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide whose registration has been cancelled or which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

155. Pursuant to Section 14 of FIFRA, 7 U.S.C. § 136l, and based on the facts stated in paragraphs 23 through 39, it is proposed that a civil penalty be assessed against Respondent.

Count 24

156. The facts stated in paragraphs 23 through 39 are realleged and incorporated as if fully stated herein.

157. On or about June 29, 2020, Respondent sold or distributed a quantity of “Disinfectant Wipes” to a Hy-Vee store that Respondent has identified as store #1322 located at 5330 NW 64th Street, Kansas City, Missouri 64151.

158. On the date of the sale and/or distribution of the pesticide product sold as “Disinfectant Wipes,” the product was not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

159. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide whose registration has been cancelled or which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

160. Pursuant to Section 14 of FIFRA, 7 U.S.C. § 136l, and based on the facts stated in paragraphs 23 through 39, it is proposed that a civil penalty be assessed against Respondent.

Count 25

161. The facts stated in paragraphs 23 through 39 are realleged and incorporated as if fully stated herein.

162. On or about July 24, 2020, Respondent sold or distributed a quantity of “Disinfectant Wipes” to a Hy-Vee store that Respondent has identified as store #1322 located at 5330 NW 64th Street, Kansas City, Missouri 64151.

163. On the date of the sale and/or distribution of the pesticide product sold as “Disinfectant Wipes,” the product was not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

164. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide whose registration has been cancelled or which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

165. Pursuant to Section 14 of FIFRA, 7 U.S.C. § 136l, and based on the facts stated in paragraphs 23 through 39, it is proposed that a civil penalty be assessed against Respondent.

Count 26

166. The facts stated in paragraphs 23 through 39 are realleged and incorporated as if fully stated herein.

167. On or about June 29, 2020, Respondent sold or distributed a quantity of “Disinfectant Wipes” to a Hy-Vee store that Respondent has identified as store #1377 located at 3504 Clinton Parkway, Lawrence, Kansas 66047.

168. On the date of the sale and/or distribution of the pesticide product sold “Disinfectant Wipes,” the product was not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

169. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide whose registration has been cancelled or which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

170. Pursuant to Section 14 of FIFRA, 7 U.S.C. § 136l, and based on the facts stated in paragraphs 23 through 39, it is proposed that a civil penalty be assessed against Respondent.

Count 27

171. The facts stated in paragraphs 23 through 39 are realleged and incorporated as if fully stated herein.

172. On or about July 27, 2020, Respondent sold or distributed a quantity of “Disinfectant Wipes” to a Hy-Vee store that Respondent has identified as store #1377 located at 3504 Clinton Parkway, Lawrence, Kansas 66047

173. On the date of the sale and/or distribution of the pesticide product sold as “Disinfectant Wipes,” the product was not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

174. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide whose registration has been cancelled or which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

175. Pursuant to Section 14 of FIFRA, 7 U.S.C. § 136l, and based on the facts stated in paragraphs 23 through 39, it is proposed that a civil penalty be assessed against Respondent.

Count 28

176. The facts stated in paragraphs 23 through 39 are realleged and incorporated as if fully stated herein.

177. On or about July 7, 2020, Respondent sold or distributed a quantity of “Disinfectant Wipes” to a Hy-Vee store that Respondent has identified as store #1380 located at 301 NE Rice Road, Lee’s Summit, Missouri 64086.

178. On the date of the sale and/or distribution of the pesticide product sold as “Disinfectant Wipes,” the product was not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

179. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide whose registration has been cancelled or which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

180. Pursuant to Section 14 of FIFRA, 7 U.S.C. § 136l, and based on the facts stated in paragraphs 23 through 39, it is proposed that a civil penalty be assessed against Respondent.

Count 29

181. The facts stated in paragraphs 23 through 39 are realleged and incorporated as if fully stated herein.

182. On or about June 18, 2020, Respondent sold or distributed a quantity of “Disinfectant Wipes” to a Hy-Vee store that Respondent has identified as store #1381 located at 310 SW Ward Road, Lee’s Summit, Missouri 64081.

183. On the date of the sale and/or distribution of the pesticide product sold as “Disinfectant Wipes,” the product was not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

184. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide whose registration has been cancelled or which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

185. Pursuant to Section 14 of FIFRA, 7 U.S.C. § 136l, and based on the facts stated in paragraphs 23 through 39, it is proposed that a civil penalty be assessed against Respondent.

Count 30

186. The facts stated in paragraphs 23 through 39 are realleged and incorporated as if fully stated herein.

187. On or about June 24, 2020, Respondent sold or distributed a quantity of “Disinfectant Wipes” to a Hy-Vee store that Respondent has identified as store #1381 located at 310 SW Ward Road, Lee’s Summit, Missouri 64081.

188. On the date of the sale and/or distribution of the pesticide product sold as “Disinfectant Wipes,” the product was not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

189. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide whose registration has been cancelled or which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

190. Pursuant to Section 14 of FIFRA, 7 U.S.C. § 136l, and based on the facts stated in paragraphs 23 through 39, it is proposed that a civil penalty be assessed against Respondent.

Count 31

191. The facts stated in paragraphs 23 through 39 are realleged and incorporated as if fully stated herein.

192. On or about June 29, 2020, Respondent sold or distributed a quantity of “Disinfectant Wipes” to a Hy-Vee store that Respondent has identified as store #1381 located at 310 SW Ward Road, Lee’s Summit, Missouri 64081.

193. On the date of the sale and/or distribution of the pesticide product sold as “Disinfectant Wipes,” the product was not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

194. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide whose registration has been cancelled or which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

195. Pursuant to Section 14 of FIFRA, 7 U.S.C. § 136l, and based on the facts stated in paragraphs 23 through 39, it is proposed that a civil penalty be assessed against Respondent.

Count 32

196. The facts stated in paragraphs 23 through 39 are realleged and incorporated as if fully stated herein.

197. On or about June 23, 2020, Respondent sold or distributed a quantity of “Disinfectant Wipes” to a Hy-Vee store that Respondent has identified as store #1382 located at 109 Blue Jay Drive, Liberty, Missouri 64068.

198. On the date of the sale and/or distribution of the pesticide product sold as “Disinfectant Wipes,” the product was not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

199. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide whose registration has been cancelled or which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

200. Pursuant to Section 14 of FIFRA, 7 U.S.C. § 136l, and based on the facts stated in paragraphs 23 through 39, it is proposed that a civil penalty be assessed against Respondent.

Count 33

201. The facts stated in paragraphs 23 through 39 are realleged and incorporated as if fully stated herein.

202. On or about July 10, 2020, Respondent sold or distributed a quantity of “Disinfectant Wipes” to a Hy-Vee store that Respondent has identified as store #1400 located at 900 W. Main Street, Marshall, MN 56258.

203. On the date of the sale and/or distribution of the pesticide product sold as “Disinfectant Wipes,” the product was not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

204. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide whose registration has been cancelled or which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

205. Pursuant to Section 14 of FIFRA, 7 U.S.C. § 136l, and based on the facts stated in paragraphs 23 through 39, it is proposed that a civil penalty be assessed against Respondent.

Count 34

206. The facts stated in paragraphs 23 through 39 are realleged and incorporated as if fully stated herein.

207. On or about July 1, 2020, Respondent sold or distributed a quantity of “Disinfectant Wipes” to a Hy-Vee store that Respondent has identified as store #1422 located at 6655 Martway Street, Mission, Kansas 66202.

208. On the date of the sale and/or distribution of the pesticide product sold as “Disinfectant Wipes,” the product was not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

209. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide whose registration has been cancelled or which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

210. Pursuant to Section 14 of FIFRA, 7 U.S.C. § 136l, and based on the facts stated in paragraphs 23 through 39, it is proposed that a civil penalty be assessed against Respondent.

Count 35

211. The facts stated in paragraphs 23 through 39 are realleged and incorporated as if fully stated herein.

212. On or about June 29, 2020, Respondent sold or distributed a quantity of “Disinfectant Wipes” to a Hy-Vee store that Respondent has identified as store #1464 located at 18101 W. 119th Street, Olathe, Kansas 66061.

213. On the date of the sale and/or distribution of the pesticide product sold as “Disinfectant Wipes,” the product was not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

214. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide whose registration has been cancelled or which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

215. Pursuant to Section 14 of FIFRA, 7 U.S.C. § 136l, and based on the facts stated in paragraphs 23 through 39, it is proposed that a civil penalty be assessed against Respondent.

Count 36

216. The facts stated in paragraphs 23 through 39 are realleged and incorporated as if fully stated herein.

217. On or about July 9, 2020, Respondent sold or distributed a quantity of “Disinfectant Wipes” to a Hy-Vee store that Respondent has identified as store #1464 located at 18101 W. 119th Street, Olathe, Kansas 66061.

218. On the date of the sale and/or distribution of the pesticide product sold as “Disinfectant Wipes,” the product was not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

219. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide whose registration has been cancelled or which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

220. Pursuant to Section 14 of FIFRA, 7 U.S.C. § 136l, and based on the facts stated in paragraphs 23 through 39, it is proposed that a civil penalty be assessed against Respondent.

Count 37

221. The facts stated in paragraphs 23 through 39 are realleged and incorporated as if fully stated herein.

222. On or about June 29, 2020, Respondent sold or distributed a quantity of “Disinfectant Wipes” to a Hy-Vee store that Respondent has identified as store #1475 located at 929 Highway D, Osage Beach, Missouri 65065.

223. On the date of the sale and/or distribution of the pesticide product sold as “Disinfectant Wipes,” the product was not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

224. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide whose registration has been cancelled or which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

225. Pursuant to Section 14 of FIFRA, 7 U.S.C. § 136l, and based on the facts stated in paragraphs 23 through 39, it is proposed that a civil penalty be assessed against Respondent.

Count 38

226. The facts stated in paragraphs 23 through 39 are realleged and incorporated as if fully stated herein.

227. On or about June 29, 2020, Respondent sold or distributed a quantity of “Disinfectant Wipes” to a Hy-Vee store that Respondent has identified as store #1508 located at 8501 W 95th Street, Overland Park, Kansas 66212.

228. On the date of the sale and/or distribution of the pesticide product sold as “Disinfectant Wipes,” the product was not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

229. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide whose registration has been cancelled or which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

230. Pursuant to Section 14 of FIFRA, 7 U.S.C. § 136l, and based on the facts stated in paragraphs 23 through 39, it is proposed that a civil penalty be assessed against Respondent.

Count 39

231. The facts stated in paragraphs 23 through 39 are realleged and incorporated as if fully stated herein.

232. On or about July 17, 2020, Respondent sold or distributed a quantity of “Disinfectant Wipes” to a Hy-Vee store that Respondent has identified as store #1509 located at 8900 W 135th Street, Overland Park, Kansas 66221.

233. On the date of the sale and/or distribution of the pesticide product sold as “Disinfectant Wipes,” the product was not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

234. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide whose registration has been cancelled or which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

235. Pursuant to Section 14 of FIFRA, 7 U.S.C. § 136l, and based on the facts stated in paragraphs 23 through 39, it is proposed that a civil penalty be assessed against Respondent.

Count 40

236. The facts stated in paragraphs 23 through 39 are realleged and incorporated as if fully stated herein.

237. On or about June 29, 2020, Respondent sold or distributed a quantity of “Disinfectant Wipes” to a Hy-Vee store that Respondent has identified as store #1532 located at 7620 State Line Road, Prairie Village, Kansas 66208.

238. On the date of the sale and/or distribution of the pesticide product sold as “Disinfectant Wipes,” the product was not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

239. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide whose registration has been cancelled or which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

240. Pursuant to Section 14 of FIFRA, 7 U.S.C. § 136l, and based on the facts stated in paragraphs 23 through 39, it is proposed that a civil penalty be assessed against Respondent.

Count 41

241. The facts stated in paragraphs 23 through 39 are realleged and incorporated as if fully stated herein.

242. On or about July 9, 2020, Respondent sold or distributed a quantity of “Disinfectant Wipes” to a Hy-Vee store that Respondent has identified as store #1532 located at 7620 State Line Road, Prairie Village, Kansas 66208.

243. On the date of the sale and/or distribution of the pesticide product sold as “Disinfectant Wipes,” the product was not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

244. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide whose registration has been cancelled or which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

245. Pursuant to Section 14 of FIFRA, 7 U.S.C. § 136l, and based on the facts stated in paragraphs 23 through 39, it is proposed that a civil penalty be assessed against Respondent.

Count 42

246. The facts stated in paragraphs 23 through 39 are realleged and incorporated as if fully stated herein.

247. On or about July 24, 2020, Respondent sold or distributed a quantity of “Disinfectant Wipes” to a Hy-Vee store that Respondent has identified as store #1552 located at 201 N Belt Highway, St. Joseph, Missouri 64506.

248. On the date of the sale and/or distribution of the pesticide product sold as “Disinfectant Wipes,” the product was not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

249. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide whose registration has been cancelled or which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

250. Pursuant to Section 14 of FIFRA, 7 U.S.C. § 136l, and based on the facts stated in paragraphs 23 through 39, it is proposed that a civil penalty be assessed against Respondent.

Count 43

251. The facts stated in paragraphs 23 through 39 are realleged and incorporated as if fully stated herein.

252. On or about June 29, 2020, Respondent sold or distributed a quantity of “Disinfectant Wipes” to a Hy-Vee store that Respondent has identified as store #1641 located at 1720 W Battleship Road, Springfield, Missouri 65807.

253. On the date of the sale and/or distribution of the pesticide product sold as “Disinfectant Wipes,” the product was not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

254. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide whose registration has been cancelled or which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

255. Pursuant to Section 14 of FIFRA, 7 U.S.C. § 136l, and based on the facts stated in paragraphs 23 through 39, it is proposed that a civil penalty be assessed against Respondent.

Count 44

256. The facts stated in paragraphs 23 through 39 are realleged and incorporated as if fully stated herein.

257. On or about June 29, 2020, Respondent sold or distributed a quantity of “Disinfectant Wipes” to a Hy-Vee store that Respondent has identified as store #1658 located at 2951 SW Wanamaker Road, Topeka, Kansas 66614.

258. On the date of the sale and/or distribution of the pesticide product sold as “Disinfectant Wipes,” the product was not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

259. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide whose registration has been cancelled or which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

260. Pursuant to Section 14 of FIFRA, 7 U.S.C. § 136l, and based on the facts stated in paragraphs 23 through 39, it is proposed that a civil penalty be assessed against Respondent.

Count 45

261. The facts stated in paragraphs 23 through 39 are realleged and incorporated as if fully stated herein.

262. On or about August 7, 2020, Respondent sold or distributed a quantity of “Disinfectant Wipes” to a Hy-Vee store that Respondent has identified as store # store #1658 located at 2951 SW Wanamaker Road, Topeka, Kansas 66614.

263. On the date of the sale and/or distribution of the pesticide product sold as “Disinfectant Wipes,” the product was not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

264. Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing a pesticide whose registration has been cancelled or which is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

265. Pursuant to Section 14 of FIFRA, 7 U.S.C. § 136l, and based on the facts stated in paragraphs 23 through 39, it is proposed that a civil penalty be assessed against Respondent.

Count 46

266. The facts stated in paragraphs 23 through 39 are realleged and incorporated as if fully stated herein.

267. At all times relevant to this action, MJB Worldwide LLC was not producing “Outlaw” disinfectant wipes in a registered establishment as required by 7 U.S. Code § 136e(a).

268. Respondent violated Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L), by producing a pesticide in an establishment which was not registered with the EPA.

269. Pursuant to Section 14 of FIFRA, 7 U.S.C. § 136l, and based on the facts stated in paragraphs 23 through 39, it is proposed that a civil penalty be assessed against Respondent.

Section VI

Relief Sought

270. Section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1), authorizes the EPA Administrator to assess a civil penalty of not more than \$5,000 for each offense. The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, 28 U.S.C. § 2461, and implementing regulations at 40 C.F.R. Part 19, increased these statutory maximum penalties to \$7,500 for violations that occurred before November 2, 2015, and to \$20,528 for violations that occur after November 2, 2015, and for which penalties are assessed on or after December 23, 2020. EPA proposes to assess a total civil penalty of **\$423,187** against Respondent for the above-described violations.

Appropriateness of Proposed Penalty

271. The penalty proposed above has been calculated after consideration of the statutory factors set forth in Section 14 of FIFRA, 7 U.S.C. § 136l. Specifically, EPA considered the size of the business of Respondent, the effect of the proposed penalty on Respondent’s ability to continue in business and the gravity of the alleged violations. In its calculation of the proposed penalty, EPA has taken into account the particular facts and circumstances of the alleged violations, with specific reference to EPA guidance for the calculation of proposed penalties under FIFRA (See December 2010, Enforcement Response Policy for the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)).

272. For purposes of calculating the proposed penalty, Respondent was placed in Category I size of business (total business revenues in excess of \$10,000,000 per year) when Complainant was unable to obtain specific information as to Respondent’s gross revenues. If this categorization is incorrect, the proposed penalty will be adjusted upon submittal of reliable financial information indicating another category is appropriate.

273. Respondent has the right, upon submittal of certified financial information, to consideration of Respondent's financial condition in mitigation of the proposed penalty insofar as is necessary to permit Respondent to continue in business.

274. The proposed penalty constitutes a demand *only if* Respondent fails to raise *bona fide* issues of ability to pay, or other *bona fide* affirmative defenses relevant to the determination of any final penalty.

275. Said issues of ability to pay or other affirmative defenses relevant to a final penalty may and should be brought to the attention of Complainant at the earliest opportunity in this proceeding.

276. Payment of the total penalty - **\$423,187** - may be made by certified or cashier's check payable to the "Treasurer, United States of America," and remitted to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000.

277. If Respondent does not contest the findings and assessments set forth above, payment of the penalty assessed herein may be remitted as described in the preceding paragraph, including a reference to the name and docket number of the Complaint. In addition, a copy of the check should be sent to:

Regional Hearing Clerk
EPA - Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219

and a copy to:

Katherine Kacsur
Assistant Regional Counsel
EPA - Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219
kacsur.katherine@epa.gov

Section VII

NOTICE OF OPPORTUNITY FOR HEARING

Answer and Request for Hearing

278. Pursuant to Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), Respondent has the right to request a hearing to contest any material fact contained in this Complaint or to contest the appropriateness of the penalty proposed herein. If Respondent wishes to avoid being found in default, Respondent must file an answer and request for hearing with the EPA Region 7 Regional Hearing Clerk, at:

Regional Hearing Clerk
EPA - Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219

or electronically at:

R7_Hearing_Clerk_Filings@epa.gov

within thirty (30) days of service of this Complaint and Notice of Opportunity for Hearing. Respondent may file an answer or motion in accordance with the Standing Order Authorization of EPA Region 7 Part 22 Electronic Filing System for Electronic Filing And Service Of Documents, dated June 8, 2020 (Enclosed). Said answer shall clearly and directly admit, deny, or explain each of the factual allegations contained in the Complaint with respect to which Respondent has any knowledge, or shall clearly state that Respondent has no knowledge as to particular factual allegations in the Complaint. The answer shall also state:

- A. The circumstances or arguments that are alleged to constitute the grounds of defense;
- B. The facts that Respondent intends to place at issue; and
- C. Whether a hearing is requested.

Failure to deny any of the factual allegations in the Complaint constitutes an admission of the undenied allegations.

279. Any hearing that is requested shall be held and conducted in accordance with the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits,” 40 C.F.R. Part 22.

280. If Respondent fails to file an answer and request for hearing within thirty (30) days of service of this Complaint and Notice of Opportunity for Hearing, such failure will constitute a binding admission of all of the allegations in this Complaint, and a waiver of Respondent’s right to a hearing under FIFRA. A Default Order may thereafter be issued by the Regional

Administrator, and the civil penalties proposed therein shall become due and payable without further proceedings.

281. Respondent is advised that, after the Complaint is issued, the Consolidated Rules of Practice prohibit any ex parte (unilateral) discussion of the merits of any action with the EPA Regional Administrator, members of the Environmental Appeals Board, the Regional Judicial Officer, Administrative Law Judge, or any person likely to advise these officials in the decision of the case.

Section VIII

Settlement Conference

282. Whether or not a hearing is requested, an informal settlement conference may be arranged at Respondent's request. Respondent may confer with the EPA concerning: (1) whether or not the alleged violation occurred; or (2) the appropriateness of the proposed penalty in relation to the size of Respondent's business, the gravity of the violation, and the effect of the proposed penalty on Respondent's ability to continue in business. Additionally, the proposed penalty may be adjusted if Respondent establishes a bona fide issue of ability to pay. To explore the possibility of settlement in this matter, contact:

Katherine Kacsur
Assistant Regional Counsel
EPA Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219
Telephone: (913) 551-7734
kacsur.katherine@epa.gov

283. A request for an informal settlement conference does not extend the thirty (30) day period during which a written answer and request for a hearing must be submitted. The informal conference procedure may be pursued as an alternative to and simultaneously with the adjudicatory hearing procedure.

284. EPA encourages all parties against whom a civil penalty is proposed to pursue the possibility of settlement. However, no penalty reduction will be made simply because an informal settlement conference is held. If settlement is reached, the parties will enter into a written Consent Agreement, and a Final Order will be issued. The issuance of such a Consent Agreement and Final Order shall constitute a waiver of Respondent's right to request a hearing on any matter stipulated to therein.

Date

Wendy Lubbe, Acting Director
Enforcement and Compliance Assurance Division

Date

Katherine Kacsur
Assistant Regional Counsel

CERTIFICATE OF SERVICE

I certify that on the date below, I electronically served this Complaint to the Regional Hearing Clerk, U.S. Environmental Protection Agency, 11201 Renner Boulevard, Lenexa, Kansas 66219. I further certify that a true and correct copy of the foregoing complaint was sent this day in the following manner to the addressees:

Copy via Email to Respondent:

Michaeldiamond44@yahoo.com

AND

Copy via Certified Mail, Return Receipt Requested to Respondent:

Michael J. Balano, Registered Agent
10314 North Garfield
Kansas City, MO 64155.

Dated this _____ day of _____, _____.

Signed