

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

Received by
EPA Region VIII
Hearing Clerk

IN THE MATTER OF:)	
)	Docket No. FIFRA-08-2021-0009
THE HB GROUP LLC)	
15892 S Rockwell Park Cove)	FIFRA SECTION 13(a)
Herriman, Utah 84065-1660)	
Respondent.)	STOP SALE, USE, or
)	REMOVAL ORDER
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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 (EPA) 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 the 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 3(a) of FIFRA, 7 U.S.C. § 136a(a), states that “no person in any State may distribute or sell to any person any pesticide that is not registered under this subchapter.”
4. 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.”
5. Section 2(gg) of FIFRA, 7 U.S.C § 136(gg), states that the term “to 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.”
6. Section 2(u) of FIFRA, 7 U.S.C. § 136(u), defines a “pesticide,” in part, as “any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.”
7. The regulation set forth at 40 C.F.R. § 152.15 provides 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):
 - (1) That the substance (either by itself or in combination with any other substance) can or should be used as a pesticide; or
 - (2) That the substance consists of or contains an active ingredient and that it can be used to manufacture a pesticide; or
- (b) The substance consists of or contains one or more active ingredients and has no significant commercially valuable use as distributed or sold other than (1) use for pesticidal purpose (by itself or in combination with any other substance), (2) use for manufacture of 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.”

- 8. Section 2(t) of FIFRA, 7 U.S.C. § 136(t), defines a “pest” as “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 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].”
- 9. The regulation set forth at 40 C.F.R. § 152.5 provides that “[a]n organism is declared to be a pest under circumstances that make it deleterious to man or the environment,” including if the organism 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 [].”
- 10. 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 sell or distribute to any person any pesticide that is unregistered.
- 11. Section 17(c) of FIFRA, 7 U.S.C. § 136o(c), and the regulations implementing that provision set forth at 19 C.F.R. §§ 12.110 - 12.117, establish that importers of pesticides must submit to EPA, prior to the arrival of the shipment in the United States, a Notice of Arrival of Pesticides and Devices (Notice of Arrival) on U.S. Environmental Protection Agency Form 3540-1, or must file an electronic alternative to the Notice of Arrival, with the filing of entry documentation, via any U.S. Customs and Border Patrol (CBP)-authorized electronic data interchange system.
- 12. Section 12(a)(2)(N) of FIFRA, 7 U.S.C. § 136j(a)(2)(N), provides that it shall be unlawful for any person who is a registrant, wholesaler, dealer, retailer, or other distributor to fail to file reports required by FIFRA.

III. ALLEGATIONS OF FACT AND LAW

- 13. Respondent, The HB Group LLC, is a “person” as that term is defined by section 2(s) of FIFRA, 7 U.S.C. § 136(s).
- 14. On or about September 22, 2020, the EPA reviewed documentation in the CBP Automated Commercial Environment (ACE) system that showed that on September 21, 2020, Respondent

imported products described as “Sanitation Wipe, Non-Medical” into the United States through the Port of Salt Lake City, Utah. The EPA requested the broker of the import provide photo images of the on-product labels and all associated shipping documents. Through review of these documents and photos, the EPA observed that the imported products were labeled as “ZLT Disinfecting Wipes,” and that no Notice of Arrival had been filed for their import.

15. The EPA asked Respondent about the intended use of the imported ZLT Disinfecting Wipes. In response, Respondent provided a letter, dated September 23, 2020, that it had received from the Utah State Board of Education (“Utah BOE”), which had purchased the ZLT Disinfecting Wipes from Respondent. The letter stated that the Utah BOE intended to use the imported ZLT Disinfecting Wipes for disinfection purposes and to protect against COVID-19 exposure.
16. Based on inspection of the ZLT Disinfecting Wipes’ label and the other above-described information, the EPA determined that ZLT Disinfecting Wipes are intended for use against antimicrobial pests, and are therefore “pesticides” as defined by FIFRA, which must be registered with the EPA before being distributed or sold.
17. On October 23, 2020, the EPA reviewed Respondent’s website, <https://thehbgroup.espwebsite.com/>, and observed products called Antibacterial Wet Wipes In Resealable Pouch (“Antibacterial Wet Wipes”) being offered for sale.¹ Respondent described the Antibacterial Wet Wipes on the website by stating: “Clean up dirt and messes while killing 99.9% germs and bacteria when using these antibacterial wet wipes!”² On the website, the EPA observed that a customer could purchase the Antibacterial Wet Wipes by adding a specific quantity of the Antibacterial Wet Wipes to a digital shopping cart, indicate to whom and where the products were to be delivered, and electronically submit payment for the products in the amount of the specific price set forth on the website.
18. Based on the name of the product and the other information the EPA inspected on Respondent’s website, the EPA determined that the Antibacterial Wet Wipes are intended for use against antimicrobial pests and are therefore “pesticides” as defined by FIFRA, which must be registered with the EPA before being distributed or sold.
19. Neither the ZLT Disinfecting Wipes nor the Antibacterial Wet Wipes have ever been registered with the EPA under section 3 of FIFRA.
20. Based on the above, the EPA has reason to believe that Respondent distributed or sold unregistered pesticides when it imported the ZLT Disinfecting Wipes in violation of section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

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<https://thehbgroup.espwebsite.com/ProductResults/?referrerPage=ProductDetails&refPgId=509752981&referrerModule=BANNER&PCUrl=1&SearchId=53513&tab=Banner>

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<https://thehbgroup.espwebsite.com/ProductDetails/?productId=552709185&imageId=42737490&tab=Tile&SearchId=53513&referrerPage=ProductResults&refPgId=509752983&referrerModule=PRDREB>

21. Based on the above, the EPA has reason to believe that Respondent distributed or sold unregistered pesticides when it offered for sale the Antibacterial Wet Wipes on its website, in violation of section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

IV. ORDER

22. Respondent is ordered to immediately cease any and all distribution, sale, use, or removal of all ZLT Disinfecting Wipes and all Antibacterial Wet Wipes In Resealable Pouch (together, “the Products”).
23. This Order shall pertain to all inventory of the Products that are within the ownership, control, or custody of Respondent, wherever they are located.
24. The Products 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 for requesting prior approval set forth in paragraph 25 of this Order.
25. Respondent may only distribute, sell, use or remove any quantities of the Products after Respondent has received written approval of its specific request to do so from the EPA.
- a. Any such request should be submitted to Christine Tokarz at tokaz.christine@epa.gov.
 - b. Any movement request must include a written description of the Products to be moved, the approximate date of the movement(s) requested, the address of the facility(ies) from which the Products will be moved, the address of the destination facility(ies), and a description of the reasons for the movement(s) requested.
 - c. Any movement of any Products made without prior written approval from the EPA in accordance with this paragraph shall constitute a violation of this Order, and the unlawful distribution of unregistered pesticides, in violation of FIFRA sections 12(a)(1)(A) and 12(a)(2)(I), 7 U.S.C. §§ 136j(a)(1)(A), 136j(a)(2)(I).
26. Any disposal of the Products must comply with all applicable federal, state, and local laws, and Respondent must provide a written record of any such disposal to the EPA within 10 days after disposal is complete.


V. OTHER MATTERS

27. Respondent shall provide a copy of this Order to all members, officers, employees, and agents whose duties might reasonably include compliance with any provision of this Order.

28. Any violation of this Order may result in the imposition of civil or criminal penalties as prescribed by section 14 of FIFRA, 7 U.S.C. § 136l.
29. The issuance of this Order shall not act as a waiver by the EPA of any enforcement or other authority available to the EPA under federal law.
30. This Order shall be effective immediately upon receipt by any member, agent, owner, or operator of Respondent.
31. This Order shall remain in effect unless and until revoked, terminated, suspended or modified in writing by the EPA.
32. Respondent may seek federal judicial review of the Order pursuant to section 16 of FIFRA, 7 U.S.C. § 136n.
33. For any additional information about this Order, please contact Shaula Eakins, Assistant Regional Counsel, at (303) 312-6317.

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY REGION 8**

Date: 11-17-2020

By: **DAVID
COBB**  Digitally signed by
DAVID COBB
Date: 2020.11.17
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David Cobb, Section Chief
Toxics and Pesticides Enforcement Section
Enforcement and Compliance Assurance Division