

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR**

In the Matter of:)	
)	
The Geo Group, Inc.,)	Docket No. FIFRA-09-2024-0066
)	
Respondent.)	

BUSINESS CONFIDENTIALITY ASSERTED

The exhibits submitted with Complainant’s Initial Prehearing Exchange contain material claimed to be confidential business information (“CBI”) pursuant to 40 C.F.R. § 2.203(b). The material claimed as CBI is Complainant’s Exhibit CX 3. This exhibit contain photographs that Respondent submitted and has claimed to be CBI. This exhibit is therefore filed under seal pursuant to 40 C.F.R. § 22.5(d).

A complete set of all exhibits and a set in which the exhibit containing CBI are omitted will be filed with the Office of Administrative Law Judges. If you have any questions, please contact Carol Bussey at (415) 972-3950 or at bussey.carol@epa.gov.

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COMPLAINANT’S INITIAL PREHEARING EXCHANGE

The Manager of the Toxics Section in the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region 9 (“Complainant”) submits the following Initial Prehearing Exchange in accordance with section 22.19 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules”) and the Presiding Officer’s Prehearing Order issued on August 6, 2024:

I. POTENTIAL WITNESSES AND BRIEF NARRATIVE OF EXPECTED TESTIMONY

1. Ejan Petrie- Inspector/Case Developer, Toxics Section, Enforcement and Compliance Assurance Division, U.S. EPA, Region 9

Mr. Petrie conducted an inspection at the Adelanto ICE Detention Center in Adelanto, California on March 15, 2023 and will testify concerning the inspection. In addition, Mr. Petrie reviewed Respondent’s responses to an information request that EPA Region 9 issued to Respondent in follow-up to the inspection. As the case developer for this matter, Mr. Petrie also will discuss the violations alleged in the Complaint, show how the evidence supports the violations and explain how EPA calculated the penalty in this case in accordance with FIFRA and the applicable enforcement response policy.

2. Jenny Tao- Toxicologist, Regulatory Management Branch, Antimicrobials Division, Office of Pesticide Programs, U.S. EPA Headquarters

Ms. Tao is the Acute Toxicology Team Leader in the Regulatory Management Branch and she will testify regarding the characteristics/factors that the Agency examines in determining that gloves are “chemical resistant.”

3. Margaret Hathaway- Branch Chief, Regulatory Management Branch- Branch One, Antimicrobials Division, Office of Pesticide Programs, U.S. EPA Headquarters

Ms. Hathaway will testify regarding product registration requirements and labeling requirements.

4. Erik Kraft- Branch Chief, Product Science Branch, Antimicrobials Division, Office of Pesticide Programs, U.S. EPA Headquarters

Mr. Kraft will testify regarding product specific chemistry and acute toxicology requirements.

5. Other Witnesses- Pursuant to sections 22.19(f) and 22.22(a)(1) of the Consolidated Rules and the Presiding Officer's Prehearing Order, Complainant respectfully reserves the right to amend or supplement its witness list upon adequate notice to Respondent and the Presiding Officer.

II. POTENTIAL DOCUMENTS AND EXHIBITS AT HEARING

Complainant's Ex. 1: EPA Region 9 Inspection Report for Adelanto ICE Processing Center, including Notice of Inspection and Receipt of Samples

Complainant's Ex. 2: Labels for the EPA registered disinfectant, HALT, documenting the labels' "Precautionary Statement," including the requirement to wear "chemical resistant" gloves when handling, the signal word "Danger" and that HALT is "corrosive," "causes skin burns" and is "harmful if absorbed through the skin."

Complainant's Ex. 3: Photos of the labeling/packaging of "Life Guard Nitrile Exam Gloves" documenting that box contained 100 disposable gloves, 4 mil in thickness, and that labeling states that gloves are "extra soft," "professional medical quality," and "not intended for use as a general chemical barrier." (Claimed CBI).

Complainant's Ex. 4: Disinfectant Logs for Adelanto ICE Processing Center documenting the number of Respondent's applications of HALT at the Center from March 2022 to February 2023.

Complainant's Ex. 5: Excerpt from Label Review Manual, Office of Pesticide Programs U.S. EPA Headquarters documenting Agency guidance concerning "chemical resistant" gloves.

Complainant's Ex. 6: California Department of Pesticide Regulation Guidance for Gloves Handling Pesticides documenting similar state guidance concerning "chemical resistant" gloves.

Complainant's Ex. 7: March 2, 2021 Notice of Warning that EPA Region 9 issued to The Geo Group Inc. to document Complainant's authority to seek a penalty for alleged violations in this case under section 14(a)(2) of FIFRA

Complainant's Ex. 8: EPA's FIFRA Enforcement Response Policy dated December 2009 to show that Complainant is using the applicable enforcement response policy to calculate an appropriate penalty in this matter.

Complainant's Ex. 9: Memorandum from David M. Uhlmann, Assistant Administrator for the Office of Enforcement and Compliance Assurance ("OECA") re: Amendments to EPA's Civil Penalty Policies to Account for Inflation (effective January 15, 2024) documenting the increase to penalties for inflation for FIFRA violations that are assessed on or after January 15, 2024.

Complainant's Ex. 10: Publicly available financial data from Data Axle Reference Solutions re: The Geo Group, Inc. to document the size of Respondent's business for penalty calculation purposes and to document that Complainant considered Respondent's ability to pay the penalty in this case.

Complainant's Ex. 11: Copy of the signed and returned Certified Mail Receipt ("green card") documenting that Respondent was properly served with the Complaint in this case and that service was completed.

Other Documents/Exhibits- Pursuant to sections 22.19(f) and 22.22(a)(1) of the Consolidated Rules and the Presiding Officer's Prehearing Order, Complainant respectfully reserves the right to amend or supplement its document/exhibit list upon adequate notice to Respondent and the Presiding Officer. In addition, Complainant may request that the Presiding Officer take official notice of appropriate matters within section 22.22(f) of the Consolidated Rules.

III. STATEMENT OF AMOUNT OF TIME NEEDED TO PRESENT CASE

Complainant anticipates that it will need no more than one (1) day to present its direct case.

The services of an interpreter will not be necessary.

Finally, Item 2 of the Prehearing Exchange is addressed as follows:

2(A)- See Complainant's Ex. 11 above.

2(B)- See Complainant's Ex. 2, Ex. 3, and Ex. 4 above.

2(C)- See Complainant's Ex. 7, Ex. 8, Ex. 9 and Ex. 10 above.

2(D)- See Complainant's Ex. 5 and Ex. 6 above.

Respectfully Submitted,

9/20/24
Date

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CERTIFICATE OF SERVICE

I certify that an electronic copy of the foregoing Complainant's Initial Prehearing Exchange *In the Matter of The Geo Group, Inc.*, Docket No. FIFRA-09-2024-0066, was filed and served on the Presiding Officer this day through the Office of Administrative Law Judge's E-Filing System, with the exception of certain exhibits that will be filed under seal. I certify that a copy of this Initial Prehearing Exchange with all exhibits will be filed under seal via a file-share system established by the Office of Administrative Law Judges. I certify that an electronic copy of this Prehearing Exchange was sent this day by e-mail and links to a file transfer system will be sent to the following e-mail address for service on Respondent: Gregory M. Munson, Esq. at gmunson@gunster.com.

9/20/24
Date

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