



UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

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2014 APR -4 AM 9:51

In the Matter of:)
)
Reckitt Benckiser LLC, et al.,) FIFRA Docket No. 661
)
Petitioners.)

PROTECTIVE ORDER

On March 28, 2014, all parties to this matter filed a Joint Motion for a Protective Order Addressing the Treatment of Confidential Business Information (“Joint Motion”).¹ Therein, they request that the undersigned issue a protective order adopting six enumerated procedures regarding the treatment of “non-redacted documents that are produced during the course of this hearing under seal and asserted by the producing party to contain confidential business information (“CBI”) in accordance with the Court’s Prehearing Order dated February 10, 2014 (“Sealed Documents”).”

First, as the Prehearing Order (“PHO”) sets forth, the term “Sealed Documents” used in the parties’ Joint Motion will be deemed to include non-redacted documents produced during this proceeding that are identified by the producing party as containing personally identifiable information (“PII”). PII includes information that, if disclosed to the public, would constitute an unwarranted invasion of personal privacy, such as Social Security numbers, medical records, or personal financial information. *See* PHO, Feb. 10, 2014, at 4. Further, the term “Sealed Documents” as used in the Joint Motion will be deemed to include “any information or data” required to be produced that the producing party claims “is a trade secret or commercial or financial information, other than information relating to the formulas of a pesticide” 40 C.F.R. § 164.4(c).

Recognizing the above amendments to the definition of “Sealed Documents” as that term is used in the six protocols enumerated in the Joint Motion, the relief requested is **GRANTED**. The following protocols stated in the Joint Motion, with amendments marked in *italics*, are effective immediately for the duration of this proceeding, except as required by law:

¹ The parties are reminded that the PHO issued in this matter mandated that “[a]ll documents submitted for filing must be signed” PHO at 4. An exception will be made for the present motion, which bears no signatures, because the undersigned has no reason to believe that all parties did not stipulate to its contents. However, the parties are instructed to file only signed documents for the duration of the proceeding.

- 1) The protective order applies to all Sealed Documents produced during this action by any party. All Sealed Documents submitted by any party must be marked clearly to indicate that they contain CBI, PII, or any other protected information as described herein.
- 2) Only attorneys who are actively working on this action on behalf of a party, and support staff (including independent consultants and experts, paralegals, and clerical and administrative personnel) who are employed or supervised by attorneys who are actively working on this action and are assisting counsel with respect to this action, shall have access to Sealed Documents. Attorneys who are actively working on this action on behalf of a party and who receive Sealed Documents shall advise such support staff, prior to providing them access to protected material, of their obligations under this order.
- 3) Sealed Documents will be used only for the purposes of this case, including appeals thereof; Sealed Documents shall not be given, shown, made available, discussed, or otherwise conveyed in any form except as provided for in this order.
- 4) As provided for in the Practice Manual (and consistent with 40 CFR part 164), parts of the hearing that address information contained in Sealed Documents shall be closed to the public, and those parts of the record shall be protected from unauthorized disclosure.
- 5) Sixty days after the final disposition of this action (including any appeals if such appeals are filed) all Sealed Documents, including all electronically transmitted material and copies of such material shall be: (1) returned to the party that produced them; or (2) with the prior written agreement of the party that produced the Sealed Documents, destroyed and certified as destroyed to the party that produced them. Notwithstanding the provisions of this paragraph, the Environmental Protection Agency may retain any Sealed Documents in accordance with the Agency's regular document preservation procedures.
- 6) Any individual receiving a copy of a Sealed Document under this order shall take all reasonable precautions necessary to prevent disclosure of the Sealed Document. In addition to physically and electronically securing, safeguarding, and restricting access to Sealed Documents in one's possession, these precautions include, but are not limited to, sending and receiving Sealed Documents using physical and electronic methods that ensure proper treatment. Sealed Documents may be sent using electronic mail unless objected to by any party in this action. The confidentiality of Sealed Documents shall be maintained in perpetuity.

SO ORDERED.



Susan L. Biro
Chief Administrative Law Judge

Dated: April 4, 2014
Washington, D.C.

In The Matter of Reckitt Benckiser LLC, et al., FIFRA Docket No. 661

CERTIFICATE OF SERVICE

I hereby certify that a letter offering **Protective Order**, dated April 4, 2014, was sent this day in following manner to the addresses listed below:



Sybil Anderson
Office of Administrative Law Judges
U.S. Environmental Protection Agency
(202)564-6261

Dated: **April 4, 2014**

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