



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7

11201 Renner Boulevard
Lenexa, Kansas 66219

SERVICE VIA UPS, SIGNATURE REQUIRED

Mr. Tim Wilson, President
Wilson's Pest Control
2400 N. Grand Boulevard
St. Louis, Missouri 63106

RE: STOP SALE, USE OR REMOVAL ORDER
EPA Docket No.: FIFRA-00-2022-0090

Dear Mr. Wilson:

Section 13(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136k(a), authorizes the U.S. Environmental Protection Agency to issue an order prohibiting the sale, use or removal of any pesticide by a person who owns, controls, or has custody of such pesticide whenever there is reason to believe on the basis of inspection or tests that the pesticide is in violation of any provision of FIFRA or has been or is intended to be distributed or sold in violation of FIFRA.

Enclosed is a **STOP SALE, USE OR REMOVAL ORDER** (Order or SSURO) issued pursuant to Section 13(a) of FIFRA, and directed to Timothy Wilson, doing business as Wilson's Pest Control (Wilson's Pest Control), EPA Docket No.: FIFRA-07-2022-0090, concerning the following pesticides: Contrac Pellet Rodenticide, Green Block Rodenticide, FINAL Pellet Rodenticide, Red Block Rodenticide, Talon G Pellet Rodenticide, Blue Block Rodenticide, Brown Block Rodenticide, Professional Growth Regulator, Pest Control Concentrate, and Termite & Ant Control, and any other unregistered, illegally repackaged, and/or misbranded pesticides that are within the ownership, control, or custody of Wilson's Pest Control and any agent, contractor, employee, consultant, firm successor and/or other persons or entities acting on behalf of Wilson's Pest Control.

Wilson Pest Control's repackaging of these pesticides and offering them for sale without obtaining registration nor meeting all the repackaging conditions of 40 C.F.R. § 165.70(b) are violations of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A). In addition, these pesticides do not comply with labeling requirements under Section 2(q) of FIFRA, 7 U.S.C. § 136(q) and 40 C.F.R. Part 156, are misbranded under Section 2(q) of FIFRA, 7 U.S.C. § 136(q), and in violation of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

The Order directs you and Wilson's Pest Control to immediately cease the distribution, sale, offering for sale, holding for sale, delivering for shipment, receiving, or having so received, delivering, offering for delivery, moving or removal from any present location, or use of any of these repackaged pesticides, **and is effective immediately upon receipt**. The Order was issued because of the EPA inspection conducted on June 15, 2022, at the Wilson's Pest Control store located at 2400 N. Grand Boulevard in

St. Louis, Missouri. Paragraphs 1 through 69 of the Order further inform you of why this action is being taken.

Please read the Order carefully, as it contains specific requirements and deadlines. Violation of the terms or provisions of the Order may subject Respondent to civil or criminal penalties pursuant to Section 14 of FIFRA, 7 U.S.C. § 136l.

You may seek judicial review of this Order pursuant to Section 16 of FIFRA, 7 U.S.C. § 136n.

The EPA's investigation into Wilson Pest Control's compliance with FIFRA and its implementing regulations is continuing and there may be additional violations not included in this Order. The issuance of this Order shall not in any case affect the right of the EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law, including the assessment of civil penalties pursuant to Section 14 of FIFRA, 7 U.S.C. § 136l. This Order does not waive, extinguish, or otherwise affect Respondent's obligation to comply with all applicable provisions of FIFRA and regulations promulgated thereunder.

Should you have any questions regarding this matter, please contact Britt Bieri, with the Office of Regional Counsel, at (913) 551-7647, or Andrew Landry, with the Enforcement and Compliance Assurance Division, Chemical Branch, at (913) 551-7509.

Sincerely,

WENDY
LUBBE

Digitally signed by
WENDY LUBBE
Date: 2022.07.01
14:35:20 -05'00'

Wendy Lubbe
Acting Director
Enforcement and Compliance Assurance Division

Encl: Stop Sale, Use or Removal Order

**U. S. ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 RENNER BOULEVARD
LENEXA, KANSAS 66219**

Received by
EPA Region 7
Hearing Clerk

BEFORE THE ADMINISTRATOR

In the Matter of:

**Timothy Wilson, d/b/a
Wilson's Pest Control**

Respondent.

Docket No. FIFRA-00-2022-0090

STOP SALE, USE, OR REMOVAL ORDER

1. The U.S. Environmental Protection Agency, Region 7, is issuing this Stop Sale, Use, or Removal Order to Timothy Wilson, d/b/a Wilson's Pest Control (Respondent), pursuant to Section 13(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136k(a).

Authority

2. Section 13(a) of FIFRA, 7 U.S.C. § 136k(a), 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 on the basis of inspection or tests 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. This authority has been delegated to the Director of the Enforcement and Compliance Assurance Division, EPA Region 7.

3. Section 3(a) of FIFRA, 7 U.S.C. § 136a(a), requires a person to register a pesticide in accordance with the procedure described in Section 3(c) of FIFRA, 7 U.S.C. § 136a(c), before distributing or selling it to another person.

4. Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), provides that it is unlawful for any person in any State to distribute or sell to any person any pesticide that is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

5. Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), provides that it is unlawful for any person in any State to distribute or sell to any person any pesticide that is adulterated or misbranded.

6. Section 2(s) of FIFRA, 7 U.S.C. § 136(s), defines the term “person” as any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.

7. Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), defines the term “to distribute or sell” to mean 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.

8. Section 2(u) of FIFRA, 7 U.S.C. § 136(u), defines the term “pesticide” as, *inter alia*, any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

9. The regulations at 40 C.F.R. §§ 152.15(a)(1) and (b) further define the term “pesticide” as any substance intended for a pesticidal purpose, and thus requiring registration, if the person who distributes or sells the substance claims, states, or implies (by labeling or otherwise) that the substance can or should be used a pesticide; or the substance consists of or contains one or more active ingredients and has no significant commercially valuable use as distributed or sold other than use for pesticidal purpose.

10. 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 animals) which the Administrator of the EPA declares to be a pest under Section 25(c)(1) of FIFRA, 7 U.S.C. § 136w(c)(1).

11. Section 2(y) of FIFRA, 7 U.S.C. § 136(y), defines “registrant” to mean a person who has registered any pesticide pursuant to FIFRA.

12. The regulation at 40 C.F.R. § 165.3 defines the term “produce” as to manufacture, prepare, propagate, compound, or process any pesticide, and any active ingredient or device, or to package, repackage, label, relabel, or otherwise change the container of any pesticide or device.

13. The regulation at 40 C.F.R. § 165.3 defines the term “producer” as any person, as defined by FIFRA, who produces any pesticide, active ingredient, or device (including packaging, repackaging, labeling and relabeling).

14. The regulation 40 C.F.R. § 165.3 defines the term “repackage” as to transfer a pesticide formulation from one container to another without a change in the composition of the formulation, the labeling content, or the product’s EPA registration number, for sale or distribution.

15. The regulation at 40 C.F.R. § 165.70(c) states that repackaging a pesticide product without either obtaining a registration or meeting all of the conditions in 40 C.F.R. § 165.70(b) is a violation of Section 12 of FIFRA.

16. The regulation at 40 C.F.R. § 165.70(b) provides the conditions under which a registrant may allow a person to repackage the registrant's pesticide product into refillable containers and to distribute or sell such repackaged product under the registrant's existing registration.

17. Section 2(p)(1) of FIFRA, 7 U.S.C. § 136q(p)(1), defines the term "label" as the written, printed, or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers.

18. Section 2(q)(1)(A) of FIFRA, 7 U.S.C. § 136(q)(1)(A) states that a pesticide is misbranded if its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular.

19. Section 2(q)(1)(D) of FIFRA, 7 U.S.C. § 136(q)(1)(D) states that a pesticide is misbranded if its label does not bear the registration number assigned under section 136e of this title to each establishment in which it was produced.

20. Section 2(q)(1)(E) of FIFRA, 7 U.S.C. § 136(q)(1)(E) states that a pesticide is misbranded if any word, statement, or other information required by or under authority of this subchapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

21. Section 2(q)(1)(F) of FIFRA, 7 U.S.C. § 136(q)(1)(F) states that a pesticide is misbranded the labeling accompanying it does not contain directions for use which are necessary for effecting the purpose for which the product is intended and if complied with, together with any requirements imposed under section 136a(d) of this title, are adequate to protect health and the environment.

22. Sections 2(q)(2)(A)-(C) of FIFRA, 7 U.S.C. §§ 136(q)(2)(A)-(C) state in part that a pesticide is misbranded if the label does not contain: an ingredient statement; statement of use classification; the name and address of the producer, registrant, or person for whom produced; the name, brand, or trademark under which the pesticide is sold; and the net weight or measurement of the content.

23. 40 C.F.R. Part 156 provides additional labelling requirements for pesticides.

Background and Basis for Order

24. Respondent is Timothy Wilson, doing business as Wilson's Pest Control, an entity 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).

25. On June 15, 2022, pursuant to Section 9 of FIFRA, 7 U.S.C. § 136g, the EPA conducted an inspection of Respondent's facility located at 2400 N. Grand Boulevard, St. Louis,

Missouri 63106 (Facility) to determine compliance with FIFRA and its implementing regulations.

26. During the inspection, EPA observed that the following substances were being distributed, sold, offered for sale, held for distribution, and/or held for sale at the Facility:

- a. Contrac Ready-To-Use Place Pacs Meal repackaged by Respondent into 1.5 oz net weight containers and placed into clear resealable bags (Contrac Pellet Rodenticide);
- b. Green colored rodenticide blocks, which Respondent's representative, Tim Wilson, told EPA inspectors were the same product as Contrac Pellet Rodenticide, but in block form, repackaged by Respondent into unlabeled clear resealable bags (Green Block Rodenticide);
- c. FINAL Ready-To-Use Place Pack Pellets repackaged by Respondent into 0.88 oz net weight containers and placed into clear resealable bags (FINAL Pellet Rodenticide);
- d. Red colored rodenticide blocks, which Mr. Wilson told EPA inspectors were the same product as FINAL Pellet Rodenticide, but in block form, repackaged by Respondent into unlabeled clear resealable bags, (Red Block Rodenticide);
- e. Talon G Bait Pack Mini-Pellets repackaged by Respondent into 0.88 oz net weight bags containers and placed into clear resealable bags (Talon G Pellet Rodenticide);
- f. Blue colored rodenticide blocks, which Mr. Wilson told EPA inspectors were the same product as Talon G Pellet Rodenticide, but in block form, repackaged by Respondent into unlabeled clear resealable bags (Blue Block Rodenticide);
- g. Brown colored rodenticide blocks, which Mr. Wilson told EPA inspectors were "Maki Mini Blocks" repackaged by Respondent into unlabeled clear resealable bags (Brown Block Rodenticide);
- h. Wilson's Pest Control Professional Growth Regulator, which Mr. Wilson told EPA inspectors was "Tekko Pro Insect Growth Regulator Concentrate" repackaged by Respondent into small white bottles (Professional Growth Regulator);
- i. Professional Pest Control Concentrate repackaged by Respondent into 16 oz and 32 oz bottles (Pest Control Concentrate). According to the registration number on the bottles, Pest Control Concentrate is a repackage of a product called "Tengard HG Termiticide/Insecticide"; and

- j. Wilson's Termite & Carpenter Ant Control repackaged by Respondent into 16 oz bottles (Termite & Ant Control). According to the registration number on the bottles, Termite & Ant Control is a repackage of a product called "Monterey Termite and Carpenter Ant Control."

27. All substances identified in Paragraph 26 above are intended for preventing, destroying, repelling, or mitigating pests and therefore each meets the definition of "pesticide" under Section 2(u) of FIFRA, 7 U.S.C. § 136(u).

28. All substances identified in Paragraph 26 above are intended for a pesticidal purpose and Respondent and its representatives claim, state, or imply that each substance can or should be used as a pesticide. Therefore, each substance meets the definition of "pesticide" under 40 C.F.R. § 152.15(a)(1).

29. By repackaging each pesticide identified in Paragraph 26 above into smaller quantities and different containers, Respondent "produced" these pesticides as that term is defined in 40 C.F.R. § 165.3.

30. By repackaging each pesticide identified in Paragraph 26 above into smaller quantities and different containers, Respondent is also a "producer" of these pesticides as that term is defined in 40 C.F.R. § 165.3.

31. Respondent has not obtained a registration for any of the pesticides identified in Paragraph 26 above.

32. During the inspection, Mr. Wilson admitted that Respondent did not have a written contract with any of the registrants to repackage, distribute, or sell of any of the pesticides identified in Paragraph 26 above.

33. Respondent has failed to meet all of the conditions in 40 C.F.R. § 165.70(b) for each pesticide identified in Paragraph 26 above, including but not limited to the following:

- a. Respondent has not entered into a written contract with the registrant for any pesticide identified in Paragraph 26 above to repackage the product and to use the registrant's label, as required by 40 C.F.R. § 165.70(b)(3); and
- b. Respondent failed to label each pesticide identified in Paragraph 26 above with the product's label with no changes.

Contrac Pellet Rodenticide

34. Respondent's distribution or sale of repackaged Contrac Pellet Rodenticide without obtaining a registration nor meeting all of the conditions of 40 C.F.R. § 165.70(b) constitutes the distribution of an unregistered pesticide in violation of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

35. At the time of the inspection, the label for the repackaged Contract Pellet Rodenticide stated "INDIVIDUAL SALE IS PROHIBITED BY LAW" and was incomplete and missing elements required under Section 2(q) of FIFRA, 7 U.S.C. § 136(q) and 40 C.F.R. Part 156, including but not limited to: complete directions for use; use restrictions; hazard and precautionary statements for human, domestic, and environmental hazards; and directions for storage and disposal. Therefore, the repackaged Contract Pellet Rodenticide is misbranded pursuant to Section 2(q) of FIFRA, 7 U.S.C. § 136(q).

36. Respondent's distribution or sale of the misbranded Contract Pellet Rodenticide is in violation of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

Green Block Rodenticide

37. Respondent's distribution or sale of repackaged Green Block Rodenticide without obtaining a registration nor meeting all of the conditions of 40 C.F.R. § 165.70(b) constitutes the distribution of an unregistered pesticide in violation of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

38. At the time of the inspection, the Green Block Rodenticide was repackaged into clear resealable bags with no labeling, and therefore missing all labeling elements required under Section 2(q) of FIFRA, 7 U.S.C. § 136(q) and 40 C.F.R. Part 156. Therefore, the repackaged Contract Pellet Rodenticide is misbranded pursuant to Section 2(q) of FIFRA, 7 U.S.C. § 136(q).

39. Respondent's distribution or sale of the misbranded Green Block Rodenticide is in violation of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

FINAL Pellet Rodenticide

40. Respondent's distribution or sale of repackaged FINAL Pellet Rodenticide without obtaining a registration nor meeting all of the conditions of 40 C.F.R. § 165.70(b) constitutes the distribution of an unregistered pesticide in violation of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

41. At the time of the inspection, the label for the repackaged FINAL Pellet Rodenticide distributed, sold, offered for sale, or held for distribution by Respondent stated "INDIVIDUAL SALE IS PROHIBITED BY LAW" and was incomplete and missing elements required under Section 2(q) of FIFRA, 7 U.S.C. § 136(q) and 40 C.F.R. Part 156, including but not limited to: complete directions for use; use restrictions; hazard and precautionary statements for human, domestic, and environmental hazards; and directions for storage and disposal. Therefore, the repackaged FINAL Pellet Rodenticide is misbranded pursuant to Section 2(q) of FIFRA, 7 U.S.C. § 136(q).

42. Respondent's distribution or sale of the misbranded FINAL Pellet Rodenticide is in violation of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

Red Block Rodenticide

43. Respondent's distribution or sale of repackaged Red Block Rodenticide without obtaining a registration nor meeting all of the conditions of 40 C.F.R. § 165.70(b) constitutes the distribution of an unregistered pesticide in violation of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

44. At the time of the inspection, the Red Block Rodenticide was repackaged into clear resealable bags with no labeling, and therefore missing all labeling elements required under Section 2(q) of FIFRA, 7 U.S.C. § 136(q) and 40 C.F.R. Part 156. Therefore, the repackaged Red Block Rodenticide is misbranded pursuant to Section 2(q) of FIFRA, 7 U.S.C. § 136(q).

45. Respondent's distribution or sale of the misbranded Red Block Rodenticide is in violation of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

Talon G Pellet Rodenticide

46. Respondent's distribution or sale of repackaged Talon G Pellet Rodenticide without obtaining a registration nor meeting all of the conditions of 40 C.F.R. § 165.70(b) constitutes the distribution of an unregistered pesticide in violation of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

47. At the time of the inspection, the label for the repackaged Talon G Pellet Rodenticide stated "INDIVIDUAL SALE PROHIBITED BY LAW" and was incomplete and missing elements required under Section 2(q) of FIFRA, 7 U.S.C. § 136(q) and 40 C.F.R. Part 156, including but not limited to: complete directions for use; use restrictions; hazard and precautionary statements for human, domestic, and environmental hazards; and a statement of practical treatment (first aid or otherwise) in case of poisoning, and directions for storage and disposal. Therefore, the repackaged Talon G Pellet Rodenticide is misbranded pursuant to Section 2(q) of FIFRA, 7 U.S.C. § 136(q).

48. Respondent's distribution or sale of the misbranded Talon G Pellet Rodenticide is in violation of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

Blue Block Rodenticide

49. Respondent's distribution or sale of repackaged Blue Block Rodenticide without obtaining a registration nor meeting all of the conditions of 40 C.F.R. § 165.70(b) constitutes the distribution of an unregistered pesticide in violation of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

50. At the time of the inspection, the Blue Block Rodenticide was repackaged by Respondent into clear resealable bags with no labeling, and therefore missing all labeling elements required under Section 2(q) of FIFRA, 7 U.S.C. § 136(q) and 40 C.F.R. Part 156. Therefore, the repackaged Blue Block Rodenticide is misbranded pursuant to Section 2(q) of FIFRA, 7 U.S.C. § 136(q).

51. Respondent's distribution or sale of the misbranded Blue Block Rodenticide is in violation of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

Brown Block Rodenticide

52. Respondent's distribution or sale of repackaged Brown Block Rodenticide without obtaining a registration nor meeting all of the conditions of 40 C.F.R. § 165.70(b) constitutes the distribution of an unregistered pesticide in violation of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

53. At the time of the inspection, the Brown Block Rodenticide was repackaged into clear resealable bags with no labeling, and therefore missing all labeling elements required under Section 2(q) of FIFRA, 7 U.S.C. § 136(q) and 40 C.F.R. Part 156. Therefore, the repackaged Brown Block Rodenticide is misbranded pursuant to Section 2(q) of FIFRA, 7 U.S.C. § 136(q).

54. Respondent's distribution or sale of the misbranded Brown Block Rodenticide is in violation of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

Professional Growth Regulator

55. Respondent's distribution or sale of repackaged Professional Growth Regulator without obtaining a registration nor meeting all of the conditions of 40 C.F.R. § 165.70(b) constitutes the distribution of an unregistered pesticide in violation of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

56. At the time of the inspection, the Professional Growth Regulator was repackaged into small white bottles bearing only the name of the product, a phone number for poison control, and a skull and crossbones. The label therefore was missing nearly all labeling elements required under Section 2(q) of FIFRA, 7 U.S.C. § 136(q) and 40 C.F.R. Part 156, including but not limited to: the producing establishment number assigned under Section 7 of FIFRA, 7 U.S.C. § 136e; directions for use; an ingredient statement; use classification; name and address of the producer, registrant, or person for whom produced; the net weight or measure of the content; registration number; hazard and precautionary statements; and directions for storage/disposal. Therefore, the repackaged Professional Growth Regulator is misbranded pursuant to Section 2(q) of FIFRA, 7 U.S.C. § 136(q).

57. Respondent's distribution or sale of the misbranded Professional Growth Regulator is in violation of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

Pest Control Concentrate

58. Respondent's distribution or sale of repackaged Pest Control Concentrate without obtaining a registration nor meeting all of the conditions of 40 C.F.R. § 165.70(b) constitutes the distribution of an unregistered pesticide in violation of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

59. At the time of the inspection, the Pest Control Concentrate was repackaged into 16 oz and 32 oz bottles and the labels were missing some labeling elements required under Section 2(q) of FIFRA, 7 U.S.C. § 136(q) and 40 C.F.R. Part 156, including but not limited to: directions for use; use classification, name and address of the producer, registrant, or person for whom produced; and directions for storage/disposal. Therefore, the repackaged Pest Control Concentrate is misbranded pursuant to Section 2(q) of FIFRA, 7 U.S.C. § 136(q).

60. Respondent's distribution or sale of the misbranded Pest Control Concentrate is in violation of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

Termite & Ant Control

61. Respondent's distribution or sale of repackaged Termite & Ant Control without obtaining a registration nor meeting all of the conditions of 40 C.F.R. § 165.70(b) constitutes the distribution of an unregistered pesticide in violation of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

62. At the time of the inspection, the Termite & Ant Control was repackaged into 16 oz bottles and the labels were missing some labeling elements required under Section 2(q) of FIFRA, 7 U.S.C. § 136(q) and 40 C.F.R. Part 156, including but not limited to: directions for use; use classification; address of the producer, registrant, or person for whom produced; and directions for storage/disposal. Therefore, the repackaged Termite & Ant Control is misbranded pursuant to Section 2(q) of FIFRA, 7 U.S.C. § 136(q).

63. Respondent's distribution or sale of the misbranded Termite & Ant Control is in violation of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

64. Based on the information described in Paragraphs 24 through 63 above, the EPA has reason to believe that Respondent is in violation of FIFRA and has sold or distributed, offered for sale, and has the ability to produce for sale repackaged Contrac Pellet Rodenticide, Green Block Rodenticide, FINAL Pellet Rodenticide, Red Block Rodenticide, Talon G Pellet Rodenticide, Blue Block Rodenticide, Brown Block Rodenticide, Professional Growth Regulator, Pest Control Concentrate, and Termite & Ant Control, each of which are pesticides as that term is defined in Section 2(u) of FIFRA, 7 U.S.C. § 136(u), and 40 C.F.R. § 152.15(a)(1) and (b), without obtaining a registration nor meeting all of the conditions of 40 C.F.R. § 165.70(b), in violation of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), and misbranded pursuant to Section 2(q) of FIFRA, 7 U.S.C. § 136(q), and in violation of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

Order

65. The EPA hereby orders Respondent immediately not to distribute, sell, offer for sale, hold for sale, deliver for shipment, receive, or having so received, deliver, offer for delivery, move or remove from any present location, or use any repackaged Contrac Pellet Rodenticide, Green Block Rodenticide, FINAL Pellet Rodenticide, Red Block Rodenticide, Talon G Pellet Rodenticide, Blue Block Rodenticide, Brown Block Rodenticide, Professional Growth Regulator, Pest Control Concentrate, and Termite & Ant Control, or any other

unregistered, illegally repackaged, and/or misbranded pesticides that are within the ownership, control, or custody of Respondent and any agent, contractor, employee, consultant, firm successor and/or other persons or entities acting on behalf of Respondent, at the Facility or any other location, except in compliance with the provisions of this Order.

66. This Order applies to all inventory of repackaged Contrac Pellet Rodenticide, Green Block Rodenticide, FINAL Pellet Rodenticide, Red Block Rodenticide, Talon G Pellet Rodenticide, Blue Block Rodenticide, Brown Block Rodenticide, Professional Growth Regulator, Pest Control Concentrate, and Termite & Ant Control, and any other unregistered, illegally repackaged, and/or misbranded pesticides that are within the ownership, control, or custody of Respondent and any agent, contractor, employee, consultant, firm successor and/or other persons or entities acting on behalf of Respondent, at the Facility or any other location.

67. Within 30 days of receipt of this Order, Respondent must submit to the EPA a written accounting of Contrac Pellet Rodenticide, Green Block Rodenticide, FINAL Pellet Rodenticide, Red Block Rodenticide, Talon G Pellet Rodenticide, Blue Block Rodenticide, Brown Block Rodenticide, Professional Growth Regulator, Pest Control Concentrate, and Termite & Ant Control, and any other unregistered, illegally repackaged, and/or misbranded pesticides that are within the ownership, control, or custody of Respondent and any agent, contractor, employee, consultant, firm successor and/or other persons or entities acting on behalf of Respondent at any location. This must include an accounting of all existing product inventory, including the locations(s) where the product is held, quantities, and container sizes.

68. Respondent may move or remove any repackaged Contrac Pellet Rodenticide, Green Block Rodenticide, FINAL Pellet Rodenticide, Red Block Rodenticide, Talon G Pellet Rodenticide, Blue Block Rodenticide, Brown Block Rodenticide, Professional Growth Regulator, Pest Control Concentrate, and Termite & Ant Control, and any other unregistered, illegally repackaged, and/or misbranded pesticides that are within the ownership, control, or custody of Respondent and any agent, contractor, employee, consultant, firm successor and/or other persons or entities acting on behalf of Respondent from any location ONLY after obtaining prior written approval from the EPA, in accordance with the following:

- a. Any request for movement or removal must include a demonstration that Respondent is compliant with FIFRA, including but not limited to, that Respondent has obtained its own registration for the product or is complying with the repackaging requirements at 40 C.F.R. Part 170, Section 2(q) of FIFRA, 7 U.S.C. § 136(q), and the labeling requirements at 40 C.F.R. Part 156.
- b. Movement or removal requests must be made in writing addressed to Andrew Landry, Enforcement and Compliance Assurance Division, United States Environmental Protection Agency, 11201 Renner Boulevard, Lenexa, Kansas 66219, or at landry.andrew@epa.gov.
- c. Any request for movement or removal must include a written accounting of the products to be moved, the address of the facility from which the products will be moved, the address of the destination facility, and a description of the reasons for the movement or removal.

- d. If the movement or removal is for the purposes of disposal, Respondent must provide written proof of disposal to the EPA and the disposal must comply with all applicable federal, state, and local laws.
- e. Any movement or removal of any repackaged Contrac Pellet Rodenticide, Green Block Rodenticide, FINAL Pellet Rodenticide, Red Block Rodenticide, Talon G Pellet Rodenticide, Blue Block Rodenticide, Brown Block Rodenticide, Professional Growth Regulator, Pest Control Concentrate, Termite & Ant Control, and any other unregistered, illegally repackaged, and/or misbranded pesticides that are within the ownership, control, or custody of Respondent and any agent, contractor, employee, consultant, firm successor and/or other persons or entities acting on behalf of Respondent from any location without prior written authorization from the EPA in accordance with this paragraph constitutes a violation of this Order and distribution and sale of illegal pesticides in violation of FIFRA.

69. This Order does not apply to pesticides: 1) registered by another party/registrant in compliance with Section 3 of FIFRA, 7 U.S.C. § 136a, and distributed in their original containers, including all required labels and labeling, and in compliance with all applicable FIFRA statutory provisions and regulations; 2) registered by another party/registrant in compliance with Section 3 of FIFRA, 7 U.S.C. § 136a, and repackaged in accordance with current/valid repackaging agreements, and in compliance with all applicable FIFRA statutory provisions and regulations; 3) registered to Respondent by EPA and distributed in accordance with the terms and conditions of registration, and in compliance with all applicable FIFRA statutory provisions and regulations; or 4) under a valid Supplemental Distributor Agreement, and in compliance with all applicable FIFRA statutory provisions and regulations.

General Provisions

70. Violation of the terms or provisions of this Order may subject Respondent to civil or criminal penalties pursuant to Section 14 of FIFRA, 7 U.S.C. § 136l.

71. Respondent may seek judicial review of this Order pursuant to Section 16 of FIFRA, 7 U.S.C. § 136n.

72. If any provision or provisions of this Order is/are subsequently held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not be affected or impaired thereby and they shall remain in full effect.

73. The issuance of this Order shall not in any case affect the right of the EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law, including the assessment of civil penalties pursuant to Section 14 of FIFRA, 7 U.S.C. § 136l. This Order does not waive, extinguish, or otherwise affect Respondent's obligation to comply with all applicable provisions of FIFRA and regulations promulgated thereunder.

74. This Order shall be effective immediately upon receipt by Respondent.

75. This Order shall remain in effect until a written notice of termination is issued by an authorized representative of the EPA. Such notice shall not be given until all requirements of this Order have been met.

76. The EPA may subsequently amend this Order, in writing, in accordance with the authority of FIFRA. Any amendment will be transmitted to Respondent. In the event of any subsequent amendment to this Order, all requirements for performance of this Order not affected by the amendment shall remain as specified in the original Order.

IT IS SO ORDERED.

Date: _____

WENDY
LUBBE

Digitally signed by
WENDY LUBBE
Date: 2022.07.01
14:36:06 -05'00'

Wendy Lubbe
Acting Director
Enforcement and Compliance Assurance Division

CERTIFICATE OF SERVICE

I certify that that a true and correct copy of the foregoing Stop Sale, Use, or Removal Order was delivered to the Regional Hearing Clerk, U.S. EPA, Region 7, and that a true and correct copy was sent this day in the following manner to the addressees:

Copy via E-mail to the EPA to:

Andrew Landry, *landry.andrew@epa.gov*

Copy via UPS, Signature Required to:

Tim Wilson
President
Wilson's Pest Control
2400 North Grand
St. Louis, Missouri 63106

Dated this _____ day of _____, _____.

Signed _____

PETER
BIERI

Digitally signed by PETER
BIERI
Date: 2022.07.05
07:40:15 -05'00'

