



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

AUG 08 2018

UNITED PARCEL SERVICE

Mr. Jeremy Hirsch
President
AC2T, Inc. d/b/a Spartan Mosquito
8 Nemo Clark Drive
Laurel, Mississippi 39443

Re: AC2T, Inc. d/b/a Spartan Mosquito
Notice of Warning for Unregistered Pesticide
Case File No. FIFRA-04-2018-8579

Dear Mr. Hirsch:

The U.S. Environmental Protection Agency has obtained evidence indicating that AC2T, Inc. d/b/a Spartan Mosquito ("Spartan Mosquito"), appears to be in violation of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). On April 11, 2017, an inspector authorized by the EPA conducted an inspection at a Spartan Mosquito facility located at 6371 US-98, Hattiesburg, Mississippi to determine compliance with FIFRA and the regulations promulgated thereunder. The inspection revealed that Spartan Mosquito produced, sold and distributed "Eradicator."

Pursuant to 40 CFR § 152.15, the EPA considers a substance "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".

According to the inspector, the Eradicator previously contained the pesticidal active ingredient, boric acid, and is marketed for mosquito control purposes. Under FIFRA Section 2(u), a pesticide is defined as "any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pest." At the time of the inspection, Eradicator was not registered as a pesticide with the EPA. Pursuant to Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), 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.

Additionally, evidence collected proclaimed that boric acid was removed from the formulation and substituted with sodium chloride, an active ingredient permitted for use in minimum risk pesticides.

Minimum risk pesticides that meet certain criteria are exempt from registration under Section 25(b) of FIFRA if all six conditions listed below are met.

- **Condition 1:** The product's active ingredients must only be those that are listed in 40 C.F.R. 152.25(f)(1).
- **Condition 2:** The product's inert ingredients may only be those that have been classified by EPA as:
 - Listed in 40 C.F.R. 152.25(f)(2)
 - commonly consumed food commodities, animal feed items, and edible fats and oils as described in 40 C.F.R. 180.950(a), (b), and (c); and
 - certain chemical substances listed under 40 C.F.R. 180.950(e).
- **Condition 3:** All the ingredients (both active and inert) must be listed on the label. The active ingredient(s) must be listed by label display name and percentage by weight. Each inert ingredient must be listed by label display name.
- **Condition 4:** The product must not bear claims either to control or mitigate organisms that pose a threat to human health, or insects or rodents carrying specific diseases. While the Eradicator product label contains no such claims now, associated labeling, such as the company's website and social media pages, was found to contain claims that state or imply that the Eradicator is effective in mitigating or controlling the Zika virus. Claims of this type must be removed from all product labeling to comply with the regulation.
- **Condition 5:** The name of the producer or the company for whom the product was produced and the company's contact information must be displayed prominently on the product label.
- **Condition 6:** The label cannot include any false or misleading statements. While it appears that no such claims are being made by Spartan Mosquito the EPA hereby advises that claims identified pertaining to product efficacy such as "*the mosquito population will be 95% controlled for up to 90 days*" may require test data that support the state or local registration level. Claims that state or imply a level of product safety, including but not limited to "*safe*", "*nontoxic*", or "*no harmful chemicals*" may not be permissible by state or local law.

It does not appear that your products meet all the conditions listed above. It is your responsibility to ensure that labels, website, advertisements, etc., comply with FIFRA. At the time of the inspection it was revealed that Eradicator was being produced in an unregistered establishment. Pursuant to Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L), it is unlawful for any person who is a producer of pesticides to violate any of the provisions of Section 7 of FIFRA.

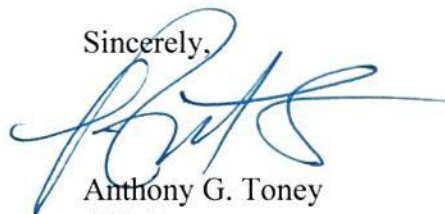
In response to the apparent violation of FIFRA at the facility, the EPA is issuing this Notice of Warning (NOW) to Spartan Mosquito pursuant to FIFRA Section 9(c)(3), 7 U.S.C. § 136g(c)(3). The EPA has determined that a NOW is the appropriate enforcement response for the company's apparent violation of FIFRA, provided within 30 days of the receipt of this NOW, an authorized official of the company [you] submit[s] a signed statement indicating that compliance with FIFRA has been achieved and identifying the actions taken to achieve compliance with the requirements set forth above. If this statement is not submitted and/or compliance is not achieved, the EPA may initiate a more formal enforcement action which could include the assessment of a civil penalty. Your statement should be submitted to:

Justin Mullenix
U.S. EPA Region 4
Pesticides Section
61 Forsyth Street, SW
Atlanta, Georgia 30303

Since your company may be classified as a small business, you may want to review the Information Sheet "U.S. EPA Small Business Resources," which can be found on the internet at: <https://www.epa.gov/sites/production/files/2017-06/documents/smallbusinessinfo.pdf>. This document will provide you with information regarding compliance and rights you may be entitled to under the Small Business Regulatory Enforcement Fairness Act.

If you have any questions about this letter, and/or would like to discuss the above-stated findings by the EPA, or would like a copy of the Information Sheet, please contact Justin Mullenix of the EPA Region 4 staff at (404) 562-8997.

Sincerely,

A handwritten signature in blue ink, appearing to read "A. Toney", with a long horizontal flourish extending to the right.

Anthony G. Toney
Chief

Chemical Safety and Enforcement Branch

cc: Michael Ledlow,
MS Department of Agriculture and Commerce

PAMELA MOULTRIE
404-562-9181
EPA-FINANCE
61 FORSYTH ST SW
ATLANTA GA 30303

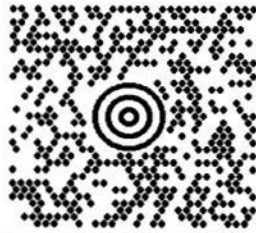
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1 OF 1

SHIP TO:

MR. JEREMY HIRSCH, PRESIDENT
AC2T, INC. D/B/A SPARTAN MOSQUITO
8 NEMO CLARK DRIVE

LAUREL MS 39443-8847



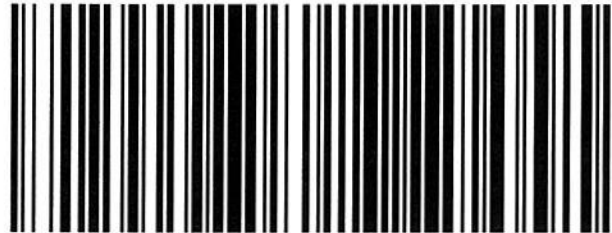
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UPS 2ND DAY AIR

TRACKING #: 1Z WR2 574 02 9199 2696

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BILLING: P/P

Reference # 1: APTMD

CS 20.5.13. WNTINV50 03.0A 07/2018



UPS CampusShip: View/Print Label

1. **Ensure there are no other shipping or tracking labels attached to your package.** Select the Print button on the print dialog box that appears. Note: If your browser does not support this function select Print from the File menu to print the label.
2. **Fold the printed label at the solid line below.** Place the label in a UPS Shipping Pouch. If you do not have a pouch, affix the folded label using clear plastic shipping tape over the entire label.
3. **GETTING YOUR SHIPMENT TO UPS Customers with a Daily Pickup**
Your driver will pickup your shipment(s) as usual.

Customers without a Daily Pickup

Take your package to any location of The UPS Store®, UPS Access Point(TM) location, UPS Drop Box, UPS Customer Center, Staples® or Authorized Shipping Outlet near you. Items sent via UPS Return Services(SM) (including via Ground) are also accepted at Drop Boxes. To find the location nearest you, please visit the Resources area of CampusShip and select UPS Locations.
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