

FIFRA Enforcement: A year in Review

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Scope of the Regulated Universe Under FIFRA

- >18,600 Section 3 Registered Pesticides
- >39,000 Supplemental Distributor Products
- > 18,890 Active Registered Producing Establishments
- Unknown/Constantly Expanding Universe of Devices
- **> 374,900 Notices of Arrival (NOA) for Pesticide Product Imports from 2020-23**

*For 2023, includes NOAs processed as of February 16, 2023



EPA Enforcement Goal

Effectively implement the Federal Insecticide, Fungicide, and Rodenticide Act to ensure pesticides are reviewed for their potential risks to human health and the environment **and enforcement actions are taken when necessary.**



FIFRA Enforcement Priority Setting Process

<https://www.epa.gov/system/files/documents/2022-06/fy23-24-oeca-draft-npg.pdf>

- National Program Guidance establishing multi-year priorities under each major statute
 - FIFRA FY23-24 Priorities
 - Product Integrity
 - Import Compliance
 - eCommerce
 - Direct Implementation Responsibilities



General FIFRA Enforcement Trends ***Enforcement Actions***

Enforcement Tool	2022	2021	2020	2019	2018
Administrative and Civil Judicial Penalty Orders	76*	68	62	53	67
Administrative Compliance Orders	20	37	24	27	23
Notices of Warning	346	296	378	321	377
Notices of Refusal of Admission	587	934	672	233	153

* Civil Judicial Case – Tzumi Innovations, LLC



FIFRA Enforcement Trends

Penalties Assessed and Environmental Benefits

Results	2022	2021	2020	2019	2018
Penalties	\$6,685,691	\$12,429,208	\$4,417,128	\$3,896,951	\$9,250,053

Results	2022	2021	2020	2019	2018
Environmental Benefits* non-compliant products addressed	20,625,359 lbs	20,695,851 lbs	10,819,893 lbs	11,639,996 lbs	29,270,297 lbs

*Direct and Preventive



Stop, Sale, Use, or Removal Orders

Recipient	Press Release
<p>Arteco II Hospital Management, LLS d/b/a Disinfect and Shield</p> <ul style="list-style-type: none">• Surface Shield• Laundry Shield	<p>https://yosemite.epa.gov/oa/rhc/epaadmin.nsf/Filings/83CF8BABA127F18B852589400079CB79/\$File/2023-0500.pdf</p>
<p>Astec Bio USA, Inc.</p> <ul style="list-style-type: none">• Oosafe Disinfectant for CO2 Incubators and Laminar Flow Hoods• Oosafe Surface Disinfectant	
<p>CHS Inc.</p> <ul style="list-style-type: none">• Engenia, EPA Reg. No. 7969-345	<p>https://www.epa.gov/newsreleases/epa-orders-chs-inc-minnesota-stop-selling-cancelled-pesticide-engenia</p>
<p>The Promotion Agency</p> <ul style="list-style-type: none">• Air Sterilization Cards/Lanyards• Sanitizing/Disinfecting Wipes• Sanitizing/Disinfecting Sprays• Nanosilver Mask Cases	



Tzumi Innovations, LLC v. Nishida and EPA

Civil Action No. 21-00122-LGS (SDNY)



<https://www.justice.gov/usao-sdny/pr/us-attorney-announces-15-million-settlement-tzumi-innovations-llc-selling-unregistered>

- **Manufacturer and wholesale distributor of an antibacterial wipe and spray products, Wipe Out!**
 - September 1, 2020 – EPA issued an Advisory Letter conveying its concerns regarding appearance of sales/distribution of an unregistered pesticide
 - January 7, 2021 – Tzumi filed a Complaint and Motion for a Temporary Restraining Order and Preliminary Injunction enjoining EPA from pursuing enforcement actions under FIFRA
 - June 13, 2021 – United States filed and simultaneously settled a counterclaim for illegally distributing and selling millions of units of unregistered products claiming to have antimicrobial properties in violation of FIFRA
 - \$1.5M civil penalty
 - Issuance of corrective statements to consumers and retailers of the unregistered status and limited appropriate use of the Wipe Out! Products
 - Prohibition of further distribution and sale of unregistered pesticide products



99 Cents Only Stores, LLC

<https://www.epa.gov/newsreleases/us-epa-penalizes-99-cents-only-stores-sale-unregistered-disinfectants>

- **Between October 2020 and June 2021, 99 Cents Only Stores sold Bref Densicloro, an unregistered multi-use household cleaner and disinfectant to customers located in historically underserved Latinx communities throughout Arizona, California, and Nevada.**
- **The California Department of Pesticide Regulation identified two additional unregistered products, Momentum Brands Disinfectant Wipes and Alchemy Living Multi Surface Cleaner offered for sale at Murrieta, CA stores.**
- **\$751,000 civil penalty**



Allied BioScience, Inc.

<https://www.epa.gov/newsreleases/epa-settlement-allied-bioscience-addresses-alleged-claims-surfacewise2-product-and>

- **August 2020 - EPA issued initial SurfaceWise2 emergency exemptions under Section 18 of FIFRA for SurfaceWise2 which was expected to kill coronaviruses like SARS-CoV-2 on surfaces for up to seven days when used as a supplement to a List N disinfectant.**
- **January 2021 - EPA revised the terms and conditions under which SurfaceWise2 could be used after an initial review of internal laboratory data revealed that exposure to moisture could adversely impact the product's durability, reducing its residual efficacy.**
- **May 2021 - EPA received a revocation request from Oklahoma indicating the emergency situation was no longer applicable**
- **July 8, 2021 - EPA revoked emergency exemptions for OK, AR, and TX and issue a SSURO based OK's request and violations of terms and conditions of the emergency exemption.**
- **\$253,032 civil penalty, based on the company's financial ability to pay.**



Coltene/Whaledent, Inc.

<https://www.epa.gov/newsreleases/epa-reaches-settlement-coltene-whaledent-inc-cuyahoga-falls-ohio-regarding-federal>

- **Coltene/Whaledent, Inc. allegedly distributed or sold two unregistered pesticides, Ultrasonics 10 Minute Instrument Disinfectant and Biosonic Germicidal Ultrasonic Cleaner Concentrate, used for disinfecting dental equipment.**
- **The company allegedly continued to produce and sell the two pesticide products after the products were no longer registered with EPA.**
- **\$654,064 civil penalty**



Nutrien Ag Solutions, Inc.

<https://www.epa.gov/newsreleases/epa-fines-pesticide-applicator-alleged-violations-federal-pesticide-law-kansas-farms>

- **June 2020 - EPA cancelled the use of certain pesticides containing the active ingredient dicamba, in response to a Ninth Circuit Court order vacating the registration of those pesticides – Cancellation Order allowed commercial applicators to use existing stocks in accordance with labeling until July 31, 2020.**
- **May 1, 2020 to July 1, 2020 - Respondent distributed Xtendimax with Vaporgrip Technology, EPA Reg. No. 524-617 and Engenia, EPA Reg. No. 7969-345, in violation of the CO and used these products in a manner inconsistent with applicable labeling on 27 occasions.**
- **May 1, 2020 through July 1, 2020 - Respondent used the general use pesticide products Rifle, EPA Reg. No. 34704-861; Strut, EPA Reg. No. 34704-861; Diflex, EPA Reg. No. 264-1184; Status, EPA Reg. No. 7969-242; and the restricted use product Tavium, EPA Reg. No. 100-1623, in a manner inconsistent with applicable labeling on 33 occasions.**
- **\$668,100 civil penalty**



SLA/EPA Collaboration Opportunities

- **Inspections (SARS-Cov-2 related products)**
 - Marketplace
 - PEI
 - Imports
 - Use
- **Product Review/Enforcement**
 - eCommerce
- **Existing/New Meeting Platforms**



Questions...?

