

# **FIFRA Enforcement: Priorities, Trends, and Recent Outcomes**

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**Royan Teter**

**Waste & Chemical Enforcement Division  
Office of Enforcement and Compliance Assurance  
U.S. Environmental Protection Agency**

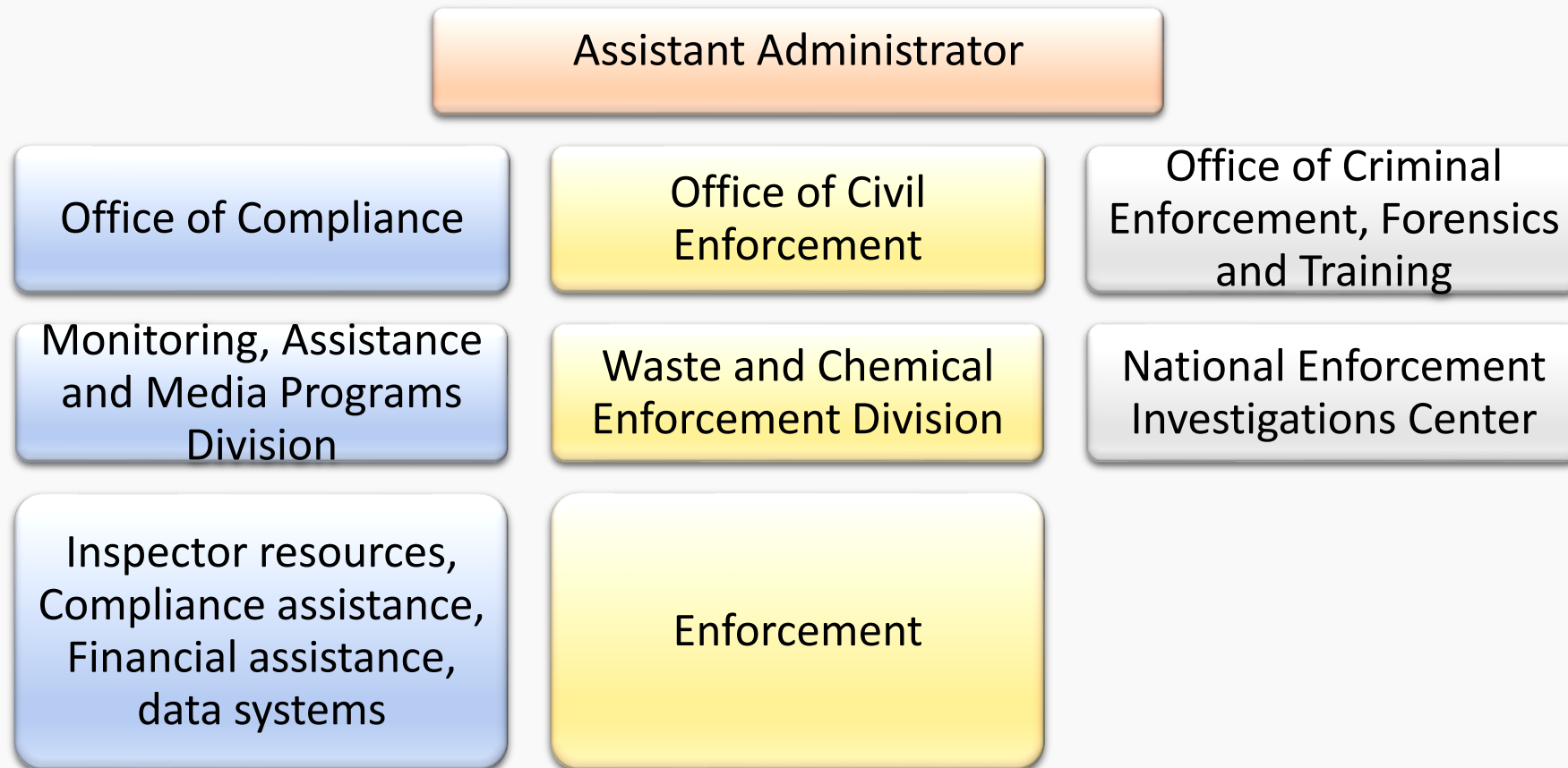


## ***EPA Enforcement Goal***

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.**



# OECA Organizational Chart



For the most up-to-date contact information follow this link:

<https://www.epa.gov/aboutepa/about-office-enforcement-and-compliance-assurance-oeca>



# Scope of the Regulated Universe Under FIFRA

- >18,500 Registered Pesticide Products
- > 19,036 Active Registered Producing Establishments
- Unknown/Constantly Expanding Universe of Devices
- > 313,000 Notices of Arrival (NOA) for Pesticide Product Imports from 2020-22\*

\*For 2022, includes NOAs processed as of August 16, 2022



# How EPA's National Priority Setting Works





## *Inputs to the EPA Pesticide Priorities Development Process*

- **Stakeholders**
  - States
  - Tribes
  - Federal Agencies
  - NGOs
- **Science/Risk**
  - New Data
  - Emerging Issues
- **Legal Decisions**
  - Federal Courts
  - Administrative Law Judges
- **Budget**
  - Authorizations
  - Appropriations
- **Incident and Compliance History Data**
- **EPA Strategic Plan**  
<https://www.epa.gov/system/files/documents/2022-03/fy-2022-2026-epa-strategic-plan-overview.pdf>



# ***FIFRA Enforcement Priority Setting Process***

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

- National Program Guidance that describes multi-year priorities
  - Draft FIFRA FY23-24 Priorities
    - Product Integrity
    - Import Compliance
    - eCommerce
    - Direct Implementation Responsibilities



## ***National Enforcement Program***

- **Product Integrity**
  - Conduct inspections, including sample collection at pesticide production facilities and marketplaces to monitor compliance with regulatory requirements
    - Establishment and Pesticide Registration
    - Packaging
    - Labels and Labeling
    - Efficacy, Composition
    - Reporting





## ***National Enforcement Program***

- **Import Compliance**
  - Prevent illegal pesticides and devices from entering U.S. channels of trade
  - Leverage government and commercially available data resources such as the Automated Commercial Environment (ACE) and Import Genius to implement effective compliance monitoring strategies
    - Data Analytics
    - Flexible Dashboards



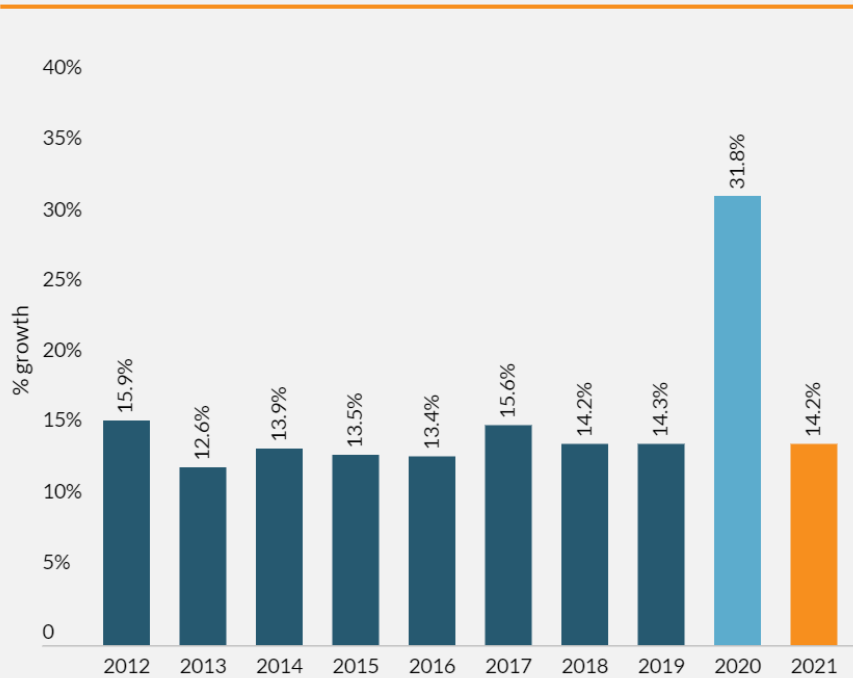
## ***National Enforcement Program***

- **eCommerce**
  - Focus on assuring the compliance of pesticide products offered for sale on eCommerce platforms
  - Emphasis on those which pose the greatest risk of harm to human health or the environment
    - Examples include unregistered products, restricted-use pesticides (RUPs), or other pesticides of regulatory concern, e.g., antimicrobials



## US ecommerce growth returns to pre-pandemic levels in 2021

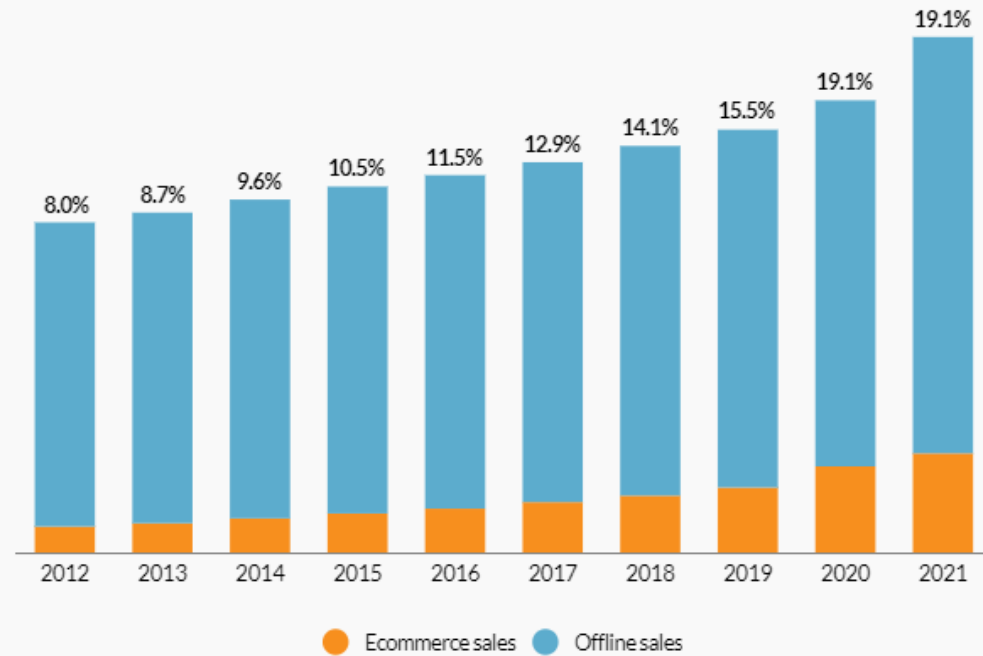
Year-over-year growth in online sales, 2012-2021



Source: Digital Commerce 360. U.S. Department of Commerce retail data; February 2022

## US ecommerce penetration

Ecommerce sales as a % of total retail\* spend, 2012-2021



Source: Digital Commerce 360 analysis of U.S. Department of Commerce data; February 2022



## ***Pandemic Driven Online Shopping Behavior***

- 36% weekly, up from 28% (Selligent)
- 49% shop more, globally (Bazaarvoice)
- 62% shop more, U.S. (Bazaarvoice)
- 31% switching to less expensive products (McKinsey)
- 73% changed stores, brands or the way they shop. (McKinsey)
- 25% tried a new brand, 73% will continue use. (McKinsey)
- 14% turning to websites they've never previously visited (McKinsey)
- 44% increase in shopping online for OTC medications. (McKinsey)

<https://www.forbes.com/sites/blakemorgan/2020/10/19/50-statistics-showing-the-lasting-impact-of-covid-19-on-consumers/?sh=2875a224261f>



## ***COVID-19 Impacts on FIFRA Enforcement***

- Large influx of illegal pesticides and devices entered the marketplace with false or unsubstantiated claims made against SARS COV-2
  - Imports
  - eCommerce Platforms
- Adaptive Enforcement Approaches
  - Compliance Assistance/Enforcement
  - Compensating for Reduced Field Capacity and Basic Services
  - Enhanced Tracking and Communication Systems
  - Leveraging Authorities of Multiple Agencies



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

<b>Enforcement Tool</b>	<b>2022</b>	<b>2021</b>	<b>2020</b>	<b>2019</b>	<b>2018</b>
Administrative Penalty Orders	47	68	62	53	67
Administrative Compliance Orders	14	37	24	27	23
Notices of Warning	137	296	378	321	377
Notices of Refusal of Admission	381	934	672	233	153



# ***FIFRA Enforcement Trends***

## ***Penalties Assessed and Environmental Benefits***

Results	2022	2021	2020	2019	2018
Penalties	\$4,330,998	\$12,429,208	\$4,417,128	\$3,896,951	\$9,250,053

Results	2022	2021	2020	2019	2018
Environmental Benefits* non-compliant products addressed	14,881,282 lbs	20,695,851 lbs	10,819,893 lbs	11,639,996 lbs	29,270,297 lbs
*Direct and Preventive					15



## ***SARS-CoV-2/COVID-19 Enforcement Activities***

<b>Advisory Letters</b>	<b>195</b>
<b>Notices of Detention</b>	<b>201</b>
<b>Notices of Refusal of Admission</b>	<b>1010</b>
<b>Stop, Sale, Use, or Removal Orders</b>	<b>25</b>





## Stop, Sale, Use, or Removal Orders

Recipient	Press Release
Amazon eBay	<a href="https://www.epa.gov/newsreleases/epa-orders-amazon-and-ebay-stop-sale-certain-pesticide-products-0">https://www.epa.gov/newsreleases/epa-orders-amazon-and-ebay-stop-sale-certain-pesticide-products-0</a>
EcoShield, LLC	<a href="https://www.epa.gov/newsreleases/us-epa-orders-san-diego-company-stop-selling-unregistered-product-unsubstantiated-anti">https://www.epa.gov/newsreleases/us-epa-orders-san-diego-company-stop-selling-unregistered-product-unsubstantiated-anti</a>
Hawaii Unified Industries, LLC DBA HUI Restoration (HUI)	<a href="https://www.epa.gov/newsreleases/protect-public-health-during-pandemic-us-epa-orders-oahu-company-hawaii-unified">https://www.epa.gov/newsreleases/protect-public-health-during-pandemic-us-epa-orders-oahu-company-hawaii-unified</a>
Electrolux Home Products, Inc.	<a href="https://www.epa.gov/newsreleases/epa-and-electrolux-reach-settlement-illegal-imports-air-filter-products-incorporating">https://www.epa.gov/newsreleases/epa-and-electrolux-reach-settlement-illegal-imports-air-filter-products-incorporating</a>



## ***Electrolux Home Products, Inc***

- **From Jan-May 2020, imported approximately 420,000 dehumidifiers and air conditioners marketed with antimicrobial claims and equipped with nanosilver filters**
  - **12(a)(1)(A) – Unlawful distribution/sale of unregistered pesticides**
  - **12(a)(2)(N) – Failure to File Reports (Notices of Arrival)**
  - **Over 500,000 units remanufactured**
  - **\$6,991,400 civil penalty**



# ***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>

- **Tzumi Innovations, LLC - Manufacturer and wholesale distributor of an antibacterial wipe and spray products, Wipe Out!**
  - **September 1, 2020 – EPA issued and 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**



## Criminal COVID-19 Fraud Convictions

- Brandon Weber (NE) unlawfully sold an unregistered pesticide as a mask disinfectant
- Marek Majtan (MD) manufactured and sold pesticides online using a false EPA registration number
- Jiule Lin (MA), Rong Sun (GA), and Lam Kwong (Guam) illegally distributed Toamit Virus Shut Out Cards in stores and online
- Jon Gershman (CA) used a registered pesticide in a manner inconsistent with its label
- Stephen Shumaker (GA) sold a device that he claimed killed “every known viral and bacterial infection”
- Eco Shield LLC and Samir Haj (CA) unlawfully imported and sold an unregistered pesticide marketed as a killer of airborne viruses
- Mold Remediation LLC made fraudulent claims about efficacy of a product against COVID-19 (state of WA charges)

**BEYOND GUARDIAN AIR**

✓ Kills every known major viral and bacterial infection including Staph, E. Coli, MRSA, Strep, Avian Bird Flu, Hepatitis, Swine Flu, and Norovirus

✓ Utilizing ActivePure® Technology. ActivePure® creates hydrogen peroxide. Hydrogen peroxide is a known killer of **COVID-19, CORONAVIRUS**

**CREATE CLEAN AIR FOR LESS THAN \$1 / DAY!!**

CALL TODAY FOR MORE INFORMATION  
RESTRICTIONS APPLY | SUBJECT TO APPROVAL



**POST IN 24H**

**TOAMIT VIRUS SHUT OUT**

**100% GENUINE**  
CASH BACK GUARANTEED

**EASY TO USE**

**CHILD FRIENDLY**

**VIRUS PROTECTION**

**HOW IT WORKS**

Cholorine Dioxide creates a protective air shield in the environment. Using this compound, ECO AirDoctor becomes a powerful antimicrobial agent that assists in eliminating infections pathogens around you.

**TAKE ALONG ECO AirDoctor WHERE EVER YOU GO.**

Peel the cover, hang it from your pocket, shirt, coat or backpack for a three foot diameter of protection for 30 DAYS!



## ***M&P Pest Control***

- **Respondent engaged in the sale and distribution of Meth-O-Gas Q (EPA Reg No 5785-41), a commodity fumigant consisting of 100% methyl bromide.**
  - **12(a)(1)(G) – Use in a manner inconsistent with labeling**
  - **12(a)(2)(N) – Failure to File Reports (RUP Sales Records)**
  - **\$127,704 civil penalty**



## ***Truly Nolen Pest Control De Caguas***

- **From Jan-May 2020, imported approximately 420,000 dehumidifiers and air conditioners marketed with antimicrobial claims and equipped with nanosilver filters**
  - **12(a)(2)(G) – Use in a manner inconsistent with labeling**
    - **Use Site**
    - **PPE**
    - **Supervision**
    - **Direct Detection Equipment**
  - **\$154,660 civil penalty (\$49,100 FIFRA, \$105,560 CAA)**



## ***Ecolab***

- **Employees applied WEEVIL-CIDE® TABLETS (EPA Reg. No. 70506-14) to wheat held in a vessel.**
  - **12(a)(2)(G) – Use in a manner inconsistent with labeling**
  - **Improper collection and confinement**
  - **\$34,407 civil penalty**



Questions?

