

FIFRA Enforcement Update

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Scope of the Regulated Universe Under FIFRA

- 18,890 Section 3 Registered Pesticides
- 39,859 Supplemental Distributor Products
- 19,147 Active Registered Producing Establishments
- Unknown/Constantly Expanding Universe of Devices
- **> 296,000 Notices of Arrival (NOA) for Pesticide Product Imports for 2022-23**

*For 2023, includes NOAs processed as of June 23, 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	2023	2022	2021	2020	2019
Administrative and Civil Judicial Penalty Orders	72	76*	68	62	53
Administrative Compliance Orders	33	20	38	29	27
Notices of Warning	427	346	296	378	321
Notices of Refusal of Admission	437	587	934	672	233

* Civil Judicial Case – Tzumi Innovations, LLC



FIFRA Enforcement Trends

Penalties Assessed and Environmental Benefits

Results	2023	2022	2021	2020	2019
Penalties	\$4.51M	\$6.7M	\$12.43M	\$4.42M	\$3.9M

Results	2023	2022	2021	2020	2019
Environment al Benefits* non-compliant products addressed	5.8M lbs	21.29M lbs	14.78M lbs	8.41M lbs	4.85M lbs

*Direct and Preventive



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, on nearly 400 occasions, 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.**
- **\$751,055 civil penalty**



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, both 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**



State Industrial Products Corporation

[https://yosemite.epa.gov/oa/rhc/epaadmin.nsf/CAFOs%20and%20ESAs/C0249BC604B289B48525891A0052AB7E/\\$File/FIFRA-05-2023-0001_CAFO_State%20Industrial%20Products%20Corporation%20\(Mayfield%20Heights,%20Ohio\).pdf](https://yosemite.epa.gov/oa/rhc/epaadmin.nsf/CAFOs%20and%20ESAs/C0249BC604B289B48525891A0052AB7E/$File/FIFRA-05-2023-0001_CAFO_State%20Industrial%20Products%20Corporation%20(Mayfield%20Heights,%20Ohio).pdf)

- **299 counts involving distribution of pesticides with compositions differing from those registered under section 3 of FIFRA.**
- **Violative supplemental distributor products were formulated w/ active ingredients obtained from unauthorized sources.**
- **\$714,880 civil penalty**



PelGar USA Corporation

[https://yosemite.epa.gov/oa/rhc/epaadmin.nsf/Filings/5C30019F3387E126852585E400688C27/\\$File/PelGar%20USA.%20AB%20Bait%20Company%20FIFRA%20SSURO%20Combined.%202.27.2020.pdf](https://yosemite.epa.gov/oa/rhc/epaadmin.nsf/Filings/5C30019F3387E126852585E400688C27/$File/PelGar%20USA.%20AB%20Bait%20Company%20FIFRA%20SSURO%20Combined.%202.27.2020.pdf)

[https://yosemite.epa.gov/oa/rhc/epaadmin.nsf/CAFOs%20and%20ESAs/027F1473BC498B018525895800529C85/\\$File/PelGar%20USA%20Corporation%20FIFRA%20CAFO%20Feb%202016%202023.pdf](https://yosemite.epa.gov/oa/rhc/epaadmin.nsf/CAFOs%20and%20ESAs/027F1473BC498B018525895800529C85/$File/PelGar%20USA%20Corporation%20FIFRA%20CAFO%20Feb%202016%202023.pdf)

- **February 2020 - EPA issued a Stop Sale, Use, or Removal Order pertaining prohibiting further distribution of two rodenticides containing the Active Ingredient Bromadiolone based on reason to believe the products were being distributed with composition and claims that differed from the applicable terms and conditions of registration.**
- **February 2023 – EPA and PelGar settle a penalty action resolving just over 400 counts of unlawful distribution of pesticides with compositions differing from those registered under section 3 that were adulterated or misbranded and two counts of violating a SSURO.**
- **\$125,468.75 civil penalty based on respondents ability to pay**



Questions...?

