

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**



In the Matter of:)	Docket No. FIFRA-05-2026-0003
)	
Parasol Medical, LLC)	Proceeding to Assess a Civil Penalty
Buffalo Grove, Illinois)	Under Section 14(a) of the Federal
)	Insecticide, Fungicide, and Rodenticide
Respondent.)	Act, 7 U.S.C. § 136l(a)
<hr/>)	

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 136l(a), and Sections 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules) as codified at 40 C.F.R. Part 22.
2. The Complainant is the Director of the Enforcement and Compliance Assurance Division, United States Environmental Protection Agency (EPA), Region 5.
3. Respondent is Parasol Medical, LLC, a limited liability company doing business in the State of Illinois.
4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).
5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO, and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and its right to appeal this CAFO. Respondent waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the final order accompanying the consent agreement.

9. Respondent certifies that it is complying with FIFRA, 7 U.S.C. §§ 136-136y, and the regulations at 40 C.F.R. § 152 and 40 C.F.R. § 167.20.

Statutory and Regulatory Background

10. Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), states 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.

11. 40 C.F.R. § 152.15(a)(1) states that a substance is considered to be intended for a pesticidal purpose, and thus to be a pesticide 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 as a pesticide.

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

13. Section 2(q)(1)(C) of FIFRA, 7 U.S.C. § 136(q)(1)(C), states that a pesticide is misbranded if it is an imitation of, or is offered for sale under the name of, another pesticide.

14. Section 2(q)(1)(F) of FIFRA, 7 U.S.C. § 136(q)(1)(F), states that a pesticide is misbranded if the label does not contain directions for use which are necessary for effecting the purpose for which the product is intended and if complied with, are adequate to protect health and the environment.

15. 40 C.F.R. § 156.10(i)(2)(vi) requires that the method of application, including instructions for dilution, be included under the headings “Directions for Use” on the product label.

16. 40 C.F.R. § 156.10(i)(2)(ix) requires that specific instructions concerning the storage, residue removal and disposal of the pesticide and its container, be grouped and appear under the heading, “Storage and Disposal” on the product label.

17. 40 C.F.R. § 156.10(i)(1)(i) requires that directions, when followed, be adequate to protect the public from fraud and from personal injury.

18. The term “person” means “any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.” 7 U.S.C. § 136(s).

19. The term “distribute or sell” means “to 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.” 7 U.S.C. § 136(gg).

20. A “pesticide” is, among other things, any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest. 7 U.S.C. § 136(u).

21. A “pest” is any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism which the Administrator declares to be a pest under Section 25(c)(1) of FIFRA, 7 U.S.C § 136w(c)(1). 7 U.S.C. § 136(t).

22. The term “pesticide product” means “a pesticide in the particular form (including composition, packaging, and labeling) in which the pesticide is, or is intended to be, distributed or sold. The term includes any physical apparatus used to deliver or apply the pesticide if distributed or sold with the pesticide.” 40 C.F.R. § 152.3.

23. The term “label” means the “written, printed, or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers.” 7 U.S.C. § 136(p)(1).

24. The term “labeling” means “all labels and all other written, printed, or graphic matter (A) accompanying the pesticide or device at any time; or (B) to which reference is made on the label or in literature accompanying the pesticide or device.” 7 U.S.C. § 136(p)(2).

25. The Administrator of EPA may assess a civil penalty against any registrant, commercial applicator, wholesaler, dealer, retailer, or other distributor who violates any provision of FIFRA of up to \$24,885 for each offense, pursuant to Section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1), and 40 C.F.R. Part 19.

Factual Allegations and Alleged Violations

26. At all times relevant to this CAFO, Respondent was a “person” as that term is defined at Section 2(s) of FIFRA, 7 U.S.C. § 136(s).

27. At all times relevant to this CAFO, Respondent owned or operated a business located at 1000 Asbury Drive, Suite 1, Buffalo Grove, Illinois 60089 (the Facility).

28. On August 16, 2023, inspectors employed by EPA and authorized to conduct inspections under FIFRA conducted an inspection at the Facility (the Inspection).

Parasol Fall Prevention Products

29. During the Inspection, the inspectors collected photographs of the following fall prevention products being stored at the Facility:

- a. Wireless Bed Pad 30 Days (Product ID WB30)
- b. Wired Bed Pad 30 Days (Product ID SB6L8)
- c. Wireless Chair Pad 30 Days (Product ID WC30)
- d. Wired Chair Pad 30 Days – 8 ft Cord (Product ID SC6L8)
- e. Wired Chair Pad 30 Days – 12 ft cord (Product ID SC6L12)

f. Wired Chair Pad 30 Days – 3 ft cord (Product ID SC6S3)

30. On September 22, 2023, EPA received labels and distribution records from Respondent for the fall prevention products listed in paragraph 29.

31. The fall prevention products listed in paragraph 29 each bore text printed on the pad itself with the statement “Treated with MicrobeCare a proprietary antimicrobial.”

32. Respondent’s claims that its fall prevention products are treated with an antimicrobial indicate that the products will protect the health of the users of those products by preventing, destroying, repelling, or mitigating microbes.

33. The fall prevention products listed in paragraph 29 are each a “pesticide” as defined at Section 2(u) of FIFRA, 7 U.S.C. § 136(u).

34. The fall prevention products listed in paragraph 29 are not registered as a pesticide with EPA under Section 3 of FIFRA, 7 U.S.C. § 136a.

35. Respondent distributed or sold the fall prevention products listed in paragraph 29 on 390 separate occasions between August 18, 2022, and August 15, 2023.

36. Respondent’s sale or distribution of the fall prevention products listed in paragraph 29 on 390 separate occasions constitute 390 unlawful acts pursuant to Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

Tone Stethoscopes

37. During the Inspection, the inspectors collected photographs of Tone brand stethoscopes.

38. On September 22, 2023, EPA received labels and distribution records from Respondent for Tone stethoscopes.

39. The Tone stethoscope bore text printed on the stethoscope itself with the statement “Treated with MicrobeCare a proprietary antimicrobial.”

40. The box containing each Tone stethoscope bore the following claims, among other things:

- a. Fully antimicrobial, convertible cardiology stethoscope
- b. Treated with MicrobeCare bonded antimicrobial technology
- c. MicrobeCare is a patented bonded antimicrobial technology that is odorless, colorless, and non-leaching. MicrobeCare creates a durable invisible barrier against mold, mildew, fungus, algae and bacteria. Microbecare uses a molecular bond to hold the antimicrobial to its applied surface, thus retaining its full antimicrobial strength where it is applied.

41. Respondent's claims on its Tone stethoscope and box as listed in paragraphs 39 and 40 above indicate that the products will protect the health of the users of those products by preventing, destroying, repelling, or mitigating microbes.

42. Tone stethoscopes are a "pesticide" as defined at Section 2(u) of FIFRA, 7 U.S.C. § 136(u).

43. Tone stethoscopes are not registered as a pesticide with EPA under Section 3 of FIFRA, 7 U.S.C. § 136a.

44. Respondent distributed or sold the Tone stethoscopes on three separate occasions between August 18, 2022, and August 15, 2023.

45. Respondent's sale or distribution of Tone stethoscopes on three separate occasions constitutes three unlawful acts pursuant to Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

MicrobeCare Antimicrobial (EPA Reg. No. 89160-2)

46. During the Inspection, the inspectors collected photographs of MicrobeCare Antimicrobial (EPA Registration Number (EPA Reg. No.89160-2) in 6-oz aerosol containers.

47. On September 22, 2023, EPA received distribution records from Respondent for MicrobeCare Antimicrobial (EPA Reg. No. 89160-2).

48. MicrobeCare Antimicrobial (EPA Reg. No. 89160-2) is a "pesticide" as that term is defined by Section 2(u) of FIFRA, 7 U.S.C. § 136(u).

49. EPA registered MicrobeCare Antimicrobial (EPA Reg. No. 89160-2) under FIFRA Section 3(c)(7)(A) and accepted its master label on November 28, 2012. EPA also registered MicrobeCare 70-2 (EPA Reg. No. 89160-3) under FIFRA Section 3(c)(7)(A) and accepted its master label on July 1, 2021.

50. During the Inspection, EPA observed and photographed bottles identified with EPA Reg. No. 89160-2 (MicrobeCare Antimicrobial) but were labeled as MicrobeCare 70-2.

51. The following are examples of claims listed on the final printed label of bottles present during the Inspection which are on the EPA-accepted master label associated with MicrobeCare 70-2 (EPA Reg. No. 89160-3) but are *not* on the EPA-accepted master label associated with MicrobeCare Antimicrobial (EPA Reg. No. 89160-2):

- a. Kills 99.9% of bacteria, germs and viruses
- b. Bonded disinfectant and antimicrobial treatment
- c. Germicidal. Bactericidal. Tuberculocidal. Virucidal. Fungicidal.

52. The following claims are listed under the directions for use on the final printed label photographed during the Inspection but are not listed under the directions for use or target organisms on the EPA-accepted master label associated with EPA Reg. No. 89160-2:

- a. Allow surfaces to air dry or wipe dry with a clean microfiber cloth or wipe... For Disinfection: All surfaces must remain wet for 10 minutes. For Sanitizing: All surfaces must remain wet for 5 minutes. For use as a virucide: All surfaces must remain wet for 10 minutes.
- b. Germicide: Against *Staphylococcus aureus*; *Pseudomonas aeruginosa*; Influenza A, Subtype H1N1; and *Trichophyton interdigitale* in 10 minutes. Bactericide: Against *Staphylococcus aureus* and *Pseudomonas aeruginosa* in 10 minutes. Tuberculocidal: Against *Mycobacterium Bovis* in 10 minutes. Virucide: Against Influenza A, Subtype H1N1 in 10 minutes. Fungicide: Against *Trichophyton interdigitale* in 5 minutes.

53. The following claim is required under the “Storage and Disposal” subheading on the EPA-accepted master label for EPA Reg. No. 89160-2 but was missing from the final printed label on containers photographed during the Inspection: “when stored in original unopened containers at or below 25 C (77 F) MicrobeCare Antimicrobial must be used by the Use by date identified.”

54. Respondent distributed or sold MicrobeCare Antimicrobial (EPA Reg. No. 89160-2) with claims and labels associated with a different pesticide, MicrobeCare 70-2 (EPA Reg. No. 89160-3), and therefore in imitation of MicrobeCare 70-2 (EPA Reg. No. 89160-3).

55. Respondent distributed or sold MicrobeCare Antimicrobial (EPA Reg. No. 89160-2) on three separate occasions between August 18, 2022, and August 15, 2023.

56. Respondent distributed or sold MicrobeCare Antimicrobial (EPA Reg. No. 89160-2), a “pesticide” as that term is defined under FIFRA, which was not labeled in accordance with the master label for the product accepted by EPA on November 28, 2012.

57. By distributing or selling MicrobeCare Antimicrobial (EPA Reg. No. 89160-2) using the label for MicrobeCare 70-2 (EPA Reg. No. 89160-3), Respondent failed to provide the accurate method of application including instructions for dilution under the heading “Directions for Use” on the product label as required by 40 C.F.R. § 156.10(i)(2)(vi).

58. By distributing or selling MicrobeCare Antimicrobial (EPA Reg. No. 89160-2) using the label for MicrobeCare 70-2 (EPA Reg. No. 89160-3), Respondent failed to provide specific instructions concerning the storage, residue removal and disposal of the pesticide and its container under the heading, “Storage and Disposal” on the product label as required by 40 C.F.R. § 156.10(i)(2)(ix).

59. By distributing or selling MicrobeCare Antimicrobial (EPA Reg. No. 89160-2) using the label for MicrobeCare 70-2 (EPA Reg. No. 89160-3), Respondent failed to provide directions that would be adequate to protect the public from fraud and personal injury, as required by 40 C.F.R. § 156.10(i)(1)(i).

60. MicrobeCare Antimicrobial (EPA Reg. No. 89160-2), as referenced in paragraphs 46 through 56 above, was misbranded as that term is defined by Sections 2(q)(1)(C) and 2(q)(1)(F) of FIFRA, 7 U.S.C. §§ 1362(q)(1)(C) and 2(q)(1)(F).

61. Respondent's distributions or sales of MicrobeCare Antimicrobial (EPA Reg. No. 89160-2) on three occasions constitute three unlawful acts pursuant to Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

Civil Penalty

62. Pursuant to Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), Complainant determined that an appropriate civil penalty to settle this action is **\$206,640**. In determining the penalty amount, Complainant considered the appropriateness of the penalty to the size of Respondent's business, the effect on Respondent's ability to continue in business, and the gravity of the violation. Complainant also considered EPA's FIFRA Enforcement Response Policy, dated December 2009.

63. Respondent agrees to pay a civil penalty in the amount of \$206,640 ("Assessed Penalty") within thirty (30) days after the effective date of this CAFO.

64. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website:

<https://www.epa.gov/financial/makepayment>. For additional instructions see:

<https://www.epa.gov/financial/additional-instructions-making-payments-epa>.

65. When making a payment, Respondent shall:

- a. Identify every payment with Respondent's name and the docket number of this CAFO, FIFRA-05-2026-0003,
- b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve proof of such payment to the following person(s):

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5
r5hearingclerk@epa.gov

Angela Bouche (ECP-17J)
Pesticides and Toxics Compliance Section
U.S. EPA, Region 5
bouche.angela@epa.gov
and
R5lecab@epa.gov

Jamie Getz (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
getz.jamie@epa.gov

U.S. Environmental Protection Agency
Cincinnati Finance Center
Via electronic mail to: CINWD_AcctsReceivable@epa.gov

“Proof of payment” means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent’s name.

66. Interest, Charges, and Penalties on Late Payments. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this CAFO, the entire unpaid balance of the Assessed Penalty and all accrued interest shall become immediately due and owing, and EPA is authorized to recover the following amounts.

- a. Interest. Interest begins to accrue from the effective date of this CAFO. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. To protect the interests of the United States the rate of interest is

set at the IRS “**standard**” underpayment rate, any lower rate would fail to provide Respondent adequate incentive for timely payment.

- b. Handling Charges. Respondent will be assessed monthly a charge to cover EPA’s costs of processing and handling overdue debts.
- c. Late Payment Penalty. A late payment penalty of six percent (6%) per annum, will be assessed monthly on all debts, including any portion of the Assessed Penalty, interest, penalties, and other charges, that remain delinquent more than ninety (90) days.

67. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this CAFO, EPA may take additional actions. Such actions EPA may take include, but are not limited to, the following.

- a. Refer the debt to a credit reporting agency or a collection agency pursuant to 40 C.F.R. §§ 13.13 and 13.14.
- b. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, 40 C.F.R. Part 13, Subparts C and H.
- c. Suspend or revoke Respondent’s licenses or other privileges, or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, 40 C.F.R. § 13.17.
- d. Request that the Attorney General bring a civil action in the appropriate district court to recover the amount outstanding pursuant to 7 U.S.C. § 136l(a)(5).

68. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial

payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.

69. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this CAFO shall not be deductible for purposes of federal taxes.

70. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service (“IRS”) annually, a completed IRS Form 1098-F (“Fines, Penalties, and Other Amounts”) with respect to any court order or settlement agreement (including administrative settlements), that require a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor’s violation of any law or the investigation or inquiry into the payor’s potential violation of any law, including amounts paid for “restitution or remediation of property” or to come “into compliance with a law.” EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number (“TIN”), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. In order to provide EPA with sufficient information to enable it to fulfill these obligations, EPA herein requires, and Respondent herein agrees, that:

- a. Respondent shall complete an IRS Form W-9 (“Request for Taxpayer Identification Number and Certification”), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;
- b. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent’s correct TIN or that Respondent has applied and is waiting for issuance of a TIN;
- c. Respondent shall email its completed Form W-9 to Milton Wise at EPA’s Cincinnati Finance Center at wise.milton@epa.gov, within 30 days after the effective date of this CAFO, and EPA recommends encrypting IRS Form W-9 email correspondence; and

- d. In the event that that Respondent has certified in its completed IRS Form W-9 that it does not yet have a TIN but has applied for a TIN, Respondent shall provide EPA's Cincinnati Finance Center with Respondent's TIN, via email, within five (5) days of Respondent's receipt of a TIN issued by the IRS.

General Provisions

71. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: getz.jamie@epa.gov (for Complainant), and audrey@lighthouseadvisorspllc.net (for Respondent). Respondent understands that the CAFO will become publicly available upon filing.

72. Respondent's full compliance with this CAFO resolves only Respondent's liability under FIFRA for federal civil penalties for the violations alleged in the CAFO.

73. This CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

74. This CAFO does not affect Respondent's responsibility to comply with FIFRA and other applicable federal, state and local laws.

75. This CAFO is a "final order" for purposes of EPA's FIFRA Enforcement Response Policy.

76. The terms of this CAFO bind Respondent, its successors and assigns.

77. Each person signing this CAFO certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

78. Each party agrees to bear its own costs and attorneys fees, in this action.

79. This CAFO constitutes the entire agreement between the parties.

Parasol Medical, LLC, Respondent

Date

Michael Kilcran II
President
Parasol Medical, LLC

United States Environmental Protection Agency, Complainant

Carolyn Persoon
Acting Division Director
Enforcement and Compliance Assurance Division
United States Environmental Protection Agency, Region 5

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

Ann L. Coyle
Regional Judicial Officer
United States Environmental Protection Agency
Region 5