



OFFICE OF CIVIL ENFORCEMENT

WASHINGTON, D.C. 20460

July 23, 2024

SENT VIA ELECTRONIC MAIL TO

paul@powerwashstore.com

DELIVERY AND READ RECEIPTS REQUESTED

Mr. Paul Kassander
President
Power Wash Store LLC
W147 N9415 Held Drive
Menomonee Falls, Wisconsin 53051

**Re: Stop Sale, Use, or Removal Order to Power Wash Store LLC
Docket No. FIFRA-HQ-2024-5005**

Dear Mr. Kassander:

The U.S. Environmental Protection Agency (EPA or “the Agency”) is issuing Power Wash Store LLC (“Power Wash Store”) the enclosed Stop Sale, Use, or Removal Order (SSURO or “the Order”) by authority of Section 13(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA or “the Act”), 7 U.S.C. § 136k(a). This SSURO concerns certain pesticide products offered for sale and sold through your e-commerce platform PowerWashStore.com and at Power Wash Store retail locations. The SSURO requires Power Wash Store to immediately cease the sale and distribution of the product lines subject to the Order and is effective immediately upon receipt by Power Wash Store.

Section 13(a) of FIFRA, 7 U.S.C. § 136k(a), authorizes the EPA to issue an order prohibiting the sale, use, or removal of any pesticide or device by any person who owns, controls, or has custody of such pesticide or device whenever there is reason to believe, on the basis of inspection or tests, that the pesticide or device is in violation of any provision of FIFRA, or has been or is intended to be distributed in violation of any provision of the Act.

Based on inspections, the EPA has reason to believe that Power Wash Store has previously and intends to continue selling and distributing unregistered pesticides in violation of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

Power Wash Store must comply with all terms and conditions in this Order; any violation may result in the imposition of civil penalties up to \$24,255 per violation or of criminal penalties. The issuance of this Order shall not act as a waiver by the EPA of any enforcement or other authority available to the

Agency under federal law, including the authority to seek civil penalties under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), for the violations alleged in this Order or any other violation.

Sincerely,

Date

Christina Cobb, Chief
Pesticides and Tanks Enforcement Branch
Waste and Chemical Enforcement Division
Office of Enforcement and Compliance Assurance

Enclosures: Stop Sale, Use, or Removal Order, Docket No. FIFRA-HQ-2024-5005

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF ENFORCEMENT AND COMPLIANCE ASSURANCE**

IN THE MATTER OF:

**Power Wash Store LLC
Menemonee Falls, WI**

Respondent.

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STOP SALE, USE OR REMOVAL ORDER

Docket No. FIFRA-HQ-2024-5005

I. AUTHORITY

1. The U.S. Environmental Protection Agency (EPA or “the Agency”) regulates pesticides and pesticide devices pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, (FIFRA or “the Act”), 7 U.S.C. §§ 136-136y.

2. Section 13(a) of FIFRA authorizes the EPA Administrator to issue an order prohibiting the sale, use, or removal of any pesticide or device by any person who owns, controls, or has custody of such pesticide or device whenever there is reason to believe, on the basis of inspection or tests, that the pesticide or device is in violation of any provision of FIFRA or the pesticide or device has been or is intended to be distributed or sold in violation of any provision of the Act. 7 U.S.C. § 136k(a).

3. This authority was delegated from the EPA Administrator to the Director and Associate Director of the Waste and Chemical Enforcement Division, Office of Civil Enforcement, Office of Enforcement and Compliance Assurance. The Director Redelegated this authority to the Branch Chief of the Pesticides and Tanks Enforcement Branch within the Waste and Chemical Enforcement Division.

II. GOVERNING LAW

4. Sections 3(a) and 12(a)(1)(A) of FIFRA provide that it is unlawful for any person in any state to distribute or sell to any person a pesticide that is not registered with the EPA under FIFRA, 7 U.S.C. §§ 136a(a), 136j(a)(1)(A), subject to certain exemptions not applicable here.

5. Section 2(s) of FIFRA defines a “person” as “any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.” 7 U.S.C. § 136(s).

6. Section 2(gg) of FIFRA defines “to distribute or sell” as “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).

7. Section 2(u) of FIFRA defines a “pesticide,” in part, as “any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.” 7 U.S.C. § 136(u).

8. EPA-promulgated regulations at 40 C.F.R. § 152.15(a)(1) and (b) further define the term “pesticide” as any substance intended for a pesticidal purpose, and thus 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; or the substance consists of or contains one or more active ingredients and has no significant commercially valuable use as distributed or sold other than use for a pesticidal purpose.

9. The term “active ingredient” refers to an ingredient in a pesticide other than a plant regulator, defoliant, desiccant, or nitrogen stabilizer, that will prevent, destroy, repel, or mitigate any pest. 7 U.S.C. § 136(a).

10. Section 2(t) of FIFRA defines “Pest” as any insect, rodent, nematode, fungus, weed, any other form of terrestrial or aquatic plant or animal life or virus, bacteria, prion, or other micro-organisms

(except viruses, bacteria, or other micro-organisms on or in living man or other living animals and those on or in processed food or processed animal feed, beverage, drugs, and cosmetics) which the Administrator declares to be a pest under Section 25(c)(1). 7 U.S.C. § 136(t).

11. The regulation set forth at 40 C.F.R. § 152.5 further provides that “[a]n organism is declared to be a pest under circumstances that make it deleterious to man or the environment,” including if the organism is “[a]ny fungus, bacterium, virus, prion, or other microorganism, except for those on or in living man or other living animals and those on or in processed food or processed animal feed, beverages, drugs [] and cosmetics [].”

12. The term “antimicrobial pesticide” includes pesticides intended to disinfect, sanitize, reduce, or mitigate growth or development of microbiological organisms or protect inanimate objects or other chemical substances from contamination, fouling, or deterioration caused by bacteria, viruses, fungi, protozoa, algae, or slime. 7 U.S.C. § 136(mm).

13. The regulations set forth at 40 C.F.R. § 152.25(f) establish the conditions for products to qualify as minimum risk pesticides exempt from FIFRA Section 3 registration including, inter alia, specific ingredient and claims qualifications on product labeling. To qualify for the exemption, the product must not bear claims to control or mitigate microorganisms that pose a threat to human health, including viruses. 40 C.F.R. § 152.25(f)(3)(ii).

14. 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).

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

16. If a label references a company's website, either by listing a web address or Uniform Resource Locator (URL), including a Quick Response Code (QR Code), or using similar identifiers that direct to a website, then the website becomes "labeling" under FIFRA and is subject to EPA review. See 7 U.S.C. § 136(p)(2).

III. **BASIS FOR THE ORDER**

17. Power Wash Store LLC, is a limited liability company with its principal place of business in Menemonee Falls, WI (hereafter, "Power Wash Store"). Therefore, Power Wash Store is a "person" as that term is defined by Section 2(s) of FIFRA, 7 U.S.C. § 136(s).

18. Power Wash Store owns, operates, and/or controls an interactive ecommerce website with the URL PowerWashStore.com and eight brick-and-mortar retail stores across the country that offer for sale to the general public a number of chemical cleaners, solvents, and equipment used in power wash applications.

19. On May 15, 2023, the EPA's Office of Inspector General informed the Office of Civil Enforcement that one of its agents had purchased what appeared to be an unregistered pesticide from Respondent's website.

20. On October 11, 2023, the EPA conducted compliance monitoring activities of PowerWashStore.com and multiple franchisee web sites.

21. On PowerWashStore.com, the EPA observed that multiple products were available for purchase directly by consumers by placing the items in an online shopping cart, entering payment information, and having the products shipped to them.

22. The EPA identified the following products making pesticidal claims by reviewing images of on-product labels, directions for use uploaded to the web site as .pdf files, and online product descriptions:

- a. Water Dragon—Blue Voodoo: Labelling for the product includes claims that it is effective in removing mildew, both with and without the addition of bleach.
- b. Water Dragon—Wood Restorer: Labelling for the product claims that it is effective in killing and removing mildew.
- c. Water Dragon—Easy Prep: Labelling for the product claims that it is effective in removing mildew.
- d. Dragon Shield Surface Protectant: Labelling claims to be effective in mitigating mildew growth.
- e. Enviro Bio Cleaner Multi-Purpose Cleaner/Degreaser: Online product description claims that it is effective in removing mold and mildew.
- f. EXPERT Product Line: Product labels include claims that products are effective in removing mold, mildew, or algae.
- g. Seal 'n' Lock Product Line: Product labels and labelling include claims that product is effective in controlling bacteria, algae, mold, weed growth, or ant mines.
- h. Path-Away: Product label claims to be effective against pathogens; online product description, provided with offer for sale, claims it is effective against the virus that causes Covid-19.
- i. Eat Oils BT200: Labelling claims that products are effective in removing mold and mildew.

23. On January 9 and 10, 2024, EPA credentialed inspectors, duly authorized to conduct inspections under the authorities of Section 8 and Section 9 of FIFRA, 7 U.S.C. §§ 136f and 136g, conducted a for-cause inspection at Power Wash Store Headquarters at W147 N9415 Held Drive, Menomonee Falls, WI. During the inspection, the inspectors reviewed and collected customer sales

records documenting both in-person and online sales for the products listed above, excepting Water Dragon Easy Prep.

24. A company representative told inspectors that Power Wash Store's Menomonee Falls facility is responsible for fulfillment of online sales by Power Wash Store franchisees in other states and that some of the pesticides are stored in a warehouse on location, while others are drop shipped from manufacturers directly to consumers.

25. The company representative also told inspectors that Power Wash Store's Water Dragon-branded products are shipped to consumers along with mixing instructions. The mixing instructions for Water Dragon-Blue Voo Doo, also available on the Power Wash Store web site, include a claim that "Blue Voodoo is a product that can be used with or without bleach and is designed to help lift and release the pollutants and mildew from the substrate and suspend them in solution for easy rinsing from the surface."

26. Mold, mildew, algae, bacteria, pathogens, and viruses are pests as those terms are defined in FIFRA and its implementing regulations. See 7 U.S.C. § 136(t); 40 C.F.R. § 152.5.

27. Based on the investigation and labeling claims described above, the above-listed products are substances intended for preventing, destroying, repelling, or mitigating pests and are therefore "pesticides" as that term is defined by Section 2(u) of FIFRA, 7 U.S.C. § 136(u), and must be registered with the EPA before being distributed or sold.

28. As of July 16, 2024, the above-described products and claims were still active on PowerWashStore.com and other labeling.

29. None of the above listed pesticides have been nor are currently registered with the EPA; they are also not exempt from FIFRA's registration requirement.

30. Therefore, the EPA has reason to believe that Power Wash Store owns, controls and/or has custody of the unregistered pesticides described above and has sold and distributed and intends to continue selling or distributing unregistered pesticides to other persons, in violation of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

IV. Order

31. Pursuant to Section 13(a) of FIFRA, Power Wash Store is ordered to immediately cease any distribution, sale, use, or removal of the following products, collectively referred to as "the Products," within the ownership, custody, or control of Power Wash Store or its franchisees, wherever such products are located:

- a. Water Dragon—Blue Voodoo
- b. Water Dragon—Wood Restorer
- c. Water Dragon—Easy Prep
- d. Dragon Shield—Surface Protectant
- e. Enviro Bio Cleaner—Multi-Purpose Cleaner and Degreaser
- f. EXPERT—Eco Cleaner Oxygenated Wood Bleach
- g. EXPERT—Wood Cleaner & Stain Lifter
- h. EXPERT—Wood Stripper Deck Stain Remover
- i. EXPERT—Semi-Transparent Log & Timber Oil
- j. EXPERT—Semi-Transparent Wood Stain & Sealer

- k. EXPERT–Transparent Wood Stain & Sealer
- l. EXPERT–Semi-Solid Wood Stain & Sealer
- m. Seal ‘n’ Lock–Ultra Wet
- n. Seal ‘n’ Lock–Super Wet
- o. Seal ‘n’ Lock–Natural Luster
- p. Seal ‘n’ Lock–Bio-Strip Stripper
- q. Seal ‘n’ Lock–Easy-Clean Degreaser
- r. EatOils BT200
- s. Path-Away Anti-Pathogenic Solution

32. This Order pertains to all unit sizes and to all quantities and forms in which the Products are offered for sale, held for sale, or otherwise distributed or sold.

33. The Products shall not be distributed, sold, offered for sale, held for sale, shipped, delivered for shipment, received, delivered, offered for delivery, moved, used, or removed for any reason unless in accordance with this Order, any written modifications to this Order, or as otherwise approved by the EPA in writing according to the following paragraph.

34. Movement of the Products may only occur as follows:

- a. Power Wash Store must submit a written request to move the above-described products and receive written approval from the EPA before any movement occurs;
- b. The request must be submitted to Abdul Ibrahim via email at Ibrahim.Abdul@epa.gov;
- c. The request must include an explanation of the purpose or reason for the movement or removal;
- d. The request must provide a written accounting of the products to be moved (i.e., product name or identifier, container size, number of containers, and total quantity), the address

of the facility from where the products will be moved, and the address of the destination facility;

- e. If the movement or removal is for the purposes of disposal, Respondent must provide written proof of disposal to the EPA, including quantity of product disposed and proof of compliance with all applicable federal, state, and local laws.
- f. Any movement or removal of any of the products made without prior written authorization from the EPA or not in accordance with the above paragraph constitutes a violation of this Order and may constitute the distribution or sale of an unregistered pesticide in violation of Section 12 of FIFRA. 7 U.S.C. § 136j.

V. Other Matters

35. This Order shall be effective immediately upon receipt by an agent, owner, or operator of Power Wash Store, and shall remain in effect unless revoked, terminated, suspended, or closed in writing by the EPA.

36. Power Wash Store may seek judicial review of this Order pursuant to Section 16 of FIFRA. 7 U.S.C. § 136n.

37. Noncompliance with this Order is a violation of FIFRA and may result in civil or criminal penalties pursuant to Section 14 of FIFRA. 7 U.S.C. §§ 136j(a)(2)(I), 136l.

38. The issuance of this Order shall not constitute a waiver by the EPA of its remedies, either judicial or administrative, under FIFRA or any other federal environmental law to address this matter or any other matters or unlawful acts not specified in this Order.

39. Respondent may assert a business confidentiality claim (CBI claim) covering all or part of the information provided as part of this Order if such information meets the requisite criteria and is submitted according to 40 C.F.R. § 2.203(b). Information properly subject to a CBI claim may be made

available to the public only in accordance with 40 C.F.R. pt. 2, subpt. B. Otherwise, information submitted to the EPA may be made available to the public without further notice.

40. For any additional information about this SSURO, please contact Erika McDonald, attorney-advisor, by telephone at (202) 564-2240 or by email at Mcdonald.Erika@epa.gov.

Date

Christina Cobb, Chief
Pesticides and Tanks Enforcement Branch
Waste and Chemical Enforcement Division
Office of Enforcement and Compliance Assurance