

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 RENNER BOULEVARD
LENEXA, KANSAS 66219-9601**

In the Matter of)	
)	
EST, Inc.)	Docket No. FIFRA-07-2017-0341
)	
Respondent)	

STOP SALE, USE, OR REMOVAL ORDER

Authorities

1. Section 13(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 136k(a), authorizes the Administrator of the U.S. Environmental Protection Agency (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 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 FIFRA.
2. This authority has been delegated from the Administrator of the EPA to the Regional Administrator, Region 7, and then to the Director of the Water, Wetlands, and Pesticides Division, Region 7. Further delegation has been made to the Chief of the Toxics and Pesticides Branch.
3. Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), provides 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.
4. Section 2(s) of FIFRA, 7 U.S.C. § 136(s), defines the term “person” as any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.
5. Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), defines the term “to distribute or sell” to mean 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.

6. Section 2(u) of FIFRA, 7 U.S.C. § 136(u), defines the term “pesticide” as, *inter alia*, any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

7. Section 2(t) of FIFRA, 7 U.S.C. § 136(t), defines the term “pest” to mean (1) any insect, rodent, nematode, fungus, weed, or (2) any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism (except viruses, bacteria, or other micro-organism on or in living man or other living animals) which the Administrator declares to be a pest under Section 25(c)(1).

8. The regulations found at 40 C.F.R. § 152.15(a)(1) and (b) further defines 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 pesticidal purpose.

Background and Basis for the Order

9. On May 16, 2017 and May 25, 2017, a representative of the EPA conducted a federal, for-cause inspection (the inspection) of EST, Inc., also known as Enviro Science Technologies, Inc., located at 15785 S. Keeler Terrace, Olathe, KS 66062.

10. Based on information collected as a result of the inspection and investigation by EPA, EPA has reason to believe that EST, Inc. has sold or distributed, offered for sale, and has the ability to produce EST MICROCIDIC IV-HIV & HBV & HCV VIRUCIDE (Microcide), a pesticide as that term is defined by Section 2(u) of FIFRA, 7 U.S.C. § 136(u), and 40 C.F.R. § 152.15(a)(1) and (b), that is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a, in violation of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

Order

11. EPA hereby **ORDERS** EST, Inc. NOT to distribute, sell, offer for sale, hold for sale, deliver for shipment, receive, or having so received, deliver, offer for delivery, move or remove from any present location, or use Microcide.

12. This Order shall pertain to all quantities and sizes of Microcide which are within the ownership, control or custody of EST, Inc. and any agent, contractor, employee, consultant, firm successor, and/or assign or other persons or entities acting on behalf of EST, Inc.

13. Violation of the terms or provisions of this Order may subject the violator to **CIVIL OR CRIMINAL PENALTIES** as prescribed in Section 14 of FIFRA, 7 U.S.C. § 136l.

14. Respondent may seek federal judicial review of the Order pursuant to section 16 of FIFRA, 7 U.S.C. § 136n.

15. The issuance of this Order shall not act as a waiver by the EPA of any enforcement or other authority available to the EPA under FIFRA.

16. This Order shall be **EFFECTIVE IMMEDIATELY** upon receipt by RESPONDENT.

Other Matters

17. For any additional information about this Stop Sale, Use or Removal Order please contact Mark Leshner, EPA Region 7 Toxics and Pesticides Enforcement Branch, at (913) 551-7054 or lesher.mark@epa.gov. For any legal matters concerning this Order, you are encouraged to contact Clarissa Howley Mills, attorney, at (913) 551-7743 or mills.clarissa@epa.gov.

8/21/2017

Date

Jamie Green
Jamie Green, Chief
Toxics and Pesticides Branch