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U. S. ENVIRONMENTAL PROTECTION AGENCY 23 JAN 23 AM 10: 18  
REGION 6  
1201 Elm Street, Suite 500  
Dallas, Texas 75270  
REGIONAL HEARING CLERK  
EPA REGION VI

In the Matter of

Arteco II Hospital Management, LLC,  
d/b/a Disinfect and Shield,  
Houston, Texas

Respondent.

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Docket No. FIFRA-06-2023-0500

**STOP SALE, USE, OR REMOVAL ORDER**

**Jurisdiction**

1. This Stop Sale, Use, or Removal Order (Order or SSURO) is issued pursuant to the authority of Section 13(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (“FIFRA”), 7 U.S.C. § 136k(a), as amended. Section 13(a) of 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.

**Parties**

2. Complainant is the Director of Enforcement and Compliance Assurance Division of the EPA, Region 6, as duly delegated by the Administrator of the EPA and the Regional Administrator, EPA, Region 6.

3. Arteco II Hospital Management, LLC, (“Respondent”) is a company formed in the state of Texas and conducting business in the state of Texas.

**Statutory and Regulatory Authority**

4. 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.

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

6. Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), 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. Section 2(u) of FIFRA, 7 U.S.C. § 136(u), defines “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.

8. Title 40, section 152.15(a)(1) of the Code of Federal Regulations, 40 C.F.R. § 152.15(a)(1), provides that “a substance is considered to be intended for a pesticidal purpose, and thus to be a pesticide requiring registration, if . . . [t]he person who distributes or sells the substance claims, states, or implies (by labeling or otherwise) . . . [t]hat the substance (either by itself or in combination with any other substance) can or should be used as a pesticide.”

9. Section 2(t) of FIFRA, 7 U.S.C. § 136(t), defines “pest” as: (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).

10. Pursuant to the authority in section 25(c)(1) of FIFRA, 7 U.S.C. § 136w(c)(1), the Administrator established that “an organism is declared to be a pest under circumstances that make it deleterious to man or the environment, if it 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 . . .” 40 C.F.R. § 152.5(d).

11. Section 2(p) of FIFRA, 7 U.S.C. § 136(p), defines “label” as “the written, printed, or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers” and “labeling” as “all labels and all other written, printed, or graphic matter . . . accompanying the pesticide or device at any time.”

12. Section 17(a) of FIFRA, 7 U.S.C § 136o(a), provides an exception for pesticides intended solely for export from being deemed in violation of FIFRA provided that certain criteria are met, including compliance with “sections 136(p), 136(q)(1)(A), (C), (D), (E), (G), and (H), 136(q)(2)(A), (B), (C)(i) and (iii), and (D), 136e, and 136f of [FIFRA].”

13. Section 2(q)(1)(H) of FIFRA, 7 U.S.C. § 136(q)(1)(H), provides that in the case of a product not registered under FIFRA and intended for export, it is misbranded if its label does not contain the prominent placement of the phrase “Not Registered for Use in the United States of America.”

14. Section 2(q)(1)(D) of FIFRA, 7 U.S.C. § 136(q)(1)(D) together with Section 17(a) of FIFRA, 7 U.S.C § 136o(a), requires that a product intended for export must bear the EPA registration number of the establishment where it was produced on the product's label.

**Basis for the Order**

15. Respondent, as a corporation, is a "person" as defined by Section 2(s) of FIFRA, 7 U.S.C. § 136(s).

16. In May 2022, the EPA began investigating Respondent's compliance with FIFRA and the federal regulations promulgated thereunder (the "Investigation").

17. On September 15, 2022, the EPA issued an information request letter to Respondent concerning products sold under the brand name Disinfect & Shield.

18. Respondent provided responsive materials to the EPA, including copies of the product labels for "Surface Shield" and "Laundry Shield" ("Products") intended for domestic distribution and a label for a product "28 Day Surface Protection" ("Export Product") prepared for use on exported products.

19. Prior to issuing this SSURO, EPA reviewed Respondent's website, [www.disinfectandshield.com](http://www.disinfectandshield.com) (last accessed December 1, 2022).

*Sale or Distribution of Unregistered Pesticides*

20. The label for the product "Surface Shield" provided to the EPA includes claims including "Mechanical Kill" and "Guards Against Infection", which, combined with the brand name "Disinfect and Shield" implies that the product can be used to prevent, destroy, or repel pests—that is, as a pesticide--and thus the product is a pesticide requiring registration as described in 40 C.F.R. § 152.15(a)(1).

21. The labeling for the product “Surface Shield” includes pesticidal claims such as “...an EPA N-listed disinfectant”, “Even after 28 days, the surface protectant maintained 99.9% antimicrobial and anti-viral kills...”, and “Disinfect & Shield is fast-acting nanotechnology that is antimicrobial and anti-viral which destroys viruses and bacteria and prevents them from attaching to surfaces” implying that the product can be used to destroy pests—that is, as a pesticide—and thus the product is a pesticide requiring registration as described in 40 C.F.R. § 152.15(a)(1). *See* <https://www.disinfectandshield.com/pages/how-it-works> (last accessed December 27, 2022).<sup>1</sup>

22. The labeling for the product “Laundry Shield includes pesticidal claims such as “...an EPA N-listed disinfectant”, “Disinfect & Shield laundry sanitizer is proven to kill 99.9% of COVID-19 in a wash cycle and will keep all fabrics protected for more than 200 days after initial wash . . .”, and “...safe and effective disinfectant products that use a “mechanical kill” to destroy dangerous viruses, bacteria, and microbes...”. implying that the product can be used to destroy pests—that is, as a pesticide—and thus the product is a pesticide requiring registration as described in 40 C.F.R. § 152.15(a)(1). *See* [www.disinfectandshield.com/collections/all-products/products/laundry-shield](http://www.disinfectandshield.com/collections/all-products/products/laundry-shield) (last accessed December 1, 2022).

23. Neither of the Products is registered with the EPA.<sup>2</sup>

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<sup>1</sup> The Products’ and Export Product’s labels reference Respondent’s website, which makes the website content “labeling.” While this distinction does matter for other categories of violations (e.g., misbranding), a product website’s content is evidence of pesticidal purpose whether it is “labeling” or not.

<sup>2</sup> Respondent has been granted supplemental registration for a single product “D&S Broad Spectrum Disinfectant,” EPA Registration Number 94196-4-100005, on August 25, 2021, under the parent product “My Shield Broad Spectrum Disinfectant”, EPA Registration Number 94196-4, registered to ESC Brands, LLC. Information provided to the EPA about the Products “Laundry Shield” and “Surface Shield” indicate that their formulations are substantially different from that of the registered product. The active ingredients on the label provided to the EPA for “Surface Shield” do not match the master label for the registered product in either description or quantity. A safety data sheet provided to the EPA for “Laundry Shield” indicates that it contains a substantially higher concentration (4-6%) of an active ingredient than the registered product (0.7920%).

24. The Surface Shield product is listed in the “Shop” section of Respondent’s website, [www.disinfectandshield.com/collections/all-products](http://www.disinfectandshield.com/collections/all-products) (last visited December 1, 2022), for purchase in three units: a spray bottle, a 1-gallon jug, and a 4-pack of 1-gallon jugs. As of December 1, 2022, all three were listed as “Sold Out.”

25. The Laundry Shield product is listed in the “Shop” section of Respondent’s website, [www.disinfectandshield.com/collections/all-products](http://www.disinfectandshield.com/collections/all-products) (last visited December 1, 2022), for purchase in a 1-gallon package. Customers may purchase Laundry Shield on this website by adding a specific number of units to their virtual shopping cart and completing a check out process after entering their payment, shipping, and other information.

26. The Surface Shield product is also listed for sale on the website for the home improvement store Lowe’s, <https://www.lowes.com/pd/Disinfect-Shield-28-Day-Shield-All-Purpose-Cleaner-1-Gallon/5001600481> (last visited December 1, 2022). The Lowe’s website describes the product as “Disinfect & Shield All Purpose Cleaner 1-Gallon Minimal Scent Liquid All-Purpose Cleaner”; the website provides an image of a 1-gallon jug with the product name “Surface Shield” with a label identical to the Surface Shield label apparent on Respondent’s website and to labels for Surface Shield provided to the EPA by Respondent in the course of EPA’s investigation.

27. The Laundry Shield product is also listed for sale on the website for the home improvement store Lowe’s, [www.lowes.com/pd/Disinfect-Shield-Laundry-Shield-Complete-1-Gallon/5001697711](http://www.lowes.com/pd/Disinfect-Shield-Laundry-Shield-Complete-1-Gallon/5001697711) (last visited November 7, 2022). The Lowe’s website describes the product as “Disinfect & Shield Laundry shield 128-fl oz HE Laundry Detergent”; the website provides an image of a 1-gallon jug with the product name “Laundry Shield” with a label identical to the

Laundry Shield label apparent on Respondent's website and to labels for Surface Shield provided to the EPA by Respondent in the course of EPA's investigation.

28. EPA concludes from the above observations that Respondent intends to sell and/or distribute the unregistered pesticide products "Surface Shield" and "Laundry Shield," in violation of section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), which makes it illegal for any person to sell or distribute any pesticide that is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

*Export of Unregistered Pesticide*

29. In response to a request for information, Respondent provided to EPA documentation of recent export sales and a product label for the Export Product ("28 Day Surface Protection").

30. The label for the Export Product includes pesticidal claims such as "Neutralizes Bacteria, Molds, And Viruses on Contact" and "Proven to safely destroy super bugs including the Coronavirus, SARS . . .", claiming that the product can be used to destroy such pests—that is, used as a pesticide—and thus the product is a pesticide requiring registration as described in 40 C.F.R. § 152.15(a)(1). *See* [www.disinfectandshield.com/collections/all-products/products/laundry-shield/](http://www.disinfectandshield.com/collections/all-products/products/laundry-shield/) (last accessed December 1, 2022).

31. Sales records provided to the EPA in response to its request for information from Respondent provides the EPA a reason to believe that the Respondent has sold or distributed the Export Product outside the United States and intends to continue to do so.

32. The Export Product is not registered with the EPA.<sup>3</sup>

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<sup>3</sup> Respondent has been granted supplemental registration for a single product "D&S Broad Spectrum Disinfectant," EPA Registration Number 94196-4-100005, on August 25, 2021, under the parent product "My Shield Broad Spectrum Disinfectant", EPA Registration Number 94196-4, registered to ESC Brands, LLC. No product with the

33. The label for the Export Product does not include the statement “Not Registered for Use in the United States of America” as described in FIFRA section 2(q)(1)(H), 7 U.S.C. § 136(q)(1)(H).

34. The label for the Export Product does not bear the registration number of the establishment where it was produced as described in FIFRA section 2(q)(1)(D), 7 U.S.C. § 136(q)(1)(D).

35. The Export Product is misbranded per paragraphs (D) and (H) of FIFRA section 2(q)(1), 7 U.S.C. § 136(q)(1)(D), (H), and therefore fails to satisfy the criteria for exemption from FIFRA requirements for unregistered export products set forth in Section 17(a) of FIFRA, 7 U.S.C § 136o(a).

36. Without that exemption, the sale or distribution abroad or domestically of the Export Product is an illegal act under paragraphs (A) and (E) of section 12(a)(1) of FIFRA, 7 U.S.C. 136j(a)(1)(A), (E), which make it illegal for any person to sell or distribute a pesticide that is not registered or that is misbranded, respectively.

37. EPA has reason to believe, based on the information described above, that Respondent had distributed or sold and intends to distribute or sell the Products and the Export Product in violation of Sections 12(a)(1)(A) and (E) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), (B), and (E).

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name “28 Day Surface Protection” has been registered to the Respondent, nor does the label indicate EPA registration.



**Order**

38. Pursuant to the authority of Section 13(a) of FIFRA, 7 U.S.C. § 136k(a), Respondent is hereby ORDERED to immediately cease the sale, use, or removal of the Products and Export Product under its ownership, control, or custody, wherever such products are located, except in accordance with the provisions of this Order.

39. This Order shall apply to all quantities and container types and sizes of all of the Products and Export Products owned, controlled or in the custody of Respondent and any agent, contractor, employee, consultant, firm successor, and/or assign or other persons or entities acting on behalf of Respondent.

40. The Products and Export Products shall not be used, sold, offered for sale, held for sale, shipped, delivered for shipment, received, or having so received, shall not be delivered, offered for delivery, moved, or removed for disposal from any facility or establishment, for any reason, unless approved by EPA in writing.

41. Should Respondent seek an exception to this Order's prohibitions, Respondent may submit a request to Kenneth McPherson at [mcperson.kenneth@epa.gov](mailto:mcperson.kenneth@epa.gov), which must include:

- a. The purpose for which movement is being requested;
- b. An accounting of the quantities of Products and Export Products to be moved, including location(s) and container size; and
- c. The destination location to which the Products and Export Products will be moved.

**General Provisions**

42. Violation of the terms or provisions of this Order is a violation of Section 12(a)(2)(I) of FIFRA, 7 U.S.C. § 136j(a)(2)(I) and may subject the violator to **CIVIL OR CRIMINAL PENALTIES** as prescribed in Section 14 of FIFRA, 7 U.S.C. § 136l.

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

44. If any provision or authority of the Order or the application of the Order to Respondent is held by federal judicial authority to be invalid, the application to Respondent of the remainder of the Order shall remain in full force and effect and shall not be affected by such a holding.

45. 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.

46. This order does not affect the obligation of Respondent to comply with all federal, state, and local statutes, regulations and permits.

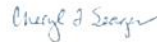
47. This Order shall be **EFFECTIVE IMMEDIATELY** upon receipt by the Respondent.

48. This Order shall remain in effect unless and until revoked, terminated, suspended, or modified, in writing by the EPA.

49. EPA may subsequently amend this Order, in writing, in accordance with the authority of FIFRA. Any amendment will be transmitted to Respondent. In the event of any such subsequent amendment to this Order, all requirements for performance of this Order not affected by the amendment shall remain as specified in the original Order.

**Other Matters**

50. For any additional information about this Stop Sale, Use or Removal Order please contact Kenneth R. McPherson, EPA Region 6 Air Enforcement Branch, at (214) 665-6754 or [mcperson.kenneth@epa.gov](mailto:mcperson.kenneth@epa.gov). For any legal matters concerning this Order, you are encouraged to contact Nathan Taylor, Office of Regional Counsel, at (214) 665-3128 or [taylor.nathan@epa.gov](mailto:taylor.nathan@epa.gov).



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Cheryl  
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Cheryl T. Seager  
Director  
Enforcement  
and Compliance Assurance Division  
U.S. EPA, Region 6

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of foregoing Stop Sale, Use, and Removal  
Order were sent on this day via electronic mail to:

Patrick Haddad  
patrick.haddad@disinfectandshield.com

**Taylor, Nathan**

Digitally signed by Taylor, Nathan  
DN: cn=Taylor, Nathan,  
email=taylor.nathan@epa.gov  
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Signed  
Office of Regional Counsel  
U.S. EPA, Region 6