



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

Ref: 8ENF-UFO

**VIA CERTIFIED MAIL - RETURN RECEIPT REQUESTED
AND ELECTRONIC TRANSMISSION**

Sean Daley, Registered Agent
J.F. Daley International, LTD
4675 Kingston Street
Denver, CO 80239

Re: STOP SALE, USE OR REMOVAL ORDER
J.F. Daley International, LTD (Daley International)

Dear Mr. Daley:

Enclosed is a Stop Sale, Use or Removal Order (Order) issued by the United States Environmental Protection Agency (EPA), Region 8 for pesticidal products P.G.C.-6, also distributed as PEPCO D-C (EPA Reg No. 1190-40) and Mist Away Bathroom Cleaner, also distributed as Mist Away Cleaner – Disinfectant (EPA Reg No. 421-435) formulated at Daley International. These products were subject to the July 15, 2011 Cancellation Order for Section 24(c) Pesticide Product Registration, issued under section 4(i)(5)(G) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), for nonpayment of annual registration maintenance fees. ***The Order is effective immediately upon receipt.***

Section 13(a) of FIFRA, 7 U.S.C. § 136k(a), authorizes the United States Environmental Protection Agency (EPA) to issue an order prohibiting the sale, use, or removal of any pesticide by any person who owns, controls, or has custody of such pesticide whenever there is reason to believe the pesticide is in violation of any provision of FIFRA or has been or is intended to be distributed or sold in violation of FIFRA. As explained further in the enclosed Order, EPA has reason to believe that Daley International distributed or sold cancelled pesticide products.

If you have any questions about this matter, you may contact me at 303-312-6392, or by email at oconnor.darcy@epa.gov. For any legal-related questions, please contact Eduardo Quintana, Senior Enforcement Attorney by phone: 303-312-6924 or by email at quintana.eduardo@epa.gov.

Sincerely,

Darcy O'Connor, Acting Director,
Technical Enforcement Program UIC-FIFRA-OPA
Office of Enforcement, Compliance and
Environmental Justice (8-ENF-UFO)
U.S. Environmental Protection Agency, Region 8

Enclosures

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2012 SEP 14 PM 3:12

In the Matter of:)

J.F. Daley International, LTD)
4675 Kingston Street)
Denver, CO 80239,)

Respondent)

STOP SALE, USE,
OR REMOVAL ORDER

Docket Number: FIFRA08-2012-0010

I. AUTHORITIES

1. The United States Environmental Protection Agency (EPA) issues this Stop Sale, Use, or Removal Order (Order) pursuant to the authority vested in the Administrator of the EPA by section 13(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, 7 U.S.C. § 136k(a), which authorizes the Administrator of the EPA to issue orders 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 the pesticide or device is in violation of any provision of FIFRA, or that such pesticide or device has been or is intended to be distributed or sold in violation of any such provisions, or when the registration has been cancelled by a final order.
2. Supervisors in the Technical Enforcement Program and the Legal Enforcement Program have been jointly delegated the authority to issue such orders.
3. Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), states "it shall be unlawful for any person in any State to distribute or sell to any person any pesticide that is not registered under section 136a of this title or whose registration has been cancelled or suspended, except to the extent that distribution or sale otherwise has been authorized by the Administrator under this subchapter."
4. Section 12(a)(2)(I) of FIFRA, 7 U.S.C. § 136j(a)(2)(I), states it shall be unlawful for any person to violate any order issued under section 13 of FIFRA.
5. Section 2(s) of FIFRA, 7 U.S.C. § 136(s), defines a "person" as "any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not."
6. Section 2(gg), 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 a "pesticide," in part, as "any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest."

8. Section 2(t) of FIFRA, 7 U.S.C. § 136(t), defines “pest,” in part as “any [] form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism (except viruses, bacteria, or other micro-organisms on or in living man or other living animals) which the Administrator declares to be a pest under section [25(c)(1) of FIFRA].”

II. BACKGROUND

9. J.F. Daley International, LTD (Daley International) is a corporation organized under the laws of the State of Illinois and is authorized to do business in the State of Colorado.
10. Daley International, is a “person” as defined in section 2(s) of FIFRA, 7 U.S.C. § 136(s).
11. Daley International produces or has produced pesticidal products including P.G.C. -6, also distributed as PEPCO D-C; and Mist Away Bathroom Cleaner, also distributed as Mist Away Cleaner - Disinfectant.
12. On July 15, 2011, EPA issued a Cancellation Order for Section 24(c) Pesticide Product Registration, issued under section 4(i)(5)(G) of FIFRA, for nonpayment of annual registration maintenance fees (Cancellation Order). This Cancellation Order specifically stated that EPA Registration Number 1190-40 for pesticide product PEPCO D-C, also distributed as P.G.C. -6, and EPA Registration Number 421-435 for pesticide product Mist Away Cleaner – Disinfectant, also distributed as Mist Away Bathroom Cleaner, had been cancelled and could no longer be produced after the date of the Cancellation Order.
13. The July 15, 2011, Cancellation Order stated that existing stock of pesticide products with EPA Registration Numbers 1190-40 and 421-435 could be sold or distributed through January 15, 2012. Sale or distribution of these products were prohibited after January 15, 2012.

III. BASIS FOR ORDER

14. On September 12, 2012, two EPA inspectors conducted a FIFRA inspection at Daley International’s facility at 4675 Kingston Street, Denver, CO 80239.
15. During the inspection, the inspectors observed P.G.C. -6 (EPA Reg No. 1190-40) and Mist Away Bathroom Cleaner (EPA Reg No. 421-435) on Daley International’s storage shelves.
16. The inspectors obtained production information regarding the P.G.C. -6 and Mist Away Bathroom Cleaner in stock at Daley International that indicated that the pesticides were produced after July 15, 2011.

17. Therefore, EPA has a reason to believe that Daley International has been and is producing, distributing or selling the pesticide products P.G.C. -6, also distributed as PEPCO D-C (EPA Reg No. 1190-40), and Mist Away Bathroom Cleaner, also distributed as Mist Away Cleaner - Disinfectant (EPA Reg No. 421-435), whose registration has been cancelled, in violation of FIFRA section 12(a)(1)(A), 7 U.S.C. § 136j(a)(1)(A).

IV. ORDER

18. The EPA hereby orders Daley International to stop the sale, use, or removal of pesticides subject to the Cancellation Order which include EPA Registration Numbers 1190-40 and 421-435, also known by product names P.G.C. -6, PEPCO D-C, Mist Away Bathroom Cleaner and Mist Away Cleaner - Disinfectant, EFFECTIVE IMMEDIATELY.
19. This Order pertains to all quantities and sizes of P.G.C. -6, also distributed as PEPCO D-C (EPA Reg No. 1190-40) and Mist Away Bathroom Cleaner, also distributed as Mist Away Cleaner - Disinfectant (EPA Reg No. 421-435), within the ownership, control, or custody of Daley International or any other entity producing the products. P.G.C. -6, also distributed as PEPCO D-C (EPA Reg No. 1190-40) and Mist Away Bathroom Cleaner, also distributed as Mist Away Cleaner - Disinfectant (EPA Reg No. 421-435), shall not be sold, used, or removed other than in accordance with the provisions of this Order or any further Stop Sale, Use, or Removal Order that may be issued in connection with the products.
20. By September 21, 2012, Daley International must submit a written inventory for P.G.C. -6, also distributed as PEPCO D-C (EPA Reg No. 1190-40) and Mist Away Bathroom Cleaner, also distributed as Mist Away Cleaner - Disinfectant (EPA Reg No. 421-435), within its custody or control and subject to this Order. The inventory shall list the quantity and location of all products and include plans for product storage or disposal. The products subject to this Order shall not be moved, destroyed or disposed of without prior written consent from EPA. This inventory must be submitted to the following person or to such other person as EPA designates in writing:

Dan Webster
US EPA Region 8 (ENF-UFO)
1595 Wynkoop Street
Denver, CO 80202

21. Any violation of the terms or provisions of this Order by an officer, agent, or other person acting for or employed by Daley International may subject the violator as well as Daley International to civil or criminal penalties as prescribed in section 14 of FIFRA, 7 U.S.C. § 136f.
22. 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.
23. This Order shall be EFFECTIVE IMMEDIATELY upon receipt by Respondent.

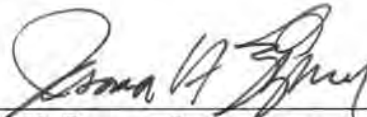
24. If any provision(s) of this Order are subsequently held to be invalid, illegal, or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby and they shall remain in full force and effect. The terms of this Order shall remain in effect unless and until the EPA modifies or terminates either the Order or certain provisions of the Order in writing.

Sep 14, 2012
Date



Darcy O'Connor, Acting Director
Technical Enforcement Program UIC-FIFRA-OPA
Office of Enforcement, Compliance and
Environmental Justice (8-ENF-UFO)
U.S. Environmental Protection Agency,
Region VIII

Sep 14, 2012
Date



James H. Eppers, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance and
Environmental Justice
U.S. Environmental Protection Agency,
Region VIII

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the original and one copy of the STOP SALE, USE, OR REMOVAL ORDER was hand-carried to the Regional Hearing Clerk, EPA Region 8, 1595 Wynkoop Street, Denver, Colorado, and that a true copy of the same, with enclosures, was sent via certified mail to:

Sean Daley, Registered Agent
J.F. Daley International, LTD
4675 Kingston Street
Denver, CO 80239

9/14/12
Date

Sue L. Zaynard
Sue Zaynard