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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 HAWTHORNE STREET  
SAN FRANCISCO, CALIFORNIA 94105

|                       |   |                               |
|-----------------------|---|-------------------------------|
| In the Matter of:     | ) |                               |
|                       | ) |                               |
| Daiso California LLC, | ) | Docket No. FIFRA-09-2023-0034 |
|                       | ) |                               |
|                       | ) | CONSENT AGREEMENT AND         |
|                       | ) | FINAL ORDER PURSUANT TO       |
| Respondent.           | ) | 40 C.F.R. §§ 22.13 AND 22.18  |
|                       | ) |                               |

**I. CONSENT AGREEMENT**

The United States Environmental Protection Agency, Region IX ("EPA"), and Daiso California LLC ("Respondent") agree to settle this matter and consent to the entry of this Consent Agreement and Final Order ("CAFO"), which simultaneously commences and concludes this matter in accordance with 40 C.F.R. §§ 22.13 and 22.18.

**A. AUTHORITY AND PARTIES**

1. This proceeding is a civil administrative action brought pursuant to Section 14(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA" or "the Act"), 7 U.S.C. § 136l(a)(1), for the assessment of a civil administrative penalty against Respondent for violations of Section 12 of the Act, 7 U.S.C. § 136j.

2. Complainant is the Manager of the Toxics Section of the Enforcement and Compliance Assurance Division, EPA Region IX, who has been duly delegated the authority to bring this action and to sign a consent agreement settling this action.

3. Respondent is a California corporation whose headquarters is located at 16400 Trojan Way, La Mirada, California 90638.

#### B. STATUTORY AND REGULATORY BACKGROUND

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(b) of FIFRA, 7 U.S.C. § 136(b), defines the term "Administrator" as "the Administrator of the Environmental Protection Agency."

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

7. Section 2(t) of FIFRA, 7 U.S.C. § 136(t), defines a "pest" as 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 (except viruses, bacteria, or other living 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, 7 U.S.C. § 136 w(c)(1).

8. 40 C.F.R. § 152.15 states in pertinent part that "a pesticide is any substance (or mixture of substances) intended for a pesticidal purpose..." and that a substance is considered to be intended for a pesticidal purpose, and thus to be a pesticide requiring registration, if: (a) The person who distributes or sells the substance claims, states, or implies (by labeling or otherwise) that: (1) the substance (either by itself or in combination with any other substance) can or should

be used as a pesticide; or (2) the substance consists of or contains an active ingredient and that it can be used to manufacture a pesticide; or (b) The substance consists of or contains one or more active ingredients and has no significant commercially valuable use as distributed or sold other than (1) use for pesticidal purpose (by itself or in combination with any other substance), (2) use for manufacture of a pesticide; or (c) The person who distributes or sells the substance has actual or constructive knowledge that the substance will be used, or is intended to be used, for a pesticidal purpose.

9. Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), defines the phrase "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.

10. Section 3(a) of FIFRA, 7 U.S.C. § 136a(a), provides that no person in any State may distribute or sell to any person any pesticide that is not registered under this Act.

11. Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), provides that 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 3 of FIFRA.

12. The Administrator of EPA may assess a civil penalty of up to \$23,494 against any registrant, commercial applicator, wholesaler, dealer, retailer, or other distributor who violates any provision of FIFRA for each offense that occurred after November 2, 2015 and is assessed on or after January 6, 2023. See Section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1), as amended by the Civil Monetary Penalty Inflation Adjustment Rule at 40 C.F.R. Part 19 (88 Fed. Reg. 988).

### C. ALLEGED VIOLATIONS

13. At all times relevant to this CAFO, Respondent was a corporation and therefore a "person," as that term is defined by Section 2(s) of FIFRA, 7 U.S.C. § 136(s).

14. At all times relevant to this CAFO, Respondent owned, operated or otherwise controlled a retail store located at 7000 El Cerrito Plaza in El Cerrito, California ("the Retail Store").

15. As a retailer and by doing business in the United States, Respondent is subject to the requirements of FIFRA and its implementing regulations.

16. On March 23, 2021, EPA Region IX inspectors found Respondent offering for sale the product, "Daiso Plus Wet Wipes," at the Retail Store.

17. The labels on the product, "Daiso Plus Wet Wipes," contained the claims "[u]se for sterilizing kitchenware and other items" and "all purpose."

18. Based on the claims on its labels, the product, "Daiso Plus Wet Wipes," is a "pesticide" pursuant to Section 2(u) of FIFRA, 7 U.S.C. § 136(u), and 40 C.F.R. § 152.15.

19. From on or about March 1, 2020 to on or about March 24, 2021, Respondent "distributed or sold" the pesticide, "Daiso Plus Wet Wipes," at the Retail Store, as defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), in at least 165 transactions.

20. At all times relevant to this CAFO, the pesticide, "Daiso Plus Wet Wipes," was not registered with EPA under section 3 of FIFRA.

21. Consequently, Respondent's distributions or sales of the pesticide, "Daiso Plus Wet Wipes," at the Retail Store from on or about March 1, 2020 to on or about March 24, 2021 constitute 165 violations of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136(j)(a)(1)(A), which provides that it is unlawful for any person to distribute or sell to any person a pesticide that is not registered under section 3 of FIFRA.

#### D. RESPONDENT'S ADMISSIONS

22. In accordance with 40 C.F.R. § 22.18(b)(2) and for the purpose of this proceeding, Respondent (i) admits that EPA has jurisdiction over the subject matter of this CAFO and over Respondent; (ii) neither admits nor denies the specific factual allegations contained in Section I.C of the CAFO; (iii) consents to any and all conditions specified in this CAFO and to the assessment of the civil administrative penalty under Section I.E of the CAFO; (iv) waives any right to contest the allegations contained in Section I.C of the CAFO; and (v) waives the right to appeal the proposed final order contained in the CAFO.

#### E. CIVIL ADMINISTRATIVE PENALTY

30. Respondent agrees to the assessment of a penalty in the amount of SIX HUNDRED AND TWO THOUSAND, THREE HUNDRED AND EIGHTY-SIX DOLLARS (\$602,386) as final settlement of the civil claims against Respondent arising under the Act as alleged in Section I.C of the CAFO.

31. Respondent shall pay the assessed penalty no later than thirty (30) days from the effective date of this CAFO. Payment shall be made by cashier's or certified check payable to the "Treasurer, United States of America," or be paid by one of the other methods listed below:

a. Respondent may pay online through the Department of the Treasury website at [www.pay.gov](http://www.pay.gov). In the Search Public Form field, enter SFO 1.1, click EPA Miscellaneous Payments - Cincinnati Finance Center, and complete the SFO Form Number 1.1.

b. Respondent may also pay the civil penalty using any method, or combination of methods, provided on the following website:

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

32. If any clarification regarding a particular method of payment remittance is needed, please contact the EPA Cincinnati Finance Center at 513-487-2091. The payment shall be accompanied by a transmittal letter identifying the case name, the case docket number, and this CAFO. Concurrent with delivery of the payment of the penalty, Respondent shall send a copy of the check or notification that the payment has been made by one of the other methods listed above, including proof of the date payment was made, and transmittal letter to the following addresses:

Regional Hearing Clerk  
Office of Regional Counsel (ORC-1)  
U.S. Environmental Protection Agency, Region IX  
[r9HearingClerk@epa.gov](mailto:r9HearingClerk@epa.gov)

Timothy Hyles  
Enforcement and Compliance Assurance Division (ENF-2-3)  
U.S. Environmental Protection Agency, Region IX  
[hyles.timothy@epa.gov](mailto:hyles.timothy@epa.gov)

33. Payment of the above civil administrative penalty shall not be used by Respondent or any other person as a tax deduction from Respondent's federal, state, or local taxes.

34. If Respondent fails to pay the assessed civil administrative penalty specified in Paragraph 30 by the deadline specified in Paragraph 31, then Respondent shall pay to EPA the stipulated penalty of FIVE HUNDRED DOLLARS (\$500.00) for each day the default continues, in addition to the assessed penalty upon written demand by EPA. In addition, failure to pay the civil administrative penalty by the deadline specified in Paragraph 31 may lead to any or all of the following actions:

- a. The debt being referred to a credit reporting agency, a collection agency, or to the Department of Justice for filing of a collection action in the appropriate United States District Court. 40 C.F.R. §§ 13.13, 13.14, and 13.33. In any such collection

action, the validity, amount, and appropriateness of the assessed penalty and of this CAFO shall not be subject to review.

- b. The debt being collected by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the 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. EPA may (i) suspend or revoke Respondent's licenses or other privileges; or (ii) suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds. 40 C.F.R. § 13.17.
- d. In accordance with the Debt Collection Act of 1982 and 40 C.F.R. Part 13 interest, penalties charges, and administrative costs will be assessed against the outstanding amount that Respondent owes to EPA for Respondent's failure to pay the civil administrative penalty by the deadline specified in Paragraph 31. Interest will be assessed at an annual rate that is equal to the rate of current value of funds to the United States Treasury (i.e., the Treasury tax and loan account rate) as prescribed and published by the Secretary of the Treasury in the Federal Register and the Treasury Fiscal Requirements Manual Bulletins. 40 C.F.R. § 13.11(a)(1). Penalty charges will be assessed monthly at a rate of 6% per annum. 40 C.F.R. § 13.11(c). Administrative costs for handling and collecting Respondent's overdue debt will be based on either actual or average cost incurred and will include both direct and indirect costs. 40 C.F.R. § 13.11(b). In addition, if this matter is referred to another department or agency (e.g., the Department of Justice, the Internal Revenue Service), that department or agency may assess its own

administrative costs, in addition to EPA's administrative costs, for handling and collecting Respondent's overdue debt.

#### F. CERTIFICATION OF COMPLIANCE

35. In executing this CAFO, Respondent certifies that, to its knowledge, it is currently in compliance with any FIFRA requirements that may apply to its ongoing operations.

#### G. RETENTION OF RIGHTS

36. In accordance with 40 C.F.R. § 22.18(c), this CAFO only resolves Respondent's liability for federal civil penalties for the violations and facts specifically alleged in Section I.C of the CAFO. Nothing in this CAFO is intended to or shall be construed to resolve (i) any civil liability for violations of any provision of any federal, state, or local law, statute, regulation, rule, ordinance, or permit not specifically alleged in Section I.C of the CAFO; or (ii) any criminal liability. EPA specifically reserves any and all authorities, rights, and remedies available to it (including, but not limited to, injunctive or other equitable relief or criminal sanctions) to address any violation of this CAFO or any violation not specifically alleged in Section I.C of the CAFO.

37. This CAFO does not exempt, relieve, modify, or affect in any way Respondent's duty to comply with all applicable federal, state, and local laws, regulations, rules, ordinances, and permits.

#### H. ATTORNEY'S FEES AND COSTS

38. Each party shall bear its own attorneys' fees, costs, and disbursements incurred in this proceeding.

#### I. EFFECTIVE DATE

39. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CAFO shall be effective on the date that the final order contained in this CAFO, having been approved and issued by either the Regional Judicial Officer or Regional Administrator, is filed.



J. BINDING EFFECT

40. The undersigned representative of Complainant and the undersigned representative of Respondent each certifies that he or she is fully authorized to enter into the terms and conditions of this CAFO and to bind the party he or she represents to this CAFO.

41. The provisions of this CAFO shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns.

FOR RESPONDENT, DAISO CALIFORNIA LLC

3/22/2023

DATE

Tomohiro Takao

Takao Tomohiro  
President  
Daiso California LLC

FOR COMPLAINANT, EPA REGION IX:

4/26/2023

DATE

MATTHEW  
SALAZAR

Digitally signed by  
MATTHEW SALAZAR  
Date: 2023.04.26 08:04:50  
-07'00'

Matt Salazar, PE  
Manager, Toxics Section  
Enforcement and Compliance Assurance Division  
U.S. Environmental Protection Agency, Region IX



