



OFFICE OF CIVIL ENFORCEMENT

WASHINGTON, D.C. 20460

February 15, 2024

SENT VIA EMAIL TO ewilson2@siteone.com

Mr. Edward Wilson
Director of Compliance
SiteOne Landscape Supply, Inc.
300 Colonial Center Parkway, Suite 600
Roswell, Georgia 30076

Re: Stop Sale, Use, or Removal Order (SSURO) to SiteOne Landscape Supply, Inc.
Docket No. FIFRA-HQ-2024-5011

Dear Mr. Wilson:

Enclosed is a Stop, Sale, Use, or Removal Order (SSURO or "the Order") issued by the United States Environmental Protection Agency (EPA or "the Agency") concerning the pesticide product LESCO Dimension 0.21% Plus Fertilizer (EPA Reg. No. 10404-87). This SSURO requires SiteOne Landscape Supply (SiteOne) to immediately halt the sale, use, or removal of LESCO Dimension 0.21% Plus Fertilizer products except for distributions provided for by the Order.

Section 13(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 136k(a), authorizes the Administrator of 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 a reason to believe that the pesticide is in violation of any provision of FIFRA, or has been or is intended to be distributed or sold in violation of any provision of FIFRA. EPA has reason to believe that SiteOne has distributed or sold misbranded LESCO Dimension 0.21% Plus Fertilizer. The distribution or sale of a misbranded pesticide is an unlawful act pursuant to Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

The issuance of this SSURO shall not act as a waiver by EPA of any enforcement or other authority available to the Agency under federal law, including the Agency's 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 that may occur outside the coverage of this Order.

If you have any questions about this matter, please contact Abdul Ibrahim, Case Development Officer, by telephone at (202) 564-2496 or by email at ibrahim.abdul@epa.gov. For any legal matters, you may

contact Christine Trostler, Attorney-Adviser, by telephone at (202) 564-2240 or by email at trostler.christine@epa.gov.

Sincerely,

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

Enclosures: Stop Sale, Use, or Removal Order, Docket No. FIFRA-HQ-2024-5011
Transportation Plan (Appendix A)

cc: Cynthia Stroman
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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF ENFORCEMENT AND COMPLIANCE ASSURANCE**

IN THE MATTER OF:)	
)	
SiteOne Landscape Supply, Inc.)	STOP SALE, USE, OR REMOVAL ORDER
300 Colonial Center Parkway)	
Suite 600)	Docket No. FIFRA-HQ-2024-5011
Roswell, GA 30076)	
)	
)	
Respondent)	
_____)	

I. AUTHORITIES

1. The Environmental Protection Agency (EPA or the “Agency”) regulates pesticides and pesticide devices pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA or “the Act”), as amended. 7 U.S.C. §§ 136-136y.
2. Section 13(a) of FIFRA, authorizes 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 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 has been delegated from the EPA Administrator to the Assistant Administrator of the Office of Enforcement and Compliance Assurance (OECA), who in turn delegated this authority to the Director of the Office of Civil Enforcement (OCE), who in turn delegated this authority to the Director of the Waste and Chemical Enforcement Division (WCED), who in turn delegated this authority to the branch chief of the Pesticides and Tanks Enforcement Branch (PTEB).¹

II. BASIS FOR THE ORDER

4. Section 12(a)(1)(E) of FIFRA provides that it is unlawful “for any person in any State to distribute or sell to any person any pesticide which is adulterated or misbranded.” 7 U.S.C. § 136j(a)(1)(E).
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).

¹ EPA Administrator Delegation of Authority 5-12. Issuance of Stop Sale, Use or Removal Orders (1200 TN 350 5-12) (January 2017); OECA Redelegation 5-12 (January 2017); OCE Redelegation 5-12 (January 2017); WCED Redelegation 5-12 (January 2017).

6. 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).
7. Section 2(t) of FIFRA defines a “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 microorganism (except viruses, bacteria, or other microorganisms 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(t).
8. 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).
9. Under Section 2(q)(1)(F) of FIFRA, a pesticide is “misbranded” if, among other things, “the labeling accompanying it does not contain directions for use which are necessary for effecting the purpose for which the product is intended and if complied with, together with any requirements imposed under [section 3(d) of FIFRA], are adequate to protect health and the environment.” 7 U.S.C. § 136(q)(1)(F).
10. Under Section 2(q)(2)(A) of FIFRA, a pesticide is “misbranded” if “the label does not bear an ingredient statement on that part of the immediate container (and on the outside container or wrapper of the retail package, if there be one, through which the ingredient statement on the immediate container cannot be clearly read) which is presented or displayed under customary conditions of purchase” subject to certain exemptions that are not relevant to this matter. 7 U.S.C. § 136(q)(2)(A).
11. Section 2(p)(1) of FIFRA defines “label” as 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).
12. Section 2(p)(2) of FIFRA defines “labeling” as “all labels and all other written, printed, or graphic matter—
 - a) accompanying the pesticide or device at any time; or
 - b) to which reference is made on the label or in literature accompanying the pesticide....”
 7 U.S.C. § 136(p)(2).
13. The regulation set forth at 40 C.F.R. § 156.10(a)(1) states that, “[e]very pesticide product shall bear a label containing the information specified by [FIFRA] and the regulations in [Part 156]” clearly and prominently, including but not limited to, “(vi) [a]n ingredient statement as prescribed in paragraph (g) of this section ... “ and “(viii) [t]he directions for use as prescribed in paragraph (i) of this section ...”

14. Section 2(n)(1) of FIFRA defines the term “ingredient statement” to mean “a statement which contains the name and percentage of each active ingredient, and the total percentage of all inert ingredients, in the pesticide.” 7 U.S.C. § 136(n)(1).
15. The regulation set forth at 40 C.F.R. § 156.10(i)(2) states that “[t]he directions for use shall include the following under the headings ‘Directions for Use’, including but not limited to:
 - a) (vii) The frequency and timing of applications necessary to obtain effective results without causing unreasonable adverse effects on the environment”
 - b) “(xi) Specific directions concerning the storage, residue removal and disposal of the pesticide and its container, in accordance with subpart H of [Part 156] ...”
16. The regulation set forth at 40 C.F.R. § 156.10(g)(1) states that “[t]he label of each pesticide product must bear a statement which contains the name and percentage by weight of each active ingredient, the total percentage by weight of all inert ingredients; and if the pesticide contains arsenic in any form, a statement of the percentages of total and water-soluble arsenic calculated as elemental arsenic. The active ingredients must be designated by the term “active ingredient” and the inert ingredients by the term “inert ingredients” or the singular forms of these terms when appropriate. Both terms shall be in the same type size, be aligned to the same margin and be equally prominent. The statement “Inert Ingredients, none” is not required for pesticides which contain 100 percent active ingredients. Unless the ingredient statement is a complete analysis of the pesticide, the term “analysis” shall not be used as a heading for the ingredient statement.”
17. Furthermore, 40 C.F.R. § 156.10(g)(2) states that the ingredient statement is “normally required on the front panel of the label” unless “there is an outside container or wrapper through which the statement cannot be clearly read” or if the size or form of the package makes placement on the front panel impracticable.
18. SiteOne Landscape Supply, Inc. (“SiteOne”) is a Delaware corporation with its principal place of business in Roswell, Georgia, therefore SiteOne is a “person” as defined in section 2(s) of FIFRA, 7 U.S.C. § 136(s).
19. This SSURO refers to SiteOne and all its divisions, offices, and branches, collectively, as “SiteOne.”
20. LESCO is a wholly owned subsidiary of SiteOne and the registrant of LESCO Dimension™ 0.21% Plus Fertilizer (“LESCO Dimension” or “the Product”), an herbicide-fertilizer product with the active ingredient dithiopyr (EPA Reg. No. 10404-87).
21. LESCO Dimension is a “pesticide” as that term is defined in Section 2(u) of FIFRA, 7 U.S.C. § 136(u).
22. LESCO Dimension is sold to Lowe’s Companies, Inc. (Lowe’s), which operates a chain of retail home improvement stores across the United States.

23. SiteOne has two label versions of LESCO Dimension on file with EPA which are designated as commercial and non-commercial. The Product involves the non-commercial label.
24. In August 2023, the Oregon Department of Agriculture (ODA) conducted a marketplace inspection at a Lowe's retail store in Keizer, OR. The inspector observed that the label on the Product deviated from the EPA-accepted label in that it was missing the ingredient statement and certain directions for use. ODA referred the matter to EPA Region 10 for further investigation.
25. In September 2023, EPA's Office of Enforcement and Compliance Assurance (OECA) was notified of misbranded Product being sold and distributed at the Lowe's retail store in Keizer, OR. Subsequently, EPA-credentialed inspectors began collecting and reviewing additional information regarding the Product's labeling.
26. EPA observed that at the time SiteOne distributed and sold the Product to Lowes, at least the following labeling elements were absent from the Product's label:
 - a) An ingredient statement as required by 40 C.F.R. § 156.10(a)(1)(vi);
 - b) Directions for Use, specifically, the "When to Apply this Product" legend that accompanies the "North-South Use Regions in the United States" graphic in the label's directions for use section as required by 40 C.F.R. §§ 156.10(a)(1)(viii) and 156.10(i)(2)(vii); and
 - c) Directions for Use, specifically related to storage and disposal of the pesticide, as required by §§ 156.10(a)(1)(viii) and 156.10(i)(2)(xi).
28. Based on records provided by SiteOne, between December 4, 2020 and August 1, 2023, SiteOne sold and distributed to Lowes at least 390 bulk shipments² of LESCO Dimension with the missing labeling elements.
29. For all the reasons stated in Paragraphs 4 – 28, EPA has reason to believe that the Product is misbranded pursuant to Section 2(q)(1)(F) and 2(q)(2)(A) of FIFRA. 7 U.S.C. §§ 136(q)(1)(F) and 136(q)(2)(A).
30. For all the reasons stated in Paragraphs 4-30, EPA has reason to believe based on inspections that SiteOne distributed or sold, and intends to further distribute or sell, misbranded pesticides in violation of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

III. ORDER

31. SiteOne is ordered to immediately cease any distribution, sale, use, or removal of all Product with missing labeling elements as identified in this SSURO including but not limited to those products identified by EPA registration number in SiteOne's Transportation Plan, detailed below.
32. This Order shall pertain to all inventory of Product under the ownership, control, or custody of

² Bulk shipments contained at least 166,780 individual 50-lb. bags of LESCO Dimension.

SiteOne wherever such products are located except in accordance with provisions of the Order.

33. The Product shall not be sold, offered for sale, held for sale, shipped, delivered for shipment, received or, having been so received, delivered, offered for delivery, moved, or removed, for any reason, other than in accordance with the provisions of this SSURO or subsequent modifications to this Order.
34. SiteOne has proposed to rework the Product to make the Product's sale or distribution compliant with FIFRA. Specifically, SiteOne proposed that it be permitted to: consolidate and hold the product at EPA-registered establishments and make corrections and/or relabel the Product to address the misbranding issues ("Transportation Plan"). A non-CBI version of the Transportation Plan's details are appended in Appendix A.
35. This Order authorizes SiteOne's movement of the Products pursuant to its Transportation Plan and the following provisions are established as part of this Order:
 - a) No Products shall be distributed except for the sole purpose of transferring to the EPA-registered establishments pursuant to the Transportation Plan.
 - b) Upon Product's arrival at the EPA-registered establishments, Products must be appropriately segregated and marked as not for distribution or sale.
 - c) SiteOne shall within thirty (30) calendar days of completing the Products' movement submit to EPA any discrepancies between its proposed Transportation Plan and the executed Transportation Plan that reflects any adjustments, such as shifts of inventory at certain Lowe's locations or changes in routing.
 - d) Any movement or removal of any Products made without prior written authorization from EPA in accordance with this paragraph constitutes a violation of this SSURO and the distribution or sale of a misbranded pesticide in violation of FIFRA.
 - e) The distribution, sale, and use of Product that has been reworked and released shall not be deemed a violation of this Order, provided that the Product is fully compliant with FIFRA.
 - f) If any movement or removal of the Product is for the purposes of disposal, SiteOne must comply with all applicable federal, state, and local laws.
 - g) SiteOne will document and maintain records of Product's rework activity (i.e., relabeling, disposal) and submit those records to EPA when rework activity is complete. SiteOne shall report to EPA the date and quantity of Product that was relabeled or disposed of, a copy of the final EPA accepted label, and photographs of the printed marketplace label on the product being released for sale and distribution.
 - h) All requests and reporting must be made in writing by electronic mail to Christine Trostler at trostler.christine@epa.gov and Abdul Ibrahim at ibrahim.abdul@epa.gov.

IV. OTHER MATTERS

36. SiteOne may assert a business confidentiality covering all or part of the above information requested, in the manner described by 40 C.F.R. § 2.203(b). You should read the above-cited regulations carefully before asserting a business confidentiality claim, since certain categories of information are not properly the subject of such a claim. If no such claim accompanies the information when it is received by the EPA, the information may be made available to the public by EPA without further notice.
37. This Order shall be effective immediately upon receipt by an agent, owner, or operator of SiteOne.
38. Section 12(a)(2)(I) of FIFRA provides that it is unlawful for any person to violate any order issued under section 13 of FIFRA. 7 U.S.C. § 136(a)(2)(I).
39. Any agent, owner, or operator of SiteOne violating the terms or provisions of this order may be subject to civil or criminal penalties as prescribed by Section 14 of FIFRA, 7 U.S.C. 136/.
40. The issuance of this Order shall not constitute a waiver by EPA of any enforcement or other authority available to EPA under federal law.
41. This Order shall remain in effect unless and until terminated or modified in writing by EPA.
42. If any provision or provisions of this Order is/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.
43. SiteOne may seek federal judicial review of this Order pursuant to Section 16 of FIFRA, 7 U.S.C. § 136n.

Date

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