



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 7 2016

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

Mr. Wes Long
Chief Executive Officer
Douglas Products and Packaging Company, LLC
1550 E. Old Highway 210
Liberty, Missouri 64068

Dear Mr. Long:

This letter addresses two pesticide products registered by Douglas Products and Packaging Company, LLC ("Douglas Products"): PH3 Aluminum Phosphide Fumigant Pellets (EPA Reg. No. 1015-74) and PH3 Aluminum Phosphide Fumigant Tablets (EPA Reg. No. 1015-76) (collectively "PH3 Pesticide Products"). These products were subject to two Stop Sale, Use, or, Removal Orders ("SSUROs") issued by the Environmental Protection Agency (EPA) on April 5, 2016 and May 10, 2016 because the EPA had reason to believe that these PH3 Products were misbranded pesticides. In response to those orders and other EPA compliance activities, Douglas Products sought and received EPA approval for amended labels for those products on April 27, 2016. In accordance with the terms of the second SSURO, the EPA on June 1, 2016 issued a letter authorizing Douglas Products to distribute and sell PH3 Products bearing the newly approved labels.

On June 8, 2016, two shipments of PH3 Products from China arrived in Kansas City, MO under Entry No. 568-0614758-5. On June 14, 2016, inspectors from the Missouri Department of Agriculture, acting on behalf of the EPA Region VII, conducted a for-cause inspection of these two shipments. Upon review of inspection documentation, product containers, and product labeling, the EPA has determined that the PH3 Products were misbranded because the product containers were missing batch codes. FIFRA's implementing regulations at 40 C.F.R. § 156.140(a)(4) require that all non-refillable containers for pesticide products (other than plant-incorporated protectants) have on the label or elsewhere on the container, a batch code, a lot number, or other code used by the registrant to identify the batch of the pesticide product which is distributed or sold.

On June 16, 2016, two shipments of PH3 Products arrived in Kansas City, MO under Entry No. 568-0614799-9, and on July 12 or 13, 2016, two shipments of PH3 Products are expected to arrive in Kansas City, MO under Entry No. 568-0000100-2. Douglas Products has informed the EPA that it believes the PH3 Products in these four shipments are missing batch codes.

This letter revokes EPA's authorization provided in the June 1, 2016 letter for the movement, distribution, and sale of those PH3 products in the four shipments and expected additional two shipments identified above. For these shipments, this letter authorizes the movement of PH3 Products by Douglas Products to its production establishment in Liberty, Missouri (EPA Est. No. 1015-MO-001) so that batch codes can be placed on them. This letter also authorizes the distribution and sale of these PH3 products bearing proper batch code numbers pursuant to 40 C.F.R. § 156.140(a)(4) and with labeling that is fully compliant with FIFRA.

Douglas products must provide sample photographs of relabeled PH3 products for EPA review and approval prior to the shipment of these products for distribution or sale. Douglas Products must also account for all PH3 Pesticide Products being moved and relabeled (i.e., batch code placement) pursuant to this letter. Douglas Products must provide to the EPA the following information regarding the product to be labeled, distributed, and sold under the authority of this letter:

- 1) The name, location, and EPA Establishment Registration Number for any facility where relabeling occurs;
- 2) The amount of product that is moved to the facility for relabeling;
- 3) The fate of any product that is not relabeled; and
- 4) The names and addresses of any distributors, retailers, or other customers that are receiving this product, the dates these shipments are being made to those entities, the amount of product in each shipment, and the name and address of any Douglas Products' facility from where these shipments are being made.

This information must be submitted no later than 15 days after this product has been shipped for distribution or sale. Multiple reports may be required in order to fully account for all labeling and movement of product pursuant to this release. This labeling is also subject to FIFRA section 7 annual production reporting requirements. (Because these requirements may overlap with reporting requirements imposed by the SSURO and June 1, 2016 letter, this schedule may be adjusted and steps taken to harmonize these reporting requirements – subject to the EPA's approval – to prevent or reduce redundant reporting.)

The SSURO remains in effect with respect to PH3 Pesticide Products. Any PH3 Pesticide Products moved for the purpose of labeling also remain subject to the SSURO until that product has, in fact, been labeled with the EPA-accepted label with batch codes. This authorization may be revoked at any time if the EPA, in the course of its investigation, determines that this product is no longer in compliance with FIFRA.

If you have any questions regarding this authorization, please contact Tom Charlton of my staff by phone at (202) 564-6960 or email at charlton.tom@epa.gov.

Sincerely,



James Miles, Chief *for*
Pesticides and Tanks Enforcement Branch
Waste and Chemical Enforcement Division

Cc: Lisa M. Campbell, Bergeson and Campbell, PC