

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2007 DEC -4 PM 2:31

Docket No.: FIFRA-08-2008-0004

FILLO
EPA REGION VIII
HEARING CLERK

To:)
)
Dave Andrus, Registered Agent)
Diatect International Corporation)
875 S Industrial Parkway)
Heber City, Utah 84032)
)

STOP SALE, USE, OR
REMOVAL ORDER

A. INTRODUCTION

1. The United States Environmental Protection Agency (EPA) is authorized under Section 13(a) of the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA"), as amended, 7 U.S.C. § 136(k)(a), to issue orders prohibiting the sale, use, or removal of any pesticide whenever there is reason to believe the pesticide is in violation of any provision of FIFRA.
2. The Director of the Technical Enforcement Program has been duly delegated the authority to issue such orders.
3. FIFRA § 12(a)(1)(E), 7 U.S.C. § 136(j)(a)(1)(E), provides that it shall be unlawful for any person in any State to distribute or sell to any person any pesticide which is adulterated or misbranded.
4. FIFRA § 2(q)(1)(A), 7 U.S.C. § 136(q)(1)(A), states a pesticide is misbranded if its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular.
5. FIFRA § 2(p)(2)(B), 7 U.S.C. § 136(q)(1)(A), states the term "labeling" means all labels and all other written, printed, or graphic matter to which reference is made on the label or in literature accompanying the pesticide.

B. ORDER

6. EPA hereby orders Diatect International Corporation to stop the sale, use, or removal of all pesticides owned, controlled or in the custody of Diatect International, for which labeling bears false or misleading statements.
7. This Order pertains to all quantities and sizes of pesticides for which misleading statements have been made. The product 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 any pesticide with misleading or false statements.
8. Any person violating the terms or provisions of this Order shall be subject to CIVIL or CRIMINAL PENALTIES or both as set forth in FIFRA § 14, 7 U.S.C. § 136(l).

9. This order shall be EFFECTIVE IMMEDIATELY upon receipt by any representative of Diatect International.

C. BASIS FOR ORDER

10. The Diatect International website (<http://diatect.com>) makes false or misleading statements, as stated in 40 C.F.R. 156(a)(5), for its pesticide products.

11. Pursuant to FIFRA § 2(q)(1)(A), a pesticide is misbranded if its labeling is false or misleading in any particular including both pesticidal and non-pesticidal claims. Examples of false and misleading statements in the labeling, which constitute misbranding, as seen and documented on the Diatect International website, include:

“INSECT CONTROL PRODUCTS

Safe & Effective Insect Control. All natural – less toxic than table salt.

Diatect makes a new generation of safe insect control products.

Lethal to insects – harmless to kids and pets.

Natural Insect Control Products that are Safe for Your Family.”

<http://diatect.com> Documented on 11/13/07.

“NATURAL INSECT CONTROL

Safe to use around children and pets.”

<http://diatect.com/natural-insect-control.php> Documented on 11/13/07.

“DIATECT’s Non-Toxic, Insect-Killing Products

DIATECT International’s products are made from a combination of natural ingredients...graded as less toxic than either table salt or aspirin.”

Diatomaceous Earth: DE. “DE is EPA labeled as GRAS (generally recognized as safe) in food production, water and the environment.”

<http://diatect.com/non-toxic-insect-killer.php> Documented on 11/16/07.

“FIRE ANT KILLER” EPA registration number 42850-4

“Plus!...they are also safer to use around children, pets, and homes.

Immediate access to treated areas - safer around people and pets.”

<http://www.diatect.com/fire-ant-killer.php> Documented on 10/03/07.

“BED BUG KILLER” EPA registration number 42850-4

“This means the Indoor Insect Killer is safe to use around children, pets, and throughout your home.” <http://www.diatect.com/bed-bug-killer-ppc.php> Documented on 10/03/07.

“FLEA & TICK KILLER FOR PETS” EPA registration number 42850-3

99% natural - safe around people and pets with immediate access to treated areas.

The Environmental Protection Agency classifies our indoor Insect Killer as "Least Toxic". This is the same classification as table salt.”

<http://www.diatect.com/flea-and-tick-killer.php> Documented on 10/03/07.

“ANT & INSECT KILLER” EPA registration number 42850-4

“This means the Ant & Insect Killer is safe to use around children, pets, and throughout your home.” <http://www.diatect.com/ant-and-insect-control.php> Documented on 10/04/07.

“GARDEN AND FLORAL INSECT CONTROL” EPA registration number 42850-4

“This means the Garden Insect Control is not only safe to use around your garden and plants, but also children, pets, and throughout your home.”

<http://www.diatect.com/garden-insect-control.php> Documented on 10/4/07.

“ROACH KILLER” EPA registration number 42850-1

“NATURAL ROACH KILLER 99% natural - safer around people and pets with immediate access to treated areas.”

<http://www.diatect.com/roach-killer.php> Documented on 10/04/07.

“INDOOR INSECT KILLER” EPA registration number 42850-4

“Safe to use around children and pets.”

<http://www.diatect.com/natural-indoor-insect-killer.php> Documented on 10/04/07.

“FIRE ANT KILLER POUCH” EPA registration number 42850-4

“Plus, not only are these natural ingredients extremely fast acting, they are also safer to use around children, pets, and homes.” “99% natural – safer around children and pets.”

<http://www.diatect.com/fire-ant-killer-single.php> Documented on 10/04/07.

“ORGANIC INSECT CONTROL” EPA registration number 42850-5

DIATECT V “100% organic insect control.”

“Fast acting and hard hitting, yet is safe to workers, the environment and wildlife.” “EPA approved.”

<http://www.diatect.com/organic-insect-control.php> Documented on 10/05/07.

“COMMERCIAL GRADE INSECT KILLER” EPA registration number 42850-1

“Because the EPA continues to de-list more toxic insecticide products, the industry is always in search of additional insect control products that are safe. DIATECT III was designed and formulated to fill that need.” “99% natural - uses no harmful chemicals and has no known negative effect to people or plants.”

<http://www.diatect.com/commercial-pest-control.php> Documented on 10/05/07.

“COMMERCIAL GRADE BULK PACK” EPA registration number 42850-1

“DIATECT III is a fast acting, hard hitting, environmentally friendly..dust.”

<http://www.diatect.com/bulk-insect-control.php> Documented on 10/05/07.

12. As the seller and distributor of a pesticide, Diatect International is in violation of FIFRA § 12(a)(1)(E), 7 U.S.C. § 136j(a)(1)(E), which provides in relevant part that it shall be unlawful for any person in any State to distribute or sell to any person any pesticide which is misbranded.

D. OTHER MATTERS

13. For resolution of this Order, you are encouraged to contact:

David Golden
US EPA Region 8 (ENF-UFO)
1595 Wynkoop Street
Denver, CO 80202
303.312.6501

14. This Stop, Sale, Use or Removal Order will be supervised by the US EPA Region 8 Technical Enforcement Program unless you are otherwise notified.

11-29-07

Date



Mark A.R. Chalfant, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice