



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

VIA E-MAIL AND
UPS OVERNIGHT DELIVERY

AUG 11 2011

Ellen J. Kullman
Chief Executive Officer
E. I. du Pont de Nemours and Company
1007 Market Street
Wilmington, DE 19898

Re: Federal Insecticide, Fungicide, and Rodenticide Act
Stop Sale, Use, or Removal Order
Docket No. FIFRA-03-2011-0277SS

Dear Ms. Kullman:

Enclosed is a Stop Sale, Use, or Removal Order ("Order") issued by the U.S. Environmental Protection Agency, Region III ("EPA") concerning the pesticide product "DuPont Imprelis Herbicide" (EPA Reg. No. 352-793) ("Imprelis"). The Order requires E.I. du Pont de Nemours and Company ("DuPont") to cease the sale, use and removal of Imprelis, except as provided in the Order. The Order is being issued under the authority of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, 7 U.S.C. § 136 *et seq.* ("FIFRA"), and is effective immediately. Section 13(a) of FIFRA, 7 U.S.C. § 136k(a), authorizes EPA to issue orders 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 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. DuPont is the registrant for Imprelis. EPA has reason to believe that DuPont has distributed or sold Imprelis in violation of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), which prohibits the sale or distribution of any pesticide that is misbranded.

The Order does not affect DuPont's ability to implement its contemplated product return program for products beyond DuPont's ownership, custody or control. Returned products are not subject to the Order until they come within the ownership, custody or control of DuPont, at which point DuPont may not sell/distribute, use or remove Imprelis unless such activity is first approved by EPA in writing. EPA encourages DuPont to consult with EPA on its proposed product return program. Should DuPont elect to conduct a return program, EPA suggests the following features be included in the written description of the program:

- Details about how DuPont will collect, consolidate, and hold the returned Imprelis product;

- Details about how the movement of returned Imprelis will be tracked and documented;
- Provisions for an inventory of all stocks of Imprelis in the possession of DuPont's distributors and other direct customers such that the amount and location of stocks can be determined at any time;
- Details about how DuPont will account for and address Imprelis product that is not returned;
- Provisions to make the returned Imprelis product available to EPA for sampling, upon request;
- A description of the circumstances and procedures for disposition of any returned Imprelis product, including projected timelines for completion of all such activities in compliance with federal, state, and local requirements;
- Details about how DuPont will report to EPA the final disposition of the returned product, including the total quantity returned per distributor or direct customer, whether the product was returned open or unopened, and the location of the returned product; and
- Appropriate recordkeeping and reporting provisions such that compliance with the return program can be demonstrated.

Certain companies may be required to disclose to the Securities and Exchange Commission the existence of certain pending or known to be contemplated environmental legal proceedings (administrative or judicial) arising under federal, state, or local environmental laws. Please see the attached "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings" for more information about this requirement and to aid you in determining whether DuPont may be subject to the same.

If DuPont has any questions regarding the Order, please contact Fatima El-Abdaoui, Ph.D., Chief, Pesticides and Asbestos Programs Branch, Land and Chemicals Division, by telephone at (215) 814-2129 or by e-mail at el-abdaoui.fatima@epa.gov. For any legal-related questions, please contact Janet E. Sharke, Senior Assistant Regional Counsel, by telephone at (215) 814-2689, or by e-mail at sharke.janet@epa.gov.

Sincerely,



Abraham Ferdas, Director
Land and Chemicals Division

Enclosures

cc: K. Sherman, Esq.
W. Lehrenbaum, Esq.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 ARCH STREET
PHILADELPHIA, PENNSYLVANIA 19103-2029**

IN THE MATTER OF	)	Stop Sale, Use, or
	)	Removal Order
E. I. du Pont de Nemours and Company	)	
1007 Market Street	)	DOCKET NO: FIFRA-03-2011-0277SS
Wilmington, DE 19898	)	
	)	
Respondent	)	

I. AUTHORITY

1. This Stop Sale, Use, or Removal Order ("Order") is issued pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA") by Section 13(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended ("FIFRA"), 7 U.S.C. § 136k(a), which authorizes the Administrator of the 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 that, *inter alia*, 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 FIFRA.
2. This authority was delegated to the Regional Administrator, EPA, Region III, and redelegated to the Director of the Land and Chemicals Division and to the Associate Director of the Office of Toxics and Pesticides in the Land and Chemicals Division, EPA, Region III.
3. Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), provides that it shall be unlawful for any person in any State to sell or distribute to any person any pesticide that is misbranded.
4. Section 12(a)(2)(I) of FIFRA, 7 U.S.C. § 136j(a)(2)(I), provides that 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) of FIFRA, 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.” *See also* 40 C.F.R. § 152.15.
8. 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 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].” *See also* 40 C.F.R. § 152.5.
9. Section 2(q)(1)(F) of FIFRA, 7 U.S.C. § 136(q)(1)(F), provides that a pesticide is “misbranded” if such pesticide’s “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 under section [3(d) of FIFRA], are adequate to protect health and the environment.”
10. Section 2(q)(1)(G) of FIFRA, 7 U.S.C. § 136(q)(1)(G), provides that a pesticide is “misbranded” if such pesticide’s “label does not contain a warning or caution statement which may be necessary and if complied with, together with any requirements imposed under section [3(d) of FIFRA], is adequate to protect health and the environment.”

II. BACKGROUND

11. E. I. du Pont de Nemours and Company (“DuPont”) is a corporation located and incorporated in the state of Delaware. DuPont is a “person” as defined in Section 2(s) of FIFRA, 7 U.S.C. § 136(s).
12. This Order refers to DuPont and all its divisions, offices, and branches, collectively as “DuPont.”
13. DuPont is the registrant for the pesticide “DuPont Imprelis Herbicide” (“Imprelis”), an herbicide which has been assigned EPA Registration Number 352-793. The active ingredient in Imprelis is aminocyclopyrachlor (CAS Number 858956-35-1).
14. Imprelis is a “pesticide” as that term is defined in Section 2(u) of FIFRA, 7 U.S.C. § 136(u).
15. Imprelis was registered by EPA on August 31, 2010, as a selective broadleaf weed herbicide.

III. BASIS FOR THE ORDER

16. Beginning in June 2011, EPA received complaints from numerous states reporting damage to trees associated with the use of Imprelis. On July 18, 2011, EPA sent a letter to DuPont requiring it to submit information pursuant to Section 6(a)(2) of FIFRA, 7 U.S.C. § 136d(a)(2), including studies and adverse effects-related information involving Imprelis.
17. On July 28, 2011, DuPont submitted information to EPA including thousands of reports of adverse incidents involving damage or death to trees associated with the use of Imprelis.
18. As part of DuPont's July 28, 2011 submission, EPA also received test data from DuPont confirming that certain coniferous trees, including Norway spruce and balsam fir, are susceptible to being damaged or killed by the application of Imprelis.
19. The label for Imprelis contains directions for use that provide for its application near trees.
20. The label for Imprelis does not warn or caution about potential damage to trees when used in accordance with the approved label.
21. In response to the significant concerns raised by EPA and others relating to reports of tree damage associated with the use of Imprelis, on or about August 4, 2011, DuPont sent its distributors a letter informing them that DuPont would be implementing a voluntary suspension of sale and soon be conducting a product return and refund program. The letter acknowledged that tree injuries may have been caused by the application of Imprelis.
22. Based on tests and inspections conducted to date, EPA has reason to believe that the Imprelis labeling does not contain directions for use and/or warning or caution statements that are adequate to protect the environment, namely, certain species of trees.
23. EPA has reason to believe that Imprelis is misbranded as that term is defined in Sections 2(q)(1)(F) and/or (G) of FIFRA, 7 U.S.C. §§ 136(q)(1)(F) and/or (G), and that DuPont distributed or sold Imprelis in violation of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

IV. ORDER

24. Pursuant to the authority of Section 13(a) of FIFRA, 7 U.S.C. § 136k(a), EPA hereby orders DuPont to **immediately cease** the sale, use or removal of Imprelis products under its ownership, control, or custody, wherever such Imprelis products are located, except in accordance with the provision of this Order.

25. This Order shall extend to all quantities and container types/sizes of Imprelis owned, controlled or within the custody of DuPont, including Imprelis products under alternate brand names and any Imprelis stocks returned to DuPont from its distributors, customers or other persons.

26. Imprelis products shall not be used, sold, offered for sale, held for sale, shipped, delivered for shipment, received, or having been so received, shall not be delivered, offered for delivery, or removed from any facility or establishment, for any reason, unless such activity has been approved by EPA in writing. Any proposal for EPA's approval of any such activity shall be submitted, in writing, to Fatima El-Abdaoui, Ph.D., Chief, Pesticides and Asbestos Programs Branch (3LC62), U.S. EPA, Region III, 1650 Arch Street, Philadelphia, PA 19103-2029. In order for EPA to approve a proposal, DuPont shall first submit to EPA, in connection with the proposal or sooner:

- (a) a description of the existing inventory of such product that is owned or controlled by or in the custody of DuPont, including each location where such product is held, and the quantities and container type/size of product held at each such location on the effective date of this Order; and
- (b) a description of any additional product returned to the ownership, custody or control of DuPont by its distributors, customers or any other person after the effective date of this Order. Such description shall include the name and address of each such distributor, customer or other person and the date, quantity and condition of each container type/size of product returned by each such distributor, customer or other person. Such information shall be updated and provided to EPA in writing on a weekly basis for four weeks and on a monthly basis thereafter until modification or termination of this Order.

If DuPont chooses to submit a proposal as described above, such proposal shall include details of the proposed activity and provisions to maintain records of the disposition (e.g., reformulation, repackaging, relabeling, disposal) of such product and to make such records available to EPA upon request. Such records shall include information describing each method and date of disposition of such product, each location/destination of such disposition and the quantity of product subject to such method and location/destination.

27. Any person who violates any term or provision of this Order may be subject to civil or criminal penalties as prescribed in Section 14 of FIFRA, 7 U.S.C. § 136l.

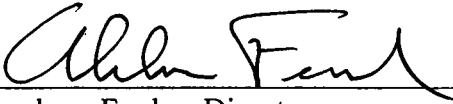
28. The issuance of this Order shall not constitute a waiver by EPA of any rights or remedies it may have, either judicial or administrative, under FIFRA or any other federal environmental law, to address this matter or any other matters or unlawful acts not described in this Order.

29. This Order shall be effective immediately upon receipt by DuPont.
30. This Order shall remain in effect unless and until revoked, terminated, suspended, or modified, in writing, by EPA.
31. If any provision of this Order is determined by a court of competent jurisdiction to be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall in no way be affected or impaired thereby and such provisions shall remain in full force and effect.

V. OTHER MATTERS

32. For any additional information about this Order, please contact Fatima El-Abdaoui, Ph.D., Chief, Pesticides and Asbestos Programs Branch, at 215-814-2129. For any legal matters concerning this Order, please contact Janet E. Sharke, Senior Assistant Regional Counsel, at 215-814-2689.

8/11/11
Date


Abraham Ferdas, Director
Land and Chemicals Division

NOTICE OF SECURITIES AND EXCHANGE COMMISSION REGISTRANTS' DUTY TO DISCLOSE ENVIRONMENTAL LEGAL PROCEEDINGS

Securities and Exchange Commission regulations require companies registered with the SEC (e.g., publicly traded companies) to disclose, on at least a quarterly basis, the existence of certain administrative or judicial proceedings taken against them arising under Federal, State or local provisions that have the primary purpose of protecting the environment. Instruction 5 to Item 103 of the SEC's Regulation S-K (17 CFR 229.103) requires disclosure of these environmental legal proceedings. For those SEC registrants that use the SEC's "small business issuer" reporting system, Instructions 1-4 to Item 103 of the SEC's Regulation S-B (17 CFR 228.103) requires disclosure of these environmental legal proceedings.

If you are an SEC registrant, you have a duty to disclose the existence of pending or known to be contemplated environmental legal proceedings that meet any of the following criteria (17 CFR 229.103(5)(A)-(C)):

- A. Such proceeding is material to the business or financial condition of the registrant;
- B. Such proceeding involves primarily a claim for damages, or involves potential monetary sanctions, capital expenditures, deferred charges or charges to income and the amount involved, exclusive of interest and costs, exceeds 10 percent of the current assets of the registrant and its subsidiaries on a consolidated basis; or
- C. A governmental authority is a party to such proceeding and such proceeding involves potential monetary sanctions, unless the registrant reasonably believes that such proceeding will result in no monetary sanctions, or in monetary sanctions, exclusive of interest and costs, of less than \$100,000; provided, however, that such proceedings which are similar in nature may be grouped and described generically.

Specific information regarding the environmental legal proceedings that must be disclosed is set forth in Item 103 of Regulation S-K or, for registrants using the "small business issuer" reporting system, Item 103(a)-(b) of Regulation S-B. If disclosure is required, it must briefly describe the proceeding, "including the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceedings and the relief sought."

You have been identified as a party to an environmental legal proceeding to which the United States government is, or was, a party. If you are an SEC registrant, this environmental legal proceeding may trigger, or may already have triggered, the disclosure obligation under the SEC regulations described above.

This notice is being provided to inform you of SEC registrants' duty to disclose any relevant environmental legal proceedings to the SEC. This notice does not create, modify or interpret any existing legal obligations, it is not intended to be an exhaustive description of the legally applicable requirements and it is not a substitute for regulations published in the Code of Federal Regulations. This notice has been issued to you for information purposes only. No determination of the applicability of this reporting requirement to your company has been made by any governmental entity. You should seek competent counsel in determining the applicability of these and other SEC requirements to the environmental legal proceeding at issue, as well as any other proceedings known to be contemplated by governmental authorities.

If you have any questions about the SEC's environmental disclosure requirements, please contact the SEC Office of the Special Senior Counsel for Disclosure Operations at (202) 551-3115.

CERTIFICATE OF SERVICE

I hereby certify that on the date set forth below, I hand-delivered to the Regional Hearing Clerk of the U.S. Environmental Protection Agency, Region III, the original and one copy of the foregoing Stop Sale, Use, or Removal Order (Docket No. FIFRA-03-2011-0277SS).

I further certify that on the date set forth below, I caused a true and correct copy of the Stop Sale, Use or Removal Order to be transmitted via UPS overnight mail to the following:

Ellen J. Kullman
Chief Executive Officer
E. I. du Pont de Nemours and Company
1007 Market Street
Wilmington, DE 19898

8/11/11
Date



Janet E. Sharke
Senior Assistant Regional Counsel
U.S. EPA, Region III
Office of Regional Counsel (3RC50)
1650 Arch Street
Philadelphia, PA 19103-2029