



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 Hawthorne Street  
San Francisco, CA 94105

July 19, 2023

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**NOTICE OF WARNING**

Reference Number: FIFRA 09-2023-4601

Dear Daniel Marquardt,

On April 19, 2023, the United States Environmental Protection Agency, Region IX (“EPA”) conducted a “For Cause” inspection at the Imperial Regional Detention Facility (“IRDF”) located in Calexico, California. The inspection was in response to reports that disinfectant use at IRDF was causing detainees to experience adverse physical reactions.

EPA’s investigation found that detention officers and detainees applied [PortionPac CorrectPac Germicidal Cleaner](#) (hereafter referred to as “the Germicide”), EPA Registration No. [1839-215-8722](#), inside the detention facility to disinfect surfaces. Detention officers, detainees, and porters, who are detainees participating in the volunteer work program, apply the Germicide with spray bottles (service containers).

According to Brian Robinson, the Compliance Manager at IRDF, the service containers had labels attached with directions for use. However, during the inspection, EPA found that the service containers, 5-gallon germicide dispensers, and CorrectPacs (prediluted packs of the Germicide) stored inside the utility closets were not labeled as required. According to personal accounts from current and former detainees, detainees were not given directions for use or any information on the precautions and limitations imposed by the label to use the product safely and effectively.<sup>1</sup> Detainees reported that Management and Training Corporation (MTC) staff told them that the Germicide was “non-toxic.” One current detainee that EPA interviewed attested that MTC staff assured that the Germicide was even “safe to drink.”

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<sup>1</sup> In EPA interviews, the Germicide was referred to as the “red chemical.” There were several PortionPac chemicals used to clean housing units: a (blue) GlassPac glass cleaner, a (red) germicide, and a (green) ScrubPac multipurpose cleaner. The Germicide was the only cleaner that is subject to FIFRA.

Use of a registered pesticide in a manner inconsistent with its labeling (i.e., in a manner not permitted by the labeling) is a violation of the Federal Insecticide, Fungicide, and Rodenticide Act (“FIFRA”). See FIFRA Sections 2(ee) and 12(a)(2)(G), 7 U.S.C. §§ 136(ee) and 136j(a)(2)(G).

Specific areas of concern are as follows:

1. The PortionPac CorrectPac Germicidal Cleaner (the “Germicide”) when used as directed, is formulated to disinfect hard, non-porous, inanimate, non-food contact environmental surfaces; however, the Germicide was applied directly to bedding and vinyl mattresses (some of which were visibly torn, making them porous). In addition, a current detainee recounted that detention officers and detainees also used the Germicide to spray insects within the housing units. The Germicide is not labeled for use on porous surfaces nor for use as an insecticide.
2. The Germicide must remain visibly wet for 10 minutes to effectively disinfect surfaces; however, we received responses from both detention officers and current and former detainees stating that they wiped it off sooner than the required ten-minute period for effective disinfection.
3. The label’s Precautionary Statements provide that the Germicide can “*cause irreversible eye damage and skin burns*.” Specifically, they state: “***Do not get in eyes, on skin or on clothing. May be fatal if inhaled. Do not breathe spray mist. Harmful if swallowed or absorbed through skin. Wear goggles or face shield, rubber gloves and protective clothing when handling. Wash thoroughly with soap and water after handling and before eating, drinking, using tobacco or using the toilet. Remove contaminated clothing and wash before reuse.***” Yet, EPA’s investigation found numerous examples of use of the Germicide in contravention of the Precautionary Statements:
  - In grievance #134998432, requested post inspection, an officer sprayed the Germicide from the second story of the housing unit, which landed below on a detainee’s head and into another detainee’s coffee. Further, a former detainee reported that six fellow detainees filed similar complaints resulting from Germicide overspray. Detainees reported frequently seeing the Germicide overspray fall onto their food or into their coffee when stair rails, second-floor balcony rails, or tables were routinely sprayed from above or adjacent to where detainees were sitting or eating. Following exposure to the Germicide through food and drink as well as exposure through skin contact and inhalation; many detainees complained of nosebleeds, coughing, burning nostrils and lungs, burning eyes, rashes, and headaches.
  - Based on MTC staff representations that the Germicide was “safe” and “non-toxic” and that the wearing of Personal Protective Equipment (PPE) was not required, detainees reported using the Germicide without wearing gloves and frequently touched phones, railings, or tables that were still wet from its recent application. These incidents understandably resulted in complaints of itchy skin and rashes, since the Germicide’s Signal Word of “Danger” on its label places it in the highest toxicity

category based on oral or dermal toxicity, or skin or eye irritation potential.<sup>2</sup>

Given the way the Germicide was applied, as described above, the detainees had no way to avoid inhalation or exposure to their eyes, skin, or clothing.

4. The Directions for Use on the label require that the “**labeling must be in the possession of the user at the time of using the product. Use of the germicide is subject to the precautions and limitations imposed by the label affixed to the container for this product.**” However, during the inspection, EPA observed that the service containers (spray bottles) inside the utility closets were not labeled nor were the CorrectPacs or the germicide dispensers. One detainee recounted that the cleaning bottles sometimes get switched, i.e., the red chemical (Germicide) will be dispensed in the blue (glass cleaner) bottle.
5. The label directions instruct the applicator to: “**Rinse hard, non-porous food contact surfaces with potable water after application of product. Do not use on utensils, glasses and dishes.**” A detention officer and detainees stated that they routinely apply the Germicide to the inside of microwaves and witnessed others spraying it inside microwaves. But the Germicide is only approved for use on microwave exteriors. Additionally, a current detainee alleged that some detainees use the Germicide to clean dishware, even though the label directions specifically prohibit this use.

Each of the described activities constitutes use of a registered pesticide in a manner inconsistent with its labeling. Section 2(ee) of FIFRA, 7 U.S.C. § 136(ee) states: “...to use any registered pesticide in a manner inconsistent with its labeling means to use any registered pesticide in a manner not permitted by the labeling...” Section 12(a)(2)(G), 7 U.S.C. § 136j(a)(2)(G), states: “It shall be unlawful for any person to use any registered pesticide in a manner inconsistent with its labeling.” Each use of PortionPac CorrectPac Germicidal Cleaner in a manner inconsistent with its labeling is a violation under FIFRA.

You are hereby advised to take all necessary action to ensure that any further use of pesticides takes place in accordance with the directions and precautionary statements on the pesticide label, and in full compliance with the provisions of FIFRA. Failure to do so could subject you to further enforcement action.

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<sup>2</sup> See 40 CFR 156.64(a)

If you have any questions regarding this Notice of Warning, please contact Matt Salazar, of my staff, at (415) 972-3982 or have your attorney contact Carol Bussey at (415) 972-3950.

Sincerely,

Amy C. Miller-Bowen  
Director, Enforcement and Compliance Assurance Division

cc:

Michael P. Petrogeorge, Vice President & General Counsel

Carol Kemker, U.S. EPA Region 4

Julie Henderson, CA Department of Pesticide Regulation