



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
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San Francisco, CA 94105**

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NOTICE OF WARNING

Reference Number: FIFRA-09-2021-4601

Dear George Zoley:

On July 29, 2020, the United States Environmental Protection Agency, Region IX (“EPA”) conducted a “For Cause” virtual inspection by video conference at the Adelanto ICE Processing Center (“Adelanto”) located in Adelanto, California. The inspection was in response to complaints from detainees that a registered pesticide, HDQ Neutral (EPA Registration Number 10324-155-5741), was being used in a manner that led to illness symptoms in detainees.

EPA’s investigation found that both detention officers and detainees applied HDQ Neutral inside the facility. Detention officers could apply HDQ Neutral by using 1-1.5 gallon manual spray pump containers or 32-ounce spray bottles while detainees who participated in the volunteer work program to perform cleaning duties were supplied with 32-ounce spray bottles and mop buckets filled with HDQ Neutral. According to James Janecka, Facility Administrator at Adelanto, the 32-ounce spray bottles containing HDQ Neutral had labels attached. However, according to the accounts of current and former detainees, the 32-ounce spray bottles given to detainees did not always have a label attached and the detainees were not given any instructions as to how to properly or safely apply the product.

Failure to follow pesticide label directions is a violation of the Federal Insecticide, Fungicide, and Rodenticide Act (“FIFRA”). The investigation uncovered a number of FIFRA violations.

Specifically:

1. Mr. Janecka stated during the virtual inspection that HDQ Neutral was being applied as a disinfectant at a dilution rate of 2 ounces per gallon of water. The label calls for 1 ounce per gallon of water when used for disinfection.
2. Although the product label requires that goggles and chemical resistant gloves be worn while handling the product, detainees were not required to do so. As stated by Mr.

Janecka during the virtual inspection, neither detention officers nor detainees were required to wear goggles during the application of HDQ Neutral and the use of Personal Protective Equipment by detainees (including gloves) was optional. Accounts by current and former detainees revealed that gloves were routinely made available but not required to be worn. One detainee reported that there was only one pair of goggles available to share among all detainees in the area they were responsible for cleaning, which had to be requested if someone wanted to use them for eye protection.

3. The label contains the statements: “***Do not breathe spray***” and “***Causes irreversible eye damage and skin burns. Harmful if swallowed or absorbed through the skin. Do not get in eyes, on skin, or on clothing.***” Accounts by current and former detainees revealed that detainees were frequently in close proximity when HDQ Neutral was sprayed by detention officers or detainees in the volunteer work program. Detainees reported seeing the spray fall onto their food, inhaling it (resulting in a bad sour taste, itchy throat, sore throat, difficulty breathing, respiratory infection, and lung pain), feeling it land on their skin (resulting in itchy skin, red skin and rashes), and feeling it get into their eyes (resulting in itchy eyes, red eyes, and irritated eyes) when stair rails, second-floor balcony rails, doorknobs, or tables were sprayed above or adjacent to where they were sitting or eating. Detainees also reported frequently touching phones or tables that were still wet with HDQ Neutral from recent applications of which they had not received any notification, which resulted in itchy skin and rashes. These accounts were in contrast to a statement made by Mr. Janecka during the virtual inspection, where he stated that detention officers would skip spraying an area if a detainee was sitting below.
4. The label directs that the product only be applied to hard non-porous surfaces. Accounts from current and former detainees included witnessing HDQ Neutral being applied onto bedding (including mattresses and sheets), a soft porous surface. Application to bedding was both direct and indirect (e.g. seeing the spray drift over when sprayed on nearby tables).
5. Accounts by current and former detainees included witnessing both detainees and detention officers mixing HDQ Neutral with other chemicals, such as Clean by Peroxy (a hydrogen peroxide based cleaner), shampoo, and toothpaste. Detainees were never advised against mixing HDQ Neutral with other chemicals. The label calls for the product to be diluted with water and bears no language about mixing with other chemicals. In addition, the Safety Data Sheet for HDQ Neutral says that it is incompatible with “strong oxidizing agents” and “strong acids”. It must be noted that hydrogen peroxide, the active ingredient in Clean by Peroxy, is an oxidizer.
6. The label contains the directions: “***Rinse hard, non-porous food contact surfaces with potable water after application of product.***” One former detainee witnessed HDQ Neutral being sprayed inside of microwaves, a food contact surface, without any wiping of the product afterwards. It is not clear how commonly this practice occurred, but it is clear from the master label (EPA Registration Number 10324-155), from which HDQ Neutral’s label is derived, that the product is not meant for use on food contact surfaces.

Each of the above 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 HDQ Neutral 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.

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

ecc: J. Wilson Eaton III, Attorney
Linda Lye, California Environmental Protection Agency
Val Dolcini, CA Department of Pesticide Regulation