



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590
August 22, 2013

REPLY TO THE ATTENTION OF:

LC- 8J

CERTIFIED MAIL: No.7009 1680 0000 7668 1544
RETURN RECEIPT REQUESTED

C T Corporation System
Stepan Company
208 South LaSalle St., Suite 814
Chicago, Illinois 60604

Consent Agreement and Final Order In the Matter of
Stepan Company. Docket No. **FIFRA-05-2013-0019**

To Whom It May Concern:

Enclosed please find a copy of a fully executed Consent Agreement and Final Order, in resolution of the above case. This document was filed on August 22, 2013 with the Regional Hearing Clerk.

The civil penalty in the amount of \$12,870 is to be paid in the manner described in paragraph 52. Please be certain that the docket number is written on both the transmittal letter and on the check. Payment is due by September 23, 2013 (within 30 calendar days of the filing date).

Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Terence Bonace".

for Terence Bonace
Pesticides and Toxics Compliance Section

Enclosures

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	Docket No. FIFRA-05-2013-0019
)	
Stepan Company)	Proceeding to Assess a Civil Penalty
Northfield, Illinois)	Under Section 14(a) of the Federal
)	Insecticide, Fungicide, and Rodenticide
)	Act, 7 U.S.C. § 136l(a)
)	
)	
Respondent.)	
_____)	

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Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 136l(a), and Sections 22.13(b) and 22.18(b)(2) and (3) of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (Consolidated Rules) as codified at 40 C.F.R. Part 22.
2. The Complainant is the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region 5.
3. The Respondent is Stepan Company (Stepan), a corporation doing business in Illinois, and located at 22 West Frontage Road, Northfield, Illinois.
4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).
5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO, and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

9. Respondent certifies that it is complying with FIFRA, 7 U.S.C. §§ 136 to 136y.

Statutory and Regulatory Background

10. Section 3(c)(1)(C), 7 U.S.C. § 136a(c)(1)(C), states that each applicant for registration of a pesticide shall file with the Administrator a statement which includes a complete copy of the labeling of the pesticides, a statement of all claims to be made for it, and any directions for its use.

11. Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), states that it is unlawful for any person to distribute or sell to any person any pesticide which is adulterated or misbranded.

12. Section 2(q)(1)(E) of FIFRA, 7 U.S.C. § 136(q)(1)(E), defines a pesticide as “misbranded” if any word, statement, or other information required by or under authority of FIFRA to appear on the label or labeling is not prominently placed thereon with such conspicuousness and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

13. Section 2(q)(1)(G) of FIFRA, 7 U.S.C. § 136(q)(1)(G), defines a pesticide as

“misbranded” if the 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 this Act, is adequate to protect health and the environment.

14. 40 C.F.R. § 152.132 states that a registrant may distribute or sell his registered product under another person’s name and address instead of (or in addition to) his own. The product is referred to as a “distributor product.”

15. 40 C.F.R. § 152.132 states that supplemental distribution is permitted upon notification to EPA if all of the following conditions are met: (a) The registrant has submitted EPA for each distributor product a statement signed by both the registrant and the distributor listing the names and addresses of the registrant and the distributor, the distributor’s company number, the additional brand name(s) to be used, and the registration number of the registered product, (b) The distributor product is produced, packaged and labeled in a registered establishment operated by the same producer who produces, packages, and labels the registered product, (c) The distributor product is not repackaged (remains in the producer’s unopened containers), (d) The label of the distributor product is the same as that of the registered product, except that the product name of the distributor product may be different, the name and address of the distributor may appear instead of that of the registrant, the registration number of the registered product must be followed by a dash, followed by the distributor’s company number, the establishment number must be that of the final establishment at which the product was produced, and specific claims may be deleted, provided that no other changes are necessary, and (e) Voluntary cancellation of a product applies to the registered product and all distributor products distributed or sold under that registration number.

16. 40 C.F.R. §152.132 also specifies that a distributor is considered an agent of the registrant for all intents and purposes under FIFRA, and both the registrant and the distributor may be held liable for violations pertaining to the distributor product.

17. 40 C.F.R. § 156.10(a)(ii)(A) requires that all required label text be set in 6 point or larger type.

18. The term “distribute or sell” means “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 U.S.C. § 136(gg).

19. The term “person,” as defined in Section 2(s) of FIFRA, 7 U.S.C. § 136(s) means “any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.”

20. A “pest,” as defined in Section 2(t) of FIFRA, 7 U.S.C. § 136(t), means 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 which the Administrator of EPA declares to be a pest under Section 25(c)(1) of FIFRA.

21. A “pesticide,” as defined in Section 2(u) of FIFRA, 7 U.S.C. § 136(u) means, among other things, any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.

22. A “registrant,” as defined in Section 2(y) of FIFRA, § 136(y) means, a person who has registered any product pursuant to the provisions of FIFRA.

23. The Administrator of EPA may assess a civil penalty against any registrant, commercial applicator, wholesaler, dealer, retailer, other distributor who violates any provision of FIFRA of up to \$7,500 for each offense that occurred after January 12, 2009,

pursuant to Section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1), and 40 C.F.R. Part 19.

Factual Allegations and Alleged Violations

24. Respondent, Stepan, is a “person” as defined at Section 2(s) of FIFRA, 7 U.S.C. § 136(s).

25. Respondent, Stepan, is a “registrant” as defined at Section 2(y) of FIFRA, 7 U.S.C. § 136(y).

26. At all times relevant to the CAFO, Stepan owned or operated a place of business located at 22 W. Frontage Road, Northfield, Illinois 60093.

27. On or about March 11, 1994, 2003, Stepan registered its pesticide product, **BTC 885 Neutral Disinfectant Cleaner** with EPA.

28. EPA assigned EPA Registration Number (EPA Reg. No.) 1839-167 to Stepan’s pesticide product, **BTC 885 Neutral Disinfectant Cleaner**.

29. On or about March 24, 2003, Stepan and Burlington High School (Burlington), located at 400 McCanna Parkway, Burlington, Wisconsin, submitted a Notice of Supplemental Distribution of a Registered Pesticide Product (EPA Form 8570-5, hereafter referred to as a Notice of Supplemental Distribution) to EPA for the pesticide product, **BTC 885 Neutral Disinfectant Cleaner**.

30. The company number assigned to Burlington is 74523.

31. The Notice of Supplemental Distribution listed the distributor of **BTC 885 Neutral Disinfectant Cleaner**, EPA Reg. No, 1839-167, as Burlington.

32. The Notice of Supplemental Distribution listed the distributor product name as **Bac-Off Neutral Disinfectant Cleaner-256**.

33. The EPA Reg. No. for the distributor product **Bac-Off Neutral Disinfectant**

Cleaner-256 is 1839-167-74523.

34. **Bac-Off Neutral Disinfectant Cleaner-256**, EPA Reg. No. 1839-167-74523, is a “pesticide” as that term is defined in Section 2(u) of FIFRA, 7 U.S.C. § 136(u).

35. Burlington is considered an agent of the registrant, Stepan, for all intents and purposes under FIFRA and 40 C.F.R. § 152.132 with respect to its distributor product **Bac-Off Neutral Disinfectant Cleaner-256**, EPA Reg. No. 1839-167-74523.

36. On or about September 15, 2010, an inspector employed by the Wisconsin Department of Agriculture and authorized to conduct inspections under FIFRA conducted an inspection at Burlington’s place of business.

37. During the September 15, 2010 inspection, the inspector collected a physical sample, label and shipping record of the pesticide product, **Bac-Off Neutral Disinfectant Cleaner-256**, EPA Reg. No. 1839-167-74523, which Burlington, was holding for distribution or sale.

38. The label of **Bac-Off Neutral Disinfectant Cleaner-256**, EPA Reg. No. 1839-167-74523, was set in type size of less than 6 point.

39. The label of **Bac-Off Neutral Disinfectant Cleaner-256**, EPA Reg. No. 1839-167-74523, did not bear the warning statement, “Physical or chemical hazards. Do not use near heat or open flame.”

40. On or about September 15, 2010, Burlington was holding Bac-Off Neutral Disinfectant Cleaner-256, EPA Reg. No. 1839-167-74523 for distribution or sale at its place of business.

41. On or about January 21, 2010, Burlington distributed or sold **Bac-Off Neutral Disinfectant Cleaner-256**, EPA Reg. No. 1839-167-74523, to Nettie E. Karcher Middle

School in Burlington, Wisconsin.

Count 1

42. Complainant incorporates paragraphs 1 through 41 of this CAFO, as if set forth in this paragraph.

43. On September 15, 2010, Burlington distributed or sold a pesticide, **Bac-Off Neutral Disinfectant Cleaner-256**, EPA Reg. No. 1839-167-74523, that was misbranded as that term is defined by Sections 2(q)(1)(E) and (G) of FIFRA, 7 U.S.C. § 136(c)(1)(E) and (G), by holding the distributor product for distribution or sale at its distribution facility.

44. Burlington's distribution or sale of **Bac-Off Neutral Disinfectant Cleaner-256**, EPA Reg. No. 1839-167-74523," constitutes an unlawful act pursuant to Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

45. Burlington's violation of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E) subjects Respondent, Stepan, to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136l(a).

Count 2

46. Complainant incorporates paragraphs 1 through 41 of this CAFO, as if set forth in this paragraph.

47. On January 21, 2010, Burlington distributed or sold a pesticide, **Bac-Off Neutral Disinfectant Cleaner-256**, EPA Reg. No. 1839-167-74523, to Nettie E. Karcher Middle School that was misbranded as that term is defined by Sections 2(q)(1)(E) and (G) of FIFRA, 7 U.S.C. § 136(c)(1)(E) and (G).

48. Burlington's distribution or sale of **Bac-Off Neutral Disinfectant Cleaner-256**, EPA Reg. No. 1839-167-74523," constitutes an unlawful act pursuant to Section 12(a)(1)(E)

of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

49. Burlington's violation of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E) subjects Respondent, Stepan, to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136l(a).

Civil Penalty And Other Relief

50. Section 14(a)(4) of FIFRA, 7 U.S.C. §136l(4), requires the Administrator to consider the size of the business of the person charged, the effect on the person's ability to continue in business, and the gravity of the violation, when assessing an administrative penalty under FIFRA.

51. Based on an evaluation of the facts alleged in this CAFO, the factors in Section 14(a)(4) of FIFRA and EPA's Enforcement Response Policy for the Federal Insecticide, Fungicide, and Rodenticide Act, dated December 2009, Complainant has determined the appropriate penalty to settle this action is \$12,870.

52. Respondent must pay the penalty by electronic funds transfer, payable to the "Treasurer, United States of America," and sent to:

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 68010727
SWIFT address FRNYUS33
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

In the comment or description field of the electronic funds transfer, state Stepan Company and the docket number of this CAFO.

53. This civil penalty is not deductible for federal tax purposes.

54. If Respondent does not pay the civil penalty in a timely manner, EPA may refer the matter to the Attorney General who will recover such amount by action in the appropriate United States district court under Section 14(a)(5) of FIFRA, 7 U.S.C. § 136l(a)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action

55. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date payment was due at a rate established by the Secretary of the Treasury. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

56. This CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts alleged in this CAFO.

57. This CAFO does not affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

58. This CAFO does not affect Respondent's responsibility to comply with FIFRA and other applicable federal, state, and local laws.

59. This CAFO is a "final order" for purposes of EPA's Enforcement Response Policy for FIFRA.

60. The terms of this CAFO bind Respondent, its successors, and assigns.

61. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

62. Each party agrees to bear its own costs and attorney's fees, in this action.

63. This CAFO constitutes the entire agreement between the parties.

**In the Matter of:
Stepan Company**

Stepan Company, Respondent


August 2, 2013
Date

John V. Venegoni
John V. Venegoni,
Vice President and General Manager, Surfactants
Stepan Company

**In the Matter of:
Stepan Company**

United States Environmental Protection Agency, Complainant

August 15, 2013
Date



Margaret M. Guerriero
Director
Land and Chemicals Division


In the Matter of:
Stepan Company
Docket No. FIFRA-05-2013-0019

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

8/20/13

Date



Susan Hedman
Regional Administrator
U.S. Environmental Protection Agency
Region 5

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CERTIFICATE OF SERVICE

I hereby certify that the original signed copy of the Consent Agreement and Final Order in resolution of the civil administrative action involving Stepan Company, was filed on August 22, 2013 with the Regional Hearing Clerk (E-19J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604, and that I mailed by Certified Mail, Receipt No. 7009 1680 0000 7668 1544, a copy of the original to the Respondents:

C T Corporation System
Stepan Company
208 South LaSalle St., Suite 814
Chicago, Illinois 60604

and forwarded copies (intra-Agency) to:

Ann Coyle, Regional Judicial Officer, ORC/C-14J
Nidhi O'Meara, Regional Judicial Officer, ORC/C-14J
Eric Volck, Cincinnati Finance/MWD



Frederick Brown
Pesticides and Toxics Compliance Section
U.S. EPA - Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Docket No. FIFRA-05-2013-0019

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