



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

APR - 5 2016

REPLY TO THE ATTENTION OF
LC-8J

CERTIFIED MAIL 7011 1150 0000 2639 8507
RETURN RECEIPT REQUESTED

Mr. Russ Garrison
Counsel for Stepan Company
Stepan Company
11901 South Austin Avenue
Alsip, Illinois 60803

Consent Agreement and Final Order In the Matter of Stepan Company
Docket Number : FIFRA-05-2016-0007

Mr. Garrison:

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 April 5, 2016 with the Regional Hearing Clerk.

The civil penalty in the amount of \$7,500 is to be paid in the manner described in paragraphs 44 and 45. Please be certain that the docket number is written on both the transmittal letter and on the check. Payment is due 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 "Claudia Niess".

Claudia Niess
Pesticides and Toxics Compliance Section

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:

Stepan Company
Northfield, Illinois

Respondent



Docket No. FIFRA-05-2016-0007

Proceeding to Assess a Civil Penalty
Under Section 14(a) of the Federal
Insecticide, Fungicide, and Rodenticide
Act, 7 U.S.C. § 136l(a)

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 the State of 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 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.

11. Section 2(c)(1) of FIFRA, 7 U.S.C. § 136(c)(1), defines a pesticide as “adulterated” if its strength or purity falls below the professed standard of quality as expressed on its labeling under which it is sold.

12. 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.”

13. 40 C.F.R. § 152.132 states that supplemental distribution is permitted upon notification to the Agency if all of the following conditions are met: (a) The registrant has submitted to the Agency 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.

14. 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.

15. The term "distribute or sell," as defined in Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), 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).

16. 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."

17. 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.

18. 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.

19. A “registrant,” as defined in Section 2(y) of FIFRA, 7 U.S.C. § 136(y) means, a person who has registered any product pursuant to the provisions of FIFRA.

20. 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. § 136(a)(1), and 40 C.F.R. Part 19.

Factual Allegations and Alleged Violations

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

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

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

24. On or about March 7, 1980, EPA approved the registration for the pesticide product **NP 4.5 Detergent/Disinfectant**.

25. EPA assigned EPA Registration Number (EPA Reg. No.) 1839-79 to Stepan’s pesticide product, **NP 4.5 Detergent/Disinfectant**.

26. On or about August 10, 1993, Stepan and Lundmark, Inc. (Lundmark), located at 350 S. LaLonde Avenue, Addison, Illinois 60101, submitted a Notice of Supplemental

Registration of Distributor to EPA for the pesticide product, **NP 4.5 Detergent/Disinfectant**, EPA Reg. No. 1839-79.

27. The Notice of Supplemental Registration of Distributor listed Lundmark as the distributor of Stepan's pesticide product, **NP 4.5 Detergent/Disinfectant**.

28. The Notice of Supplemental Registration of Distributor listed the distributor product name as **Hospital Cleaner**.

29. The EPA assigned the distributor product **Hospital Cleaner**, EPA Reg. No. 1839-79-65958.

30. **Hospital Cleaner**, EPA Reg. No. 1839-79-65958, is a "pesticide" as that term is defined in Section 2(u) of FIFRA, 7 U.S.C. § 136(u).

31. The distributor, Lundmark, is an agent of the registrant, Stepan, for all intents and purposes under 40 C.F.R. § 152.132 and FIFRA with respect to its distributor product **Hospital Cleaner**, EPA Reg. No. 1839-79-65958.

32. On or about April 25, 2014, an inspector employed by the Illinois Department of Agriculture and authorized to conduct inspections under FIFRA conducted an inspection at Lundmark's place of business located in Addison, Illinois.

33. During the April 25, 2014 inspection, the inspector collected a 1-gallon container of the pesticide product, **Hospital Cleaner**, EPA Reg. No. 1839-79-65958, that was packaged, labeled and released for shipment.

34. On or about May 1, 2014, the Illinois Department of Agriculture, Pesticide Laboratory (Illinois Pesticide Laboratory), received the physical sample of **Hospital Cleaner**, EPA Reg. No. 1839-79-65958, collected during the April 25, 2014 inspection at Lundmark for a formulation analysis.

35. On or about May 2, 2014, the Illinois Pesticide Laboratory analyzed the physical sample of **Hospital Cleaner**, EPA Reg. No. 1839-79-65958, that was collected on April 25, 2014.

36. The May 2, 2014 analysis showed that the sample of **Hospital Cleaner**, EPA Reg. No. 1839-79-65958, contained 4.14% quaternary ammonium chlorides.

37. The label of **Hospital Cleaner**, EPA Reg. No. 1839-79-65958, states that the pesticide product contains 4.5% quaternary ammonium chlorides.

38. On or about April 25, 2014, Lundmark was holding **Hospital Cleaner**, EPA Reg. No. 1839-79-65958, for distribution or sale at its place of business.

Count 1

39. Complainant incorporates paragraphs 1 through 38 of this CAFO, as if set forth in this paragraph.

40. On April 25, 2014, Lundmark distributed or sold a pesticide, **Hospital Cleaner**, EPA Reg. No. 1839-79-65958, that was adulterated, as that term is defined by Section 2(c)(1) of FIFRA, 7 U.S.C. § 136(c)(1), by holding the distributor product for distribution or sale at its facility.

41. Lundmark's distribution or sale of **Hospital Cleaner**, EPA Reg. No. 1839-79-65958, constitutes an unlawful act pursuant to Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

42. Lundmark's violation of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E) subjects registrant, 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

43. 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.

44. 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 \$7,500.

45. Within 30 days after the effective date of this CAFO, Respondent must pay a \$7,500 civil penalty for the FIFRA violations. 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, include "Stepan Company" and the docket number of this CAFO.

46. Respondent must send a notice of payment that states Respondent's name and the case docket number to EPA at the following addresses when it pays the penalty:

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Claudia Niess (LC-8J)
Pesticides and Toxics Compliance Section
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Nidhi K. O'Meara (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

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

48. 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.

49. 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

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

51. 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.

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

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

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

55. 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.

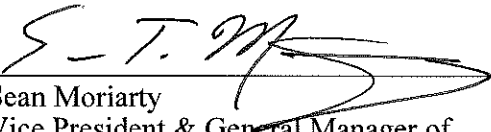
56. Each party agrees to bear its own costs and attorney's fees, in this action.

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

**In the Matter of:
Stepan Company**

Stepan Company, Respondent

3/7/16
Date


Sean Moriarty
Vice President & General Manager of
Surfactants, North America

**In the Matter of:
Stepan Company**

United States Environmental Protection Agency, Complainant

3/23/2016
Date

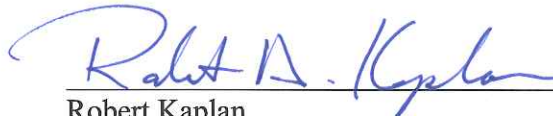
Michael D. Harris ^{for M.G.}
Margaret M. Guerriero
Director
Land and Chemicals Division

In the Matter of:
Stepan Company
Docket No. FIFRA-05-2016-0007

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.

3-25-16
Date



Robert Kaplan
Acting Regional Administrator
U.S. Environmental Protection Agency
Region 5

In the matter of: Stepan Company

Docket Number: **FIFRA-05-2016-0007**

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, which was filed on April 5, 2016 this day in the following manner to the addressees:

Copy by certified mail

Return-receipt requested:

Mr. Russ Garrison
Counsel for Stepan Company
Stepan Company
11901 South Austin Avenue
Alsip, Illinois 60803

Copy by e-mail to

Attorney for Complainant:

Nidhi K. O'Meara
Meara.nidhi@epa.gov

Copy by e-mail to

Regional Judicial Officer:

Ann Coyle
coyle.ann@epa.gov

Dated: April 5, 2016

April 5, 2016



LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5

CERTIFIED MAIL RECEIPT NUMBER(S): **7011 1150 0000 2639 8507**