



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

OCT 21 2015

REPLY TO THE ATTENTION OF:

LC- 8J

CERTIFIED MAIL: No. 7001 0320 0006 0192 6616

RETURN RECEIPT REQUESTED

Mr. Russ Garrison  
Counsel for Stepan Company  
22 West Frontage Road  
Northfield, Illinois 60093

Consent Agreement and Final Order In the Matter of  
The Stepan Company. Docket No. FIFRA-05-2016-0002


Mr. Garrison:

Enclosed please find a copy of a fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. This document was filed on October 21, 2015 with the Regional Hearing Clerk.

The civil penalty in the amount of \$22,050 is to be paid in the manner described in paragraphs 86 and 87. Please be certain that the docket number is written on both the transmittal letter and on the check.

Thank you for your cooperation in resolving this matter.

Sincerely,

*for*   
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-05-2016-0002  
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. Respondent is Stepan Company (Stepan), a corporation doing business 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 in any state to distribute or sell to any person any pesticide that is misbranded.

11. Section 2(q)(1)(F) of FIFRA, 7 U.S.C. § 136(q)(1)(F), states that a pesticide is misbranded if the label does not contain directions for use which are necessary for effecting the purpose for which the product is intended and if complied with, are adequate to protect health and the environment. See also 40 C.F.R. § 156.10(i)(2)(x)(F).

12. Section 2(q)(2)(C)(iii) of FIFRA, 7 U.S.C. § 136(q)(2)(C)(iii), states that a pesticide is misbranded if there is not affixed to its container a label bearing the net weight or measure of the content. See also 40 C.F.R. § 156.10(a)(iii) and (d).

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 "person" means "any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not." 7 U.S.C. § 136(s).

16. 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).

17. A "pesticide" is, among other things, any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest. 7 U.S.C. § 136(u).

18. A “pest” is 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. 7 U.S.C. § 136(t).

19. 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**

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

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

22. At all times relevant to this CAFO, Respondent owned or operated a place of business located at 22 W. Frontage Road, Northfield, Illinois.

23. At all times relevant to the CAFO, Enviro-Brite Solutions, LLC (Enviro-Brite) owned and operated a place of business located at 5606 F-41, Oscoda, Michigan 48750.

24. The company number assigned to Enviro-Brite is 86082.

25. On or about February 5 and 13, 2013, an inspector employed by the Michigan Department of Agriculture and Rural Development and authorized to conduct inspections under FIFRA conducted an inspection at Enviro-Brite, located in Oscoda, Michigan.

#### **Universal Disinfectant Brite, EPA Reg. No. 1839-95-86082**

26. On or about August 7, 1980, EPA registered Stepan’s pesticide product, **NP 4.5 (D&F) Detergent/Disinfectant**.

27. EPA assigned **NP 4.5 (D&F) Detergent/Disinfectant** EPA Registration Number (Reg. No.) 1839-95.

28. On or about July 7, 2011, the EPA accepted a label for **NP 4.5 (D&F) Detergent/Disinfectant**, EPA Reg. No. 1838-95.
29. On or about October 18, 2010, Stepan and Enviro-Brite submitted a Notice of Supplemental Distribution of a Registered Pesticide Product (Notice of Supplemental Distribution) to the EPA for **NP 4.5 (D&F) Detergent/Disinfectant**.
30. The Notice of Supplemental Distribution identified Enviro-Brite as the distributor of **NP 4.5 (D&F) Detergent/Disinfectant**.
31. The Notice of Supplemental Distribution identified the distributor product name for **NP 4.5 (D&F) Detergent/Disinfectant** as **Universal Disinfectant Brite**.
32. **Universal Disinfectant Brite** is assigned EPA Reg. No. 1839-95-86062.
33. **Universal Disinfectant Brite**, EPA. Reg. No. 1839-95-86062, is a "pesticide" as that term is defined in Section 2(u) of FIFRA.
34. The distributor, Enviro-Brite, is an agent of the registrant, Stepan, for all intents and purposes under 40 C.F.R. § 152.132 with respect to the distributor pesticide product, **Universal Disinfectant Brite**, EPA Reg. No. 1839-95-86062.
35. During the February 5 and 13, 2013 inspection, the inspector collected shipping records, a bin label, production records, affidavits and photographs for the pesticide product **Universal Disinfectant Brite**, EPA Reg. No. 1839-95-86062.
36. The bin label collected during the inspection was representative of the product and label that was released for shipment on or about January 17, 2013.
37. The bin label collected during the inspection did not include the required Environmental Hazards language which appears on the July 7, 2011 accepted label.

38. On or about January 17, 2013, Enviro-Brite distributed or sold a 5 gallon container of **Universal Disinfectant Brite**, EPA Reg. No. 1839-95-86062, to Bay County Sheriff's Department in Bay City, Michigan.

**Sani Brite Sanitizer, EPA Reg. No. 1839-86-86082**

39. On or about April 30, 1981, EPA registered Stepan's pesticide product, **BTC® 2125 M 10% Solution**.

40. EPA assigned **BTC® 2125 M 10% Solution** EPA Reg. No. 1839-86.

41. On or about August 11, 2009, Stepan and Enviro-Brite submitted a Notice of Supplemental Distribution to the EPA for **BTC® 2125 M 10% Solution**.

42. The Notice of Supplemental Distribution identified Enviro-Brite as the distributor of **BTC® 2125 M 10% Solution**.

43. The Notice of Supplemental Distribution identified the distributor product name for **BTC® 2125 M 10% Solution** as **Sani Brite Sanitizer**.

44. **Sani Brite Sanitizer** is assigned EPA Reg. No. 1839-86-86062.

45. **Sani Brite Sanitizer**, EPA. Reg. No. 1839-86-86062, is a "pesticide" as that term is defined in Section 2(u) of FIFRA.

46. The distributor, Enviro-Brite, is an agent of the registrant, Stepan, for all intents and purposes under 40 C.F.R. § 152.132 with respect to the distributor pesticide product, **Sani Brite Sanitizer**, EPA Reg. No. 1839-86-86062.

47. During the February 5 and 13, 2013 inspection, the inspector collected shipping records, a bin label, production records, affidavits and photographs for the pesticide product **Sani Brite Sanitizer**, EPA Reg. No. 1839-86-86062.

48. The bin label and photographs collected during the inspection were obtained from pesticides that were packaged, labeled and released for shipment.

49. The bin label and photographs collected during the inspection were representative of the product and label that was released for shipment on or about January 4, 2013.

50. The bin label and photograph collected during the inspection did not show clearly and prominently the net contents of the pesticide product.

51. On or about January 4, 2013, Enviro-Brite distributed or sold **Sani Brite Sanitizer**, EPA Reg. No. 1839-86-86062, to Oscoda High School in Oscoda, Michigan.

**Sani Soft Brite, EPA Reg. No. 1839-108-86082**

52. On or about March 17, 1982, EPA registered Stepan's pesticide product, **SO/SAN Commercial Fabric Softener/Sanitizer**.

53. EPA assigned **SO/SAN Commercial Fabric Softener/Sanitizer** EPA Reg. No. 1839-108.

54. On or about August 18, 2009, Stepan and Enviro-Brite submitted a Notice of Supplemental Distribution to the EPA for **SO/SAN Commercial Fabric Softener/Sanitizer**.

55. The Notice of Supplemental Distribution identified Enviro-Brite as the distributor of **SO/SAN Commercial Fabric Softener/Sanitizer**.

56. The Notice of Supplemental Distribution identified the distributor product name for **SO/SAN Commercial Fabric Softener/Sanitizer** as **Sani Soft Brite**.

57. **Sani Soft Brite** is assigned EPA Reg. No. 1839-108-86062.

58. **Sani Soft Brite**, EPA. Reg. No. 1839-108-86062, is a "pesticide" as that term is defined in Section 2(u) of FIFRA.



59. The distributor, Enviro-Brite, is an agent of the registrant, Stepan, for all intents and purposes under 40 C.F.R. § 152.132 with respect to the distributor pesticide product, **Sani Soft Brite**, EPA Reg. No. 1839-108-86062.

60. During the February 5 and 13, 2013 inspection, the inspector collected shipping records, a bin label, production records, affidavits and photographs for the pesticide product **Sani Soft Brite**, EPA Reg. No. 1839-108-86062.

61. The bin label and photographs collected during the inspection were obtained from pesticides that were packaged, labeled and released for shipment.

62. The bin label and photographs collected during the inspection were representative of the product and label that was released for shipment on or about December 19, 2012.

63. The bin label and photograph collected during the inspection did not show clearly and prominently the net contents of the pesticide product.

64. On or about December 19, 2012, Enviro-Brite distributed or sold **Sani Soft Brite**, EPA Reg. No. 1839-108-86062, to Bay County Sherriff's Department in Bay City, Michigan.

#### Count 1

65. Complainant incorporates paragraphs 1 through 64 of this CAFO, as if set forth in this paragraph.

66. On or about January 17, 2013, Enviro-Brite distributed or sold a 5 gallon container of **Universal Disinfectant Brite**, EPA Reg. No. 1839-95-86062, to Bay County Sheriff's Department in Bay City, Michigan, that was misbranded as that term is defined at Section 2(q)(1)(F) of FIFRA, 7 U.S.C. § 136(q)(1)(F), because the label on the container did not include the required Environmental Hazards language.

67. Enviro-Brite's distribution or sale of **Universal Disinfectant Brite**, EPA Reg. No. **1839-95-86062**, constitutes an unlawful act pursuant to Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

68. Enviro-Brite's violation of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), subjects the 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).

### Count 2

69. Complainant incorporates paragraphs 1 through 64 of this CAFO, as if set forth in this paragraph.

70. On or about January 4, 2013, Enviro-Brite distributed or sold **Sani Brite Sanitizer**, EPA Reg. No. 1839-86-86062, to Oscoda Are High School, Oscoda, Michigan, that was misbranded as that term is defined by Section 2(q)(2)(C) of FIFRA, 7 U.S.C. § 136(q)(2)(C), because the label did not show clearly and prominently the net contents of the pesticide.

71. Enviro-Brite's distribution or sale of **Sani Brite Sanitizer**, EPA Reg. No. 1839-86-86062, constitutes an unlawful act pursuant to Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

72. Enviro-Brite's violation of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), subjects the 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).

### Count 3

73. Complainant incorporates paragraphs 1 through 64 of this CAFO, as if set forth in this paragraph.

74. On or about February 5, 2013, Enviro-Brite held for distribution or sale at its distribution facility a pesticide, **Sani Brite Sanitizer**, EPA Reg. No. 1839-86-86062, that was misbranded as that term is defined by Section 2(q)(2)(C) of FIFRA, 7 U.S.C. § 136(q)(2)(C), because the label did not show clearly and prominently the net contents of the pesticide.

75. Enviro-Brite's distribution or sale of **Sani Brite Sanitizer**, EPA Reg. No. 1839-86-86062, constitutes an unlawful act pursuant to Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

76. Enviro-Brite's violation of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), subjects the 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).

#### Count 4

77. Complainant incorporates paragraphs 1 through 64 of this CAFO, as if set forth in this paragraph.

78. On or about December 19, 2012, Enviro-Brite distributed or sold **Sani Soft Brite**, EPA Reg. No. 1839-108-86062, to Bay County Sherriff's Department in Bay City, Michigan, that was misbranded as that term is defined by Section 2(q)(2)(C) of FIFRA, 7 U.S.C. § 136(q)(2)(C), because the label did not show clearly and prominently the net contents of the pesticide.

79. Enviro-Brite's distribution or sale of **Sani Soft Brite**, EPA Reg. No. 1839-108-86082, constitutes an unlawful act pursuant to Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

80. Enviro-Brite's violation of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), subjects the 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).

**Count 5**

81. Complainant incorporates paragraphs 1 through 64 of this CAFO, as if set forth in this paragraph.

82. On or about February 5, 2013, Enviro-Brite distributed or sold a pesticide, **Sani Soft Brite**, EPA Reg. No. 1839-108-86082, that was misbranded as that term is defined by Section 2(q)(2)(C) of FIFRA, 7 U.S.C. § 136(q)(2)(C), because the label did not show clearly and prominently the net contents of the pesticide.

83. Enviro-Brite's distribution or sale of **Sani Soft Brite**, EPA Reg. No. 1839-108-86082, constitutes an unlawful act pursuant to Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

84. Enviro-Brite's violation of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), subjects the 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**

85. 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.

86. Based on an evaluation of the facts alleged in this complaint, 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 \$22,050.

87. Within 30 days after the effective date of this CAFO, Respondent must pay a \$22,050 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, state Stepan Company, and the docket number of this CAFO.

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

89. 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.

90. 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

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

92. 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.

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

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

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

96. 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.

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

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

In the Matter of:  
Stepan Company

Stepan Company, Respondent

A handwritten signature in black ink, appearing to read 'S-T. M.' followed by a stylized flourish.

9/23/15


Date

Sean Moriarty, Vice President and General Manager,  
Surfactants, North America  
Stepan Company

**In the Matter of:  
Stepan Company**

**United States Environmental Protection Agency, Complainant**

10/8/2015  
Date

  
\_\_\_\_\_  
Margaret M. Guerriero  
Director  
Land and Chemicals Division



**In the Matter of:**  
**Stepan Company**  
**Docket No. FIFRA-05-2016-0002**

**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.

10/16/2015

Date



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

In the matter of: The Stepan Company.

Docket Number: FIFRA-05-2016-0002

**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 October 21, 2015, in the following manner to the addressees:

Copy by Certified Mail  
Return-receipt:

Mr. Russ Garrison  
Counsel for the Stepan Company  
22 West Frontage Road  
Northfield, Illinois 60093

Copy by E-mail to  
Attorney for Complainant:

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

Copy by E-mail to  
Regional Judicial Officer:

Ann Coyle  
coyle.ann@epa.gov

Dated: October 21, 2015

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

CERTIFIED MAIL RECEIPT NUMBER(S): 7001 0320 0006 0192 6616