



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

JUN 12 2019

REPLY TO THE ATTENTION OF
ECP-17J

VIA EMAIL

Mr. Russ Garrison
Stepan Company
22 West Frontage Road
Northfield, IL 60093

Rgarrison@Stepan.com

Consent Agreement and Final Order In the Matter of Stepan Company
Docket Number FIFRA-05-2019-0017

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 June 12, 2019 with the Regional Hearing Clerk.

The civil penalty in the amount of \$612,718 is to be paid in the manner described in paragraphs 87 and 88. Please be certain that the docket number is written on both the transmittal letter and on the check. Payment is due by 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-05-2019-0017

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 Enforcement & Compliance Assurance 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)(C) of FIFRA, 7 U.S.C. § 136j(a)(1)(C), states that it is unlawful for any person in any state to distribute or sell to any person any registered pesticide the composition of which differs at the time of its distribution or sale from its composition as described in the statement required in connection with its registration under Section 3 of FIFRA.

11. 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 which is misbranded.

12. Section 12(a)(2)(S) of FIFRA, 7 U.S.C. § 136j(a)(2)(S), states that it is unlawful for any person in any state to violate any regulation issued under Section 19 of FIFRA.

13. Section 19(e) of FIFRA, 7 U.S.C. § 136q(e), states that the Administrator shall promulgate regulations for the design of pesticide containers that will promote the safe storage and disposal of pesticides.

14. The Administrator promulgated such regulations at 40 C.F.R. Part 156, Subpart H. See 71 Fed. Reg. 47420 (August 16, 2006), as amended at 73 Fed. Reg. 64224 (October 29, 2008).

15. 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.

16. 40 C.F.R. § 156.10(i)(2)(ix) requires that the directions for use shall include specific directions concerning storage, residue removal and disposal of the pesticide and its container in accordance with subpart H of 40 C.F.R. Part 156.

17. 40 C.F.R. § 156.140 requires that the label of a pesticide product identify the container type and requires certain language based on the type of container that is identified on the label.

18. 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.

19. 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.

20. 40 C.F.R. § 158.350 states that the registrant, at the time of application, must propose certified limits for the ingredients in the pesticide product and that the certified limits become legally binding limits upon the approval of the application.

21. 40 C.F.R. § 158.350(e) states that the applicant must certify (the language for the certification is set forth in 40 C.F.R. § 158.350(e)) the accuracy of the information presented regarding the certified limits and that the certified limits of the ingredients will be maintained.

22. 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).

23. 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).

24. 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).

25. 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 U.S. EPA declares to be a pest under Section 25(c)(1) of FIFRA. 7 U.S.C. § 136(t).

26. Section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1), states that any registrant, commercial applicator, wholesaler, dealer, retailer or other distributor who violates any provision of FIFRA may be assessed a civil penalty by EPA of not more than \$7,500 for each offense that occurred after January 12, 2009 through November 2, 2015. The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended through 2015, 28 U.S.C. § 2461, and its implementing regulations at 40 C.F.R. Part 19, increased the amount that can be assessed to \$19,446 for each offense occurring after November 2, 2015 and assessed after January 15, 2018. See 83 Fed. Reg. 1190 (January 10, 2018).

Factual Allegations and Alleged Violations

27. Respondent is a “person” as defined at Section 2(s) of FIFRA, 7 U.S.C. § 136(s).
28. Respondent is a “registrant” as defined at Section 2(z) of FIFRA, 7 U.S.C. § 136(z).
29. At all times relevant to this CAFO, Respondent owned or operated a place of business located at 22 W. Frontage Road, Northfield, Illinois.
30. At all times relevant to the CAFO, Spartan Chemical Company, Inc. (Spartan) owned and operated a place of business located at 110 Spartan Drive, Maumee, Ohio, 43537.
31. EPA assigned company number 5741 to Spartan.
32. On or about November 21, 2017, an inspector employed by the Ohio Department of Agriculture and authorized to conduct inspections under FIFRA conducted an inspection at Spartan, located in Maumee, Ohio.

TB-CIDE QUAT – EPA Reg. No. 1839-83-5741

33. On or about October 22, 1980, EPA registered Stepan’s pesticide product, **Detergent Disinfectant Pump Spray**.

34. EPA assigned **Detergent Disinfectant Pump Spray**, EPA Registration Number (Reg. No.) 1839-83.

35. On or about January 14, 2014, the EPA accepted an amended label for **Detergent Disinfectant Pump Spray**, EPA Reg. No. 1839-83.

36. On or about April 1996, Stepan and Spartan submitted a Notice of Supplemental Distribution of a Registered Pesticide Product (Notice of Supplemental Distribution) to the EPA for **Detergent Disinfectant Pump Spray**.

37. The Notice of Supplemental Distribution identified Spartan as the distributor of **Detergent Disinfectant Pump Spray**.

38. The Notice of Supplemental Distribution identified the distributor product name for **Detergent Disinfectant Pump Spray** as **TB-Cide Quat**.

39. **TB-Cide Quat** is assigned EPA Reg. No. 1839-83-5741.

40. **TB-Cide Quat**, EPA Reg. No. 1839-83-5741, is a “pesticide” as that term is defined in Section 2(u) of FIFRA.

41. The distributor, Spartan, 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, **TB-Cide Quat**, EPA Reg. No. 1839-83-5741.

42. During the November 21, 2017 inspection, the inspector collected a certificate of analysis, performed by Spartan, for batch number 384400 of **TB-Cide Quat**, EPA Reg. No. 1839-83-5741.

43. During the November 21, 2017 inspection, the inspector collected, among other things, shipping records, a bin label and an affidavit for the pesticide product **TB-Cide Quat**, EPA Reg. No. 1839-83-5741, associated with batch number 384400.

44. The certificate of analysis shows that the total percentage of the active ingredients in batch number 384400 of **TB-Cide Quat**, EPA Reg. No. 1839-83-5741, was 0.236%.

45. The bin label claims that the total percentage of the active ingredients in **TB-Cide Quat**, EPA Reg. No. 1839-83-5741, is 0.210%.

46. Spartan's certificate of analysis shows that the batch of **TB-Cide Quat**, EPA Reg. No. 1839-83-5741, did not contain .210 percent of the active ingredients as claimed on the label.

47. Spartan's certificate of analysis showed that the batch of **TB-Cide Quat**, EPA Reg. No. 1839-83-5741, exceeded the upper limit of active ingredients allowed under 40 C.F.R. § 158.350.

48. The bin label collected during the inspection was a true and accurate representation of the product and the associated labels that were released for shipment on or about March 2 through March 14, 2016.

49. The bin label for **TB-Cide Quat**, EPA Reg. No. 1839-83-5741, collected during the inspection, did not include the following required Storage and Disposal language:

*Nonrefillable container. Do not use or refill container. Clean container promptly after emptying.
Triple rinse as follows: Fill container ¼ full with water and recap. Agitate vigorously. Follow Pesticide Disposal instructions for rinsate disposal. Drain for 10 seconds after the flow begins to drip. Repeat procedure two more times. Offer for recycling or reconditioning, if available. If not available, puncture and dispose in a sanitary landfill.*

50. From March 2 through March 14, 2016, Spartan distributed or sold **TB-Cide Quat**, EPA Reg. No. 1839-83-5741, to numerous persons on 87 occasions.

HDOC2 – EPA Reg. No. 1839-169-5741

51. On or about June 12, 2003, EPA registered Stepan's pesticide product, **BTC 885 Neutral Disinfectant Cleaner-64**.

52. EPA assigned **BTC 885 Neutral Disinfectant Cleaner-64**, EPA Reg. No. 1839-169.

53. On or about January 22, 2015, the EPA accepted an amended label for **BTC 885 Neutral Disinfectant Cleaner-64**, EPA Reg. No. 1839-169.

54. On or about September 1998, Stepan and Spartan submitted a Notice of Supplemental Distribution to the EPA for **BTC 885 Neutral Disinfectant Cleaner-64**, EPA Reg. No. 1839-169.

55. The Notice of Supplemental Distribution identified Spartan as the distributor of **BTC 885 Neutral Disinfectant Cleaner-64**, EPA Reg. No. 1839-169.

56. The Notice of Supplemental Distribution identified the distributor product name for **BTC 885 Neutral Disinfectant Cleaner-64**, EPA Reg. No. 1839-169, as **hdqC2**.

57. **HdqC2** is assigned EPA Reg. No. 1839-169-5741.

58. **HdqC2**, EPA Reg. No. 1839-169-5741, is a “pesticide” as that term is defined in Section 2(u) of FIFRA.

59. The distributor, Spartan, 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, **hdqC2**, EPA Reg. No. 1839-169-5741.

60. During the November 21, 2017 inspection, the inspector photographed and collected a bin label for the pesticide product **hdqC2**, EPA Reg. No. 1839-169-5741, which was packaged, labeled and released for delivery.

61. The bin label for **hdqC2**, EPA Reg. No. 1839-169-5741, collected during the inspection, did not include the following Storage and Disposal language:

Nonrefillable container. Do not use or refill container. Clean container promptly after emptying. After rinsing container, offer empty metal drums or plastic

containers for recycling if available or puncture and dispose of in a sanitary landfill or by incineration.

SUPER HDQL10 – EPA Reg. No. 1839-167-5741

62. On or about March 11, 1994, EPA registered Stepan's pesticide product, **BTC 885 Neutral Disinfectant Cleaner-256**.

63. EPA assigned **BTC 885 Neutral Disinfectant Cleaner-256**, EPA Reg. No. 1839-167.

64. On or about January 22, 2015, the EPA accepted an amended label for **BTC 885 Neutral Disinfectant Cleaner-256**, EPA Reg. No. 1839-167.

65. On or about October 1999, Stepan and Spartan submitted a Notice of Supplemental Distribution to the EPA for **BTC 885 Neutral Disinfectant Cleaner-256**, EPA Reg. No. 1839-167.

66. The Notice of Supplemental Distribution identified Spartan as the distributor of **BTC 885 Neutral Disinfectant Cleaner-256**, EPA Reg. No. 1839-167.

67. The Notice of Supplemental Distribution identified the distributor product name for **BTC 885 Neutral Disinfectant Cleaner-256**, EPA Reg. No. 1839-167, as **Super HDQL10**.

68. **Super HDQL10** is assigned EPA Reg. No. 1839-167-5741.

69. **Super HDQL10**, EPA Reg. No. 1839-167-5741, is a "pesticide" as that term is defined in Section 2(u) of FIFRA.

70. The distributor, Spartan, 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, **Super HDQL10**, EPA Reg. No. 1839-167-5741.

71. During the November 21, 2017 inspection, the inspector photographed and collected a bin label for the pesticide product **Super HDQL10**, EPA Reg. No. 1839-167-5741, which was packaged, labeled and released for delivery.

72. The bin label for **Super HDQL10**, EPA Reg. No. 1839-167-5741, collected during the inspection, did not include the following Storage and Disposal language:

Nonrefillable container. Do not use or refill container. After rinsing container, offer for recycling if available or puncture and dispose of in a sanitary landfill or by incineration.

Counts 1 through 87

73. The preceding paragraphs are incorporated by reference.

74. From on or about March 2 through 14, 2016, Spartan distributed or sold **TB-Cide Quat**, EPA Reg. No. 1839-83-5741, on 87 separate occasions, that violated FIFRA.

75. Spartan's distribution or sale of **TB-Cide Quat**, EPA Reg. No. 1839-83-5741, constitutes an unlawful act pursuant to Sections 12(a)(1)(C), 12(a)(1)(E) and (a)(2)(S) of FIFRA, 7 U.S.C. §§ 136j(a)(1)(C), (a)(1)(E) and (a)(2)(S).

76. Spartan's violation of Sections 12(a)(1)(C), 12(a)(1)(E) and (a)(2)(S) of FIFRA, 7 U.S.C. §§ 136j(a)(1)(C), (a)(1)(E) and (a)(2)(S), subjects the registrant, Stepan, to the issuance of an Administrative Complaint assessing a separate civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. § 136l(a), for each of the 87 violations.

Count 88

77. The preceding paragraphs are incorporated by reference.

78. On or about November 21, 2017, Spartan distributed or sold **hdqC2**, EPA Reg. No. 1839-169-5741, that violated FIFRA.

79. Spartan's distribution or sale of **hdqC2**, EPA Reg. No. 1839-169-5741, constitutes an unlawful act pursuant to Sections 12(a)(1)(E) and (a)(2)(S) of FIFRA, 7 U.S.C. §§ 136j(a)(1)(E) and (a)(2)(S).

80. Spartan's violation of Sections 12(a)(1)(E) and (a)(2)(S) of FIFRA, 7 U.S.C. §§ 136j(a)(1)(E) and (a)(2)(S), 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 89

81. The preceding paragraphs are incorporated by reference.

82. On or about November 21, 2017, Spartan distributed or sold **Super HDQL10**, EPA Reg. No. 1839-167-5741, that violated FIFRA.

83. Spartan's distribution or sale of **Super HDQL10**, EPA Reg. No. 1839-167-5741, constitutes an unlawful act pursuant to Sections 12(a)(1)(E) and (a)(2)(S) of FIFRA, 7 U.S.C. §§ 136j(a)(1)(E) and (a)(2)(S).

84. Spartan's violation of Sections 12(a)(1)(E) and (a)(2)(S) of FIFRA, 7 U.S.C. §§ 136j(a)(1)(E) and (a)(2)(S), 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(a)(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 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 \$612,718.

87. Within 30 days after the effective date of this CAFO, Respondent must pay a \$612,718 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. 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 (ECP-17J)
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

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

90. 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.

91. 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

92. Consistent with the Standing Order Authorizing E-Mail Service of Orders and Other Documents Issued by the Regional Administrator or Regional Judicial Officer under the Consolidated Rules, dated March 27, 2015, the parties consent to service of this CAFO by e-mail at the following valid e-mail addresses for their respective attorneys: omeara.nidhi@epa.gov (for Complainant), and RGarrison@Stepan.com (for Respondent). The parties waive their right to service by the methods specified in 40 C.F.R. § 22.6.

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

94. 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.

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

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

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

98. 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.

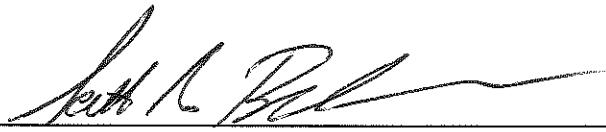
99. Each party agrees to bear its own costs and attorney's fees, in this action.

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

**In the Matter of:
Stepan Company**

Stepan Company, Respondent

May 21, 2019
Date



Scott R. Behrens, Vice President and General Manager of
Global Surfactants
Stepan Company

**In the Matter of:
Stepan Company**

United States Environmental Protection Agency, Complainant

6/4/19
Date


Sara Bruneman
for Michael D. Harris, Acting Director
Enforcement & Compliance Assurance Division

In the Matter of:
Stepan Company
Docket No. FIFRA-05-2019-0017

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.

June 10, 2019
Date



Ann L. Coyle
Regional Judicial Officer
United States Environmental Protection Agency
Region 5

Consent Agreement and Final Order
In the matter of: Stepan Company
Docket Number: **FIFRA-05-2019-0017**

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing Consent Agreement and Final Order, docket number **FIFRA-05-2019-0017**, which was filed on June 12, 2019, in the following manner to the following addressees:

Copy by E-mail to
Attorney for Complainant: Ms. Nidhi K. O'Meara
omeara.nidhi@epa.gov

Copy by E-mail to
Attorney for Respondent: Mr. Russ Garrison
Rgarrison@Stepan.com

Copy by E-mail to
Regional Judicial Officer: Ann Coyle
coyle.ann@epa.gov

Dated: June 12, 2019



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