

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:

**Gardens Alive! Inc.
Fairfield, Ohio**

Respondent.

Docket No. FIFRA-05-2025-0016

**EXPEDITED SETTLEMENT
AGREEMENT AND
FINAL ORDER**

EXPEDITED SETTLEMENT AGREEMENT and FINAL ORDER

1. The U.S. Environmental Protection Agency alleges that Gardens Alive! Inc. (Respondent) failed to comply with Section 7(c) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), 7 U.S.C. § 136e(c), for its facility, EPA Establishment Number 56872-OH-1, located at 4424 Dixie Highway, Fairfield, Ohio 45014.
2. Section 7(c) of FIFRA, 7 U.S.C. § 136e(c), requires any producer operating a registered pesticide-producing establishment to inform EPA of the types and amounts of pesticides (and, if applicable, active ingredients used in producing pesticides): which it is producing; which it has produced during the past year; and which it has sold or distributed during the past year. In addition, § 136e(c) provides that the required information shall be kept current and submitted to the Administrator annually, as required by regulations prescribed by the Administrator.
3. 40 C.F.R. § 167.85(a) and (b) adds requirements for reporting: devices produced at registered pesticide-producing establishments; the name and address of the establishment; and an estimate of the amount of pesticide product to be produced during the current year.
4. 40 C.F.R. § 167.85(c) requires the producer to obtain, complete and submit annually a pesticide reporting form supplied by EPA. The applicable form, "*EPA Form 3540-16*,

Pesticide Report for Pesticide-Producing and Device-Producing Establishments,” requires, among other things: identification of the establishment; identification of the company; authorized signature and signature date; and specific pesticide production information. In addition, the document “*Instructions for Completing EPA Form 3540-16, Pesticide Report for Pesticide-Producing and Device-Producing Establishments Reporting Year January 1, 2024 through December 31, 2024*” provides additional detail regarding information required on the form.

5. 40 C.F.R. § 167.85(d) requires, in part, the pesticide-production reports to be filed annually on or before March 1.

6. Respondent’s annual report for the calendar year 2024 was late, as it was submitted on or about March 26, 2025.

7. Respondent’s annual reports for calendar years 2022 and 2023 have not been submitted to EPA, as required by 40 C.F.R. § 167.85(d).

8. Respondent’s three failures to comply with Section 7(c) of FIFRA and 40 C.F.R. § 167.85 constitute three violations of Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L).

9. EPA and Respondent agree to settle this matter for a civil penalty of **\$3,800** (three thousand eight hundred dollars and zero cents). EPA and Respondent agree that settlement of this matter is in the public interest.

10. EPA is authorized to enter into this Expedited Settlement Agreement and Final Order (Agreement) pursuant to Section 14(a) of FIFRA, 7 U.S.C. § 136l, and 40 C.F.R. §§ 22.13(b) and 22.18(b)(2)-(3).

11. In signing this Agreement, Respondent: (a) admits that Respondent is subject to the requirements in Paragraphs 2 through 5 above; (b) admits that EPA has jurisdiction over

Respondent and Respondent's conduct as alleged herein; (c) neither admits nor denies the factual allegations contained herein; (d) consents to the assessment of this penalty; and (e) waives any right to contest the allegations contained herein, and its right to appeal the proposed Final Order attached hereto. Respondent waives any right to contest the allegations in the ESA and its right to appeal this ESA. Respondent waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the final order accompanying the ESA.

12. Within 30 days of the effective date of this Agreement, Respondent shall pay a civil penalty of **\$3,800** (three thousand eight hundred dollars and zero cents) for the FIFRA violations identified in this Agreement using any method, or combination of appropriate methods, as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions, see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.

13. When it pays the penalty, Respondent must send a notice of payment that states Respondent's name, complete address, and the case docket number (along with a photocopy of the check or a statement of affirmation or receipt of an electronic funds transfer) via electronic mail to:

Regional Hearing Clerk (E-19J)
U.S. Environmental Protection Agency, Region 5
r5hearingclerk@epa.gov

Emma Gloekler
Pesticides and Toxics Compliance Section (ECP-17J)
U.S. Environmental Protection Agency, Region 5
gloekler.emma@epa.gov
And R5lecab@epa.gov

U.S. Environmental Protection Agency
Cincinnati Finance Center
CINWD_AcctsReceivable@epa.gov

14. Payment of the civil penalty shall resolve only Respondent's liability for federal civil penalties for the violations and facts alleged herein.

15. The civil penalty is not deductible for federal tax purposes.

16. If Respondent does not timely pay the civil penalty, EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties, and the United States' enforcement expenses for the collection action. The validity, amount and appropriateness of the civil penalties are not reviewable in a collection action.

17. EPA reserves all of its rights to take enforcement action for any other past, present, or future violations by Respondent of FIFRA, any other federal statute or regulation, or this Agreement.

18. Respondent certifies that it is complying with Section 7(c) of FIFRA, 7 U.S.C. § 136e(c), and its implementing regulations at 40 C.F.R. § 167.85.

19. Upon signing and returning this Agreement to EPA, Respondent waives any and all remedies, claims for relief and other available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this Expedited Settlement Agreement, including the opportunity for a hearing or appeal pursuant to FIFRA and 40 C.F.R. Part 22 and any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

20. Each party shall bear its own costs and fees, if any.

21. The Agreement authorized by EPA's execution of the Final Order attached hereto

constitutes a final order under 40 C.F.R. Part 22.

22. This Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. § 22.31(b), is effective upon filing of the Final Order.

23. The parties consent to service of this Expedited Settlement Agreement and Final Order by e-mail at the following valid e-mail addresses: gloekler.emma@epa.gov (for Complainant), and skay@gardensalive.com (for Respondent).

24. Respondent understands that the ESA will become publicly available upon filing.

IT IS SO AGREED,

FOR RESPONDENT:

Name (print): Stephanie Key

Title (print): Regulatory Affairs

Signature: Stephanie Key

Date 5/16/25

APPROVED BY EPA:

Michael D. Harris
Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency
Region 5

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FINAL ORDER

Pursuant to authority of Section 14(a) of FIFRA, 7 U.S.C. § 136l, and 40 C.F.R. § 22.13(b), and according to the terms of this Agreement, IT IS HEREBY ORDERED THAT:

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

IT IS SO ORDERED:

Ann L. Coyle
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 5