



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

OCT 15 2015

REPLY TO THE ATTENTION OF:

LC- 8J

**CERTIFIED MAIL: No. 7001 0320 0006 0192 6593**

**RETURN RECEIPT REQUESTED**

James McFadden  
Farnam Companies Inc.  
1501 E. Woodfield Road, Suite 200W  
Schaumburg, IL 60173

Consent Agreement and Final Order In the Matter of  
Farnam Co. Inc. dba/ Central Life Sciences. Docket No. FIFRA-05-2016-0001

Mr. McFadden:

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 15, 2015 with the Regional Hearing Clerk.

The civil penalty in the amount of \$7,500 is to be paid in the manner described in paragraphs 41 and 42. 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,

A handwritten signature in black ink, appearing to read "Estrella Calvo".

Estrella Calvo  
Pesticides and Toxics Compliance Section

Enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

In the Matter of:	)	Docket No. FIFRA-05-2016-0001
	)	
Farnam Co. Inc. dba	)	Proceeding to Assess a Civil Penalty
Central Life Sciences	)	Under Section 14(a) of the Federal
Walnut Creek, California	)	Insecticide, Fungicide, and Rodenticide
Respondent.	)	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 Farnam Co. Inc. dba Central Life Sciences, a corporation doing business at 1340 Treat Boulevard, Walnut Creek, California 94597.

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.

**Statutory and Regulatory Background**

9. The importation of pesticides into the United States is governed by Section 17(c) and (e) of FIFRA, 7 U.S.C. §§ 136o(c) and 136o(e), and the regulations promulgated thereunder by the Secretary of the Treasury in consultation with the Administrator of the EPA (the Administrator). These regulations are found at 19 C.F.R. Part 12.

10. 19 C.F.R. § 12.112 states, in pertinent part, that an importer desiring to import pesticides into the United States shall submit to the Administrator a Notice of Arrival of Pesticides or Devices (NOA) (EPA form 3540-1), prior to the arrival of the shipment to the United States. See also Section 17(c) of FIFRA, 7 U.S.C. § 136o(c).

11. Section 12(a)(2)(S) of FIFRA, 7 U.S.C. § 136j(a)(2)(S), states that it is unlawful for any person to violate any regulation issued under Sections 3(a) or 19 of FIFRA, 7 U.S.C. §§ 136a(a) or 136q.

12. Section 3(a) of FIFRA, 7 U.S.C. § 136a(a), states, in pertinent part, no person in any State may distribute or sell to any person any pesticide that is not registered under FIFRA.

13. Section 3(c)(1) of FIFRA, 7 U.S.C. § 136a(c)(1), states, in pertinent part, each applicant for registration of a pesticide shall file with the Administrator a statement which

includes... (C) a complete copy of the labeling of the pesticide, a statement of all claims to be made for it, and any directions for use.

14. Section 19 of FIFRA, 7 U.S.C. § 136q, states, in pertinent part, the Administrator may require under section 3 or 6 of FIFRA that... (B) the labeling of a pesticide contain requirements and procedures for the transportation, storage, and disposal of the pesticide, any container of the pesticide, any rinsate containing the pesticide, or any other material used to contain or collect excess or spilled quantities of the pesticide.

15. 40 C.F.R. § 156.10(a) states, every pesticide product shall bear a label containing the information specified by FIFRA and the regulations in this part. The contents of a label must show clearly and prominently, in pertinent part, the net contents as prescribed in paragraph (d) of 156.10; the hazard and precautionary statements as prescribed in Subpart D of 40 C.F.R. Part 156 Human Hazard and Precautionary Statements; and the directions for use as prescribed in 40 C.F.R. § 156.10(i).

16. 40 C.F.R. § 156.10(d)(2) states, in pertinent part, if the pesticide is a liquid, the net content statement shall be in terms of liquid measure at 68 °F (20 °C) and shall be expressed in conventional American units of fluid ounces, pints, quarts and gallons.

17. 40 C.F.R. § 156.64(a)(1), states, in pertinent part, any pesticide product meeting the criteria of Toxicity Category I for any route of exposure must bear on the front panel the signal word "Danger." In addition, if the product is assigned to Toxicity Category I on the basis of its oral, inhalation or dermal toxicity (as distinct from skin and eye irritation), the word "Poison" must appear in red on a background of distinctly contrasting color, and the skull and crossbones symbol must appear in immediate proximity to the word "Poison."

18. 40 C.F.R. § 156.10(i)(2) states, in pertinent part, the directions for use shall include

the following, under the headings "Directions for Use"... (ix) Specific directions concerning the storage, residue removal and disposal of the pesticide and its container, in accordance with subpart H of 40 C.F.R. Part 156 for Container Labeling. These instructions must be grouped and appear under the heading "Storage and Disposal."

19. 40 C.F.R. § 156.140, states, in pertinent part, that for products other than plant-incorporated protectants, the following statements, as applicable, must be placed on the label or container:

- (a) *Nonrefillable container.* For non-refillable containers, the statements in paragraphs (a)(1) through (a)(4) of 40 C.F.R. § 156.140 are required.
  - (a)(1) *Statement identifying a nonrefillable container.* The following phrase is required: "Nonrefillable container."
  - (a)(2) *Reuse statement.* One of the following statements is required.
    - (a)(2)(i) "Do not use or refill this container."
    - (a)(2)(ii) "Do not reuse this container to hold materials other than pesticides or dilute pesticides (rinsate). After emptying and cleaning, it may be allowable to temporarily hold rinsate or other pesticide-related materials in the container. Contact your state regulatory agency to determine allowable practices in your state."
    - (a)(2)(iii) The following statement may be used if a product is "ready to use" and its directions for use allow a different product (that is a similar, but concentrated formulation) to be poured into the container and diluted by the end user: "Do not reuse or refill this container unless the directions for use allow a different (concentrated) product to be diluted

in the container.”

(a)(3) *Recycling or reconditioning statement.* One of the following statements is required:

(a)(3)(i) “Offer for recycling if available.”

(a)(3)(ii) “Once cleaned, some agricultural plastic pesticide containers can be taken to a container collection site or picked up for recycling. To find the nearest site, contact your chemical dealer or manufacturer or contact [a pesticide container recycling organization] at [phone number] or [web site].”

(a)(3)(iii) A recycling statement approved by EPA and published in an EPA document, such as a Pesticide Registration Notice.

(a)(3)(iv) An alternative recycling statement that has been reviewed and approved by EPA.

(a)(3)(v) “Offer for reconditioning if appropriate.”

(a)(4) *Batch Code.* A lot number, or other code used by the registrant or producer to identify the batch of the pesticide product which is distributed and sold is required.

(b) *Refillable container.* For refillable containers, one of the following statements is required.

(b)(1) “Refillable Container. Refill this container with pesticide only. Do not reuse this container for any other purpose.

(b)(2) “Refillable Container. Refill this container with [common chemical name] only. Do not reuse this container for any other purpose.”

20. Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), defines the term “distribute or sell” to mean 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.

21. Section 2(t) of FIFRA, 7 U.S.C. § 136(t), defines a “pest” as 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 (except viruses, bacteria, or other living microorganisms on or in living man or other living animals) which the Administrator declares to be a pest under Section 25(c)(1) of FIFRA, 7 U.S.C. § 136w(c)(1).

22. Section 2(u) of FIFRA, 7 U.S.C. § 136(u), defines a “pesticide” as any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.

23. Section 2(s) of FIFRA, 7 U.S.C. § 136(s), defines a “person” as any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.

24. The Administrator of EPA may assess a civil penalty against any registrant or 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**

25. Respondent is, and was at all times relevant to this Complaint, a corporation and, therefore, is a “person” as that term is defined in Section 2(s) of FIFRA, 7 U.S.C. § 136(s).

26. On or about August 5, 2015, Phil Patterson Inc., located at 209 Harney Street, Suite 250, Omaha, Nebraska 68102 was the broker/agent for Respondent for the import

shipment under entry number M73-0155049-8.

27. On or about August 5, 2015, Respondent via its broker/agent submitted a NOA to EPA for import of a shipment of the pesticide product "Bromadiolone 2.5% Concentrate," EPA Registration Number (EPA Reg. No.) 270-371, from Hungary under entry number M73-0155049-8.

28. The importer of record listed on the NOA for the shipment under entry number M73-0155049-8 was Farnam Co. Inc. dba Central Life Sciences.

29. "Bromadiolone 2.5% Concentrate" is a registered pesticide, as defined in Section 2(u) of FIFRA, 7 U.S.C. § 136(u).

30. On or about August 5, 2015, a shipment of "Bromadiolone 2.5% Concentrate," EPA Reg. No. 270-371, entered into the United States at the Chicago, Illinois port of entry under entry number M73-0155049-8.

31. On or about August 5, 2015, Respondent distributed or sold the pesticide product "Bromadiolone 2.5% Concentrate," EPA Reg. No. 270-371 as those terms are defined in 2(gg) of FIFRA, 7 U.S.C. § 136(gg).

32. The labels affixed to containers of "Bromadiolone 2.5% Concentrate", EPA Reg. No. 270-371 listed the signal word "Danger" and identified the contents of the container as "55 litres."

33. The labels affixed to containers in the shipment of "Bromadiolone 2.5% Concentrate," EPA Reg. No. 270-371 that entered into the United States on or about August 5, 2015 did not:

- identify the container as "Refillable" or "Nonrefillable;"
- contain the required statements for "Refillable" or "Nonrefillable" containers;



- contain the word “Poison” in red; and
- express the net contents of each container in conventional American units of measure.

34. 40 C.F.R. § 156.140 requires container labeling statements to be placed on the label or container as applicable.

35. 40 C.F.R. § 156.64 requires that for any pesticide product assigned Toxicity Category I on the basis of its oral, inhalation, or dermal toxicity (as distinct from skin and eye irritation), the word “Poison” must appear on the label in red on a background of distinctly contrasting color.

36. 40 C.F.R. § 156.10(d)(2) requires the label for liquid pesticides to show the net content statement in terms of liquid measure at 68 °F (20 °C) and to be expressed in conventional American units of fluid ounces, pints, quarts and gallons.

#### Specific Allegations

37. Complainant incorporates by reference the allegations contained in paragraphs 1 through 36 of this Complaint.

#### *Count 1*

38. On or about August 5, 2015, Respondent distributed or sold the pesticide product “Bromadiolone 2.5% Concentrate,” EPA Reg. No. 270-371 with a label that did not meet the applicable labeling requirements found at 40 C.F.R. § 156.10, which constitutes an unlawful act, in violation of Section 12(a)(2)(S) of FIFRA, 7 U.S.C. § 136j(a)(2)(S).

39. Respondent’s violation of Section 12(a)(2)(S) of FIFRA, 7 U.S.C. § 136j(a)(2)(S), identified in paragraph 38, above, subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

Civil Penalty And Other Relief

40. 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.

41. 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 \$7,500.

42. 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 sending a cashier's or certified check, payable to the "Treasurer, United States of America," to:

U.S. EPA  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

The check must note "In the Matter of Farnam Co. Inc. dba Central Life Sciences," and the docket number of this CAFO.

43. A transmittal letter, stating, Respondent's name, the case title, Respondent's complete address, the case docket number and the BD number must accompany the payment.

Respondent must send a copy of the check and transmittal letter to:

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

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

Cathleen Martwick (C-14J)  
Office of Regional Counsel  
U.S. EPA, Region 5  
77 West Jackson Blvd.  
Chicago, IL 60604

44. This civil penalty is not deductible for federal tax purposes.
45. 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. § 136/(a)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.
46. 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

47. This CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts alleged in the CAFO.
48. 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.
49. Respondent certifies that it is complying with FIFRA, 7 U.S.C. §§ 136 to 136y.

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

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

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

53. 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.

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

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

In the Matter of:  
Farnam Co. Inc. dba Central Life Sciences

Farnam Co. Inc. dba Central Life Sciences, Respondent


Sep 22, 2015  
Date

Frank Jusich  
Frank Jusich  
COO  
Farnam Companies Inc.

In the Matter of:  
Farnam Co. Inc. dba Central Life Sciences

United States Environmental Protection Agency, Complainant

10/5/2015  
\_\_\_\_\_  
Date


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

In the Matter of:  
Farnam Co. Inc. dba Central Life Sciences  
Docket No. FIFRA-05-2016-0001

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.

9 October 2015  
Date

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

In the matter of: Farnam Co. Inc. dba/ Central Life Sciences.  
Docket Number: FIFRA-05-2016-0001

**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 16, 2015, in the following manner to the addressees:

Copy by Certified Mail  
Return-receipt:

James McFadden  
Farnam Companies Inc.  
1501 E. Woodfield Road, Suite 200W  
Schaumburg, IL 60173

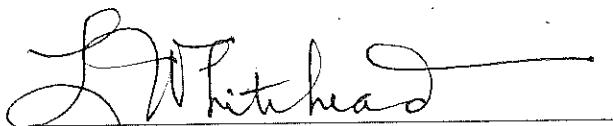
Copy by E-mail to  
Attorney for Complainant:

Cathleen Martwick  
[Martwick.cathleen@epa.gov](mailto:Martwick.cathleen@epa.gov)

Copy by E-mail to  
Regional Judicial Officer:

Ann Coyle  
[coyle.ann@epa.gov](mailto:coyle.ann@epa.gov)

Dated: October 15, 2015



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

CERTIFIED MAIL RECEIPT NUMBER(S): 7001 0320 0006 0192 6593