



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590  
DEC 14 2018

REPLY TO THE ATTENTION OF  
LC-17J

VIA EMAIL

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

RGarrison@Stepan.com

Consent Agreement and Final Order In the Matter of Stepan Company, Docket  
Number FIFRA-05-2019-0004

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 12/14/2018 with the Regional Hearing Clerk.

The civil penalty in the amount of \$7,500 is to be paid in the manner described in paragraph 44. Please be certain that the docket number is included in the comment or description field of the electronic funds transfer. 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-05-2019-0004

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 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(a)(1)(viii) and 156.10(i)(1) (Adequacy and clarity of directions).

12. 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.

13. 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.

14. 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).

15. 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).

16. 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).

17. 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).

18. 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**

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

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

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

22. At all times relevant to the CAFO, Detergent Marketing Systems, Inc. (Detergent Marketing) owned and operated a place of business located at 300 N. Lake Street, Montgomery, Illinois 60538.

23. EPA assigned company number 57930 to Detergent Marketing.

24. On or about April 28, 2014, an inspector employed by the Illinois Department of Agriculture and authorized to conduct inspections under FIFRA conducted an inspection at Detergent Marketing, located in Montgomery, Illinois.

25. On or about May 16, 1989, EPA registered Stepan’s pesticide product, **BTC 2125M-P40 Sanitizer Concentrated Powder**.

26. EPA assigned **BTC 2125M-P40 Sanitizer Concentrated Powder**, EPA

Registration Number (Reg. No.) 1839-142.

27. On or about August 6, 2012, the EPA accepted a label for **BTC 2125M-P40 Sanitizer Concentrated Powder**, EPA Registration Number (Reg. No.) 1839-142.

28. On or about July 2009, Stepan and Detergent Marketing submitted a Notice of Supplemental Distribution of a Registered Pesticide Product (Notice of Supplemental Distribution) to the EPA for **BTC 2125M-P40 Sanitizer Concentrated Powder**.

29. The Notice of Supplemental Distribution identified Detergent Marketing as the distributor of **BTC 2125M-P40 Sanitizer Concentrated Powder**.

30. The Notice of Supplemental Distribution identified the distributor product name for **BTC 2125M-P40 Sanitizer Concentrated Powder** as **Quat Sanitizer**.

31. **Quat Sanitizer** is assigned EPA Reg. No. 1839-142-57930.

32. **Quat Sanitizer**, EPA Reg. No. 1839-142-57930, is a “pesticide” as that term is defined in Section 2(u) of FIFRA.

33. The distributor, Detergent Marketing, 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, **Quat Sanitizer**, EPA Reg. No. 1839-142-57930.

34. During the April 28, 2014 inspection, the inspector collected shipping records, a bin label and an affidavit for the pesticide product **Quat Sanitizer**, EPA Reg. No. 1839-142-57930.

35. 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 April 18, 2014.

36. The bin label for **Quat Sanitizer**, EPA Reg. No. 1839-142-57930, collected during the inspection, did not match the label language on the currently accepted label, dated August 6,

2012. The bin label states: “For table-top sanitizing, add .0782 ounce (2.18 grams) of Quat Sanitizer to recommended Red Bucket and add 5 quarts of water. (Fill to line.)” The accepted label does not include this direction for use.

37. On or about April 18, 2014 Detergent Marketing distributed or sold **Quat Sanitizer**, EPA Reg. No. 1839-142-57930, to Wood Fruitticher.

### **Count 1**

38. The preceding paragraphs are incorporated by reference.

39. On or about April 18, 2014 Detergent Marketing distributed or sold **Quat Sanitizer**, EPA Reg. No. 1839-142-57930, to Wood Fruitticher, that was misbranded as that term is defined at Section 2(q)(1)(F) of FIFRA, 7 U.S.C. § 136(q)(1)(F).

40. Detergent Marketing’s distribution or sale of **Quat Sanitizer**, EPA Reg. No. 1839-142-57930, constitutes an unlawful act pursuant to Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

41. Detergent Marketing’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**

42. 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.

43. 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.

44. 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, state Stepan Company, and the docket number of this CAFO. 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-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

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



46. 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.

47. 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**

48. 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](mailto:omeara.nidhi@epa.gov) (for Complainant), and [RGarrison@Stepan.com](mailto:RGarrison@Stepan.com) (for Respondent). The parties waive their right to service by the methods specified in 40 C.F.R. § 22.6.

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

50. 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.

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

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

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

54. 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.

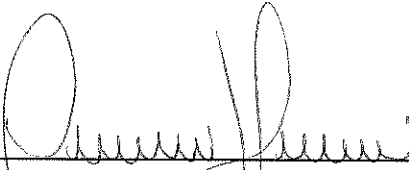
55. Each party agrees to bear its own costs and attorney's fees, in this action.

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

**In the Matter of:  
Stepan Comapny**

**Stepan Company, Respondent**

12/04/2018  
Date

  
\_\_\_\_\_  
Adriano Galimberti, Vice President and General Manager,  
North America Surfactants  
Stepan Company

**In the Matter of:  
Stepan Company**

**United States Environmental Protection Agency, Complainant**

12/12/18  
Date

Tinka B Hyde  
Tinka Hyde  
Land and Chemicals Division

**In the Matter of:**  
**Stepan Company**  
**Docket No. FIFRA-05-2019-0004**

**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.

12/14/18  
Date

Ann L Coyle  
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-05-2019-0004**

**CERTIFICATE OF SERVICE**

I certify that I served a true and correct copy of the foregoing Consent Agreement and Final Order, docket number FIFRA-05-2019-0004, which was filed on 12/14/2018, 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:

Ms. Ann Coyle  
coyle.ann@epa.gov

Dated: December 14, 2018

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