



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

1445 ROSS AVENUE, SUITE 1200  
DALLAS, TX 75202-2733

301 1 2007

**CERTIFIED MAIL – RETURN RECEIPT REQUESTED – 7015-1520-0003-3990-0252**

Lynn L. Bergeson  
Managing Partner  
Bergeson & Campbell PC  
2200 Pennsylvania Ave, N.W.  
Suite 100W  
Washington, D.C. 20037

Re: Stoller USA, Inc. Stop Sale, Use, or Removal Order  
Docket No. FIFRA-06-2017-0312

Dear Ms. Bergeson:

Enclosed is a Stop Sale, Use, or Removal Order (SSURO) issued by the United States Environmental Protection Agency, Region 6 (EPA) concerning the following products:

1. Bio-Forge
2. CaB'y Plus
3. Calcium 5S
4. Calcium 5X
5. Cal-Guard
6. Flower Power
7. Fruit Power
8. Keylate Como Classic
9. Nitro Plus 9
10. Rezist
11. White Label Zinc
12. X-Tra Power

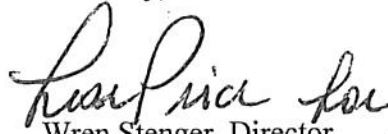
This SSURO requires Stoller USA, Inc. to immediately stop the sale, use, and removal of those products in accordance with the provisions of the SSURO. This SSURO is effective immediately upon receipt.

Section 13(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 136k(a), authorizes the Administrator of EPA to issue an order prohibiting the sale, use, or removal of any pesticide or device by any person who owns, controls, or has custody of such pesticide or device whenever there is reason to believe that the pesticide or device is in violation of FIFRA, or the pesticide or device has been or is intended to be, distributed or sold in violation of any provision of FIFRA. EPA has reason to believe, based on an inspection and documentation received from Stoller USA, Inc., that the products listed above are unregistered

pesticides, and that Stoller USA, Inc. has distributed and/or sold these unregistered pesticides in violation of FIFRA.

If you have any questions about this SSURO, please contact Matthew K. Trawick, Assistant Regional Counsel at (214) 665-8142 or e-mail him at [Trawick.Matthew@epa.gov](mailto:Trawick.Matthew@epa.gov).

Sincerely,

A handwritten signature in cursive script, appearing to read "Wren Stenger".

Wren Stenger, Director  
Multimedia Division

Enclosure

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
DALLAS, TEXAS**

**IN THE MATTER OF:**

**STOLLER USA, INC.  
HOUSTON, TEXAS**

**RESPONDENT**

**STOP SALE, USE, OR REMOVAL  
ORDER  
EPA DOCKET NO. FIFRA-06-2017-0312**

**I. AUTHORITIES**

1. This Stop Sale, Use, or Removal Order (SSURO) is issued pursuant to Section 13(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (FIFRA), 7 U.S.C. § 136k(a). Section 13(a) of FIFRA, 7 U.S.C. § 136k(a), authorizes the Administrator of EPA to issue an order prohibiting the sale, use, or removal of any pesticide or device by any person who owns, controls, or has custody of such pesticide or device whenever there is reason to believe that the pesticide or device is in violation of any provision of FIFRA, or that such pesticide or device has been or is intended to be distributed or sold in violation of any provision of FIFRA.
2. The authority to issue this SSURO has been delegated from the EPA Administrator to the Director, Multimedia Division of the U.S. EPA, Region 6, by EPA Region 6 Delegation No. R6-5-12 dated June 14, 2017.
3. Section 12(a)(2)(I) of FIFRA, 7 U.S.C. § 136j(a)(2)(I), states that it shall be unlawful for any person to violate any order issued under Section 13 of FIFRA, 7 U.S.C. § 136k.

**II. BACKGROUND**

4. The Respondent is Stoller USA, Inc., a corporation organized under the laws of the State

of Texas.

5. Stoller USA, Inc. is a person as that term is defined in Section 2(s) of FIFRA, 7 U.S.C. § 136(s).
6. This Order collectively refers to Stoller USA, Inc. and all of their divisions, offices, branches, and subsidiaries as “the Respondent.”
7. Respondent’s corporate office is located at 9090 Katy Freeway, Ste. 400, Houston, Texas 77055.
8. Respondent owns and operates a manufacturing facility located at 10551 Fisher Road, Houston, Texas 77041.
9. Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), defines “to distribute or sell” as 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.
10. Section 2(w) of FIFRA, 7 U.S.C. § 136(w), defines “produce” as to manufacture, prepare, compound, propagate, or process any pesticide or device or active ingredient used in producing a pesticide.
11. The Respondent produces, distributes or sells, or has produced, distributed or sold, several products at the facilities identified in Paragraphs 7 and 8, including:
  - i. Bio-Forge
  - ii. CaBy Plus
  - iii. Calcium 5S
  - iv. Calcium 5X
  - v. Cal-Guard
  - vi. Flower Power
  - vii. Fruit Power
  - viii. Keylate CoMo Classic
  - ix. Nitro Plus 9
  - x. Resist

- x. Rezist
  - xi. White Label Zinc
  - xii. X-Tra Power
12. Section 2(u) of FIFRA, 7 U.S.C. § 136(u), and 40 C.F.R. 152.3 (in relevant part) define “pesticide” as 1) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, or 2) any substance or mixture of substances **intended for use as a plant regulator**, defoliant, or desiccant [emphasis added].
13. Section 2(v) of FIFRA, 7 U.S.C. § 136(v), defines “plant regulator” as any substance or mixture of substances intended, through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior of plants or the produce thereof, but shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments.
14. With irrelevant exceptions, pesticides must be registered pursuant to Section 3(a) of FIFRA, 7 U.S.C. 137(a), before they can be distributed or sold to any person.
15. 40 C.F.R. § 152.15 states that a substance requires registration as a pesticide if:
- i. the person who distributes or sells the substance claims, states, or implies (by labeling or otherwise):
    - (1) that the substance (either by itself or in combination with any other substance) can or should be used as a pesticide; or
    - (2) that the substance consists of or contains an active ingredient and that it can be used to manufacture a pesticide; or
  - ii. the substance consists of or contains one or more active ingredients and has no significant commercially valuable use as distributed or sold other than (1) use for

pesticidal purpose (by itself or in combination with any other substance), (2) use for manufacture of a pesticide; or

iii. The person who distributes or sells the substance has actual or constructive knowledge that the substance will be used, or is intended to be used, for a pesticidal purpose.

16. As detailed below, on product labels and marketing materials, Respondent states, claims, or implies that the products listed in Paragraph 11 are plant regulators, and thus pesticides that require registration under FIFRA, because they are intended to affect plant and produce growth, maturation rate, and behavior.
17. None of the products listed in Paragraph 11 are registered pesticides pursuant to Section 3(a) of FIFRA, 7 U.S.C. 137(a).
18. The sale of unregistered pesticides constitutes an unlawful act under Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).
19. On June 22, 2016, an Inspector from EPA Region 6 conducted an inspection of the Respondent's corporate office and manufacturing facility.
20. During the inspection, the Inspector accessed product labels and marketing materials, and also collected sales records for the previous three years.
21. Based on this inspection and other investigation of this matter, as described below, EPA has reason to believe that the Respondent has distributed or sold unregistered products that, due to their active ingredients and/or label and marketing claims, require registration as pesticides under FIFRA.

**Bio-Forge**

22. Sales records obtained at the inspection of Respondent's facility indicate that Respondent

sold or distributed the product Bio-Forge.

23. On or about April 6, 2017, Respondent's website at <http://www.StollerUSA.com> advertised the product Bio-Forge with the following claims:

- i. "Bio-Forge up-regulates key genes associated with stress: DREB1A, Catalase, Dehydrin RAB18, RD29A."
- ii. "Bio-Forge up-regulates genes controlling root hair growth to enhance nutrient uptake: RLS4."
- iii. "Bio-Forge reduces excess ethylene from stress but leaves ethylene require for normal functioning unaffected."
- iv. "Improved hormone balance for optimal plant functioning."
- v. "Bio-Forge ensures continuous new root growth for efficient nutrient uptake, especially nitrogen."
- vi. "Bio-Forge helps to improve hormone balance for continued cellular viability and optimal plant functioning throughout the life of the plant."

Webpage: *Problems and Solutions: Summer Fruit Drop*

- vii. "Bio-Forge has the ability to up regulate auxin and auxin transport into the fruit..."
  - viii. "The use of Bio-Forge will greatly reduce the sumer [sic] fruit drop on any tree."
24. On or about June 21, 2011, a Bio-Forge Product Specimen label states, in part:
- i. "Bio-Forge will reduce plant stress. Evidence exists for several molecular mechanisms of stress reduction and or tolerance in Bio-Forge treated plants."
  - ii. "Bio-Forge up-regulated Mn superoxide dismutase, catalase, dihydroascorbate reductase, and thioredoxin reductase in experiments with *Arabidopsis thaliana*."
  - iii. "Another mode of Bio-Forge's action may involve its priming of plants for stress resistance by triggering stress-responsive gene cascades."
  - iv. "Bio-Forge can markedly induce the regulatory master gene Dreb 1A, a transcription factor which in turn up-regulates downstream genes involved in resistance to drought and several other environmental stresses."
25. The 2011 Product label claims that Bio-Forge is "composed primarily of N,N'-diformyl

urea.”

26. In two patents (U.S. Patent No. 6,448,440 B1 (filed Feb. 29, 2000) (issued Sep. 10, 2002); U.S. Patent No. 6,040,273 (filed Apr. 9, 1997) (issued Mar. 21, 2000)) associated with Bio-Forge, in which Stoller is the assignee, the following information is provided on N,N'-diformyl urea:

a. “Applicant believes that the reaction products claimed herein, particularly N,N'-diformylureas, **may mimic plant growth hormones and/or plant growth regulators** based upon the similarity of their skeletal structure to a variety of biologically active compounds. ... it is believed that this feature will facilitate the biological activity of these molecules” [emphasis added].

27. On or about November 10, 2011, Respondent’s website at <http://www.StollerUSA.com> advertised the product Bio-Forge with the following claims:

- i. “Bio-Forge is the only stress-reducing yield enhancer that up-regulates specific genes associated with root development and ethylene reduction for significantly improved yield, quality and return on investment.”
- ii. “Increases drought tolerance.”
- iii. “Increases sugar transport from leaves to developing pods and seeds.”
- iv. “Enhances pollination, flowering and kernel/pod count.”

*Claims made on embedded Product Information Video*

- v. “Bio-Forge Promotes Continuous Root Tip Growth.”
- vi. “Bio-Forge Promotes large robust root systems with new root tips.”
- vii. “Bio-Forge Promotes early and increased nodulation.”
- viii. “Bio-Forge Promotes thick and sturdy stalks.”

28. EPA has reason to believe that Bio-Forge is a pesticide as defined by Section 2(u) of FIFRA, 7 U.S.C. § 136(u), 40 C.F.R. §§ 152.3 and 152.15(a).

29. Bio-Forge is not registered as a pesticide pursuant to Section 3(a) of FIFRA, 7 U.S.C. § 136(a).



**CaBy Plus**

30. Sales records obtained at the inspection of Respondent's facility indicate that Respondent sold or distributed the product CaBy Plus.
31. The label for the product CaBy Plus that was collected by the inspector on or about June 22, 2016 states, in part:
  - i. "The ingredients in CaBy Plus can decrease ethylene levels in fruit when applied 20 days pre-harvest."
  - ii. "Continuous application until harvest will keep ethylene in fruit at lower levels than normal."
  - iii. "CaBy Plus can be used on the following crops to correct physiological disorders and to preserve fruit quality with pre-harvest treatments ..."
  - iv. "To Correct Physiological Disorder: apply 1 to 2 quart/acre ..."
  - v. "To Improve Fruit Quality and Storage: Apply 1 gallon per acre ..."
  - vi. "Finish off your crops with weekly sprays of CaBy Plus before harvest for better storage and shelf life."
32. An undated Product Specimen Label describing Preferred Uses of Stoller Products states, in part:
  - i. "CaBy Plus is the same as CaB'Y --- with polyamines added."
  - ii. "This will help maintain the plant while fruit disorders are reduced."
33. Polyamines are plant hormones, which EPA recognizes as plant growth regulators.
34. EPA has reason to believe that CaBy Plus is a pesticide as defined by Section 2(u) of FIFRA, 7 U.S.C. § 136(u), 40 C.F.R. §§ 152.3 and 152.15(a).
35. CaBy Plus is not registered as a pesticide pursuant to Section 3(a) of FIFRA, 7 U.S.C. § 136(a).

**Calcium 5S**

36. Sales records obtained at the inspection of Respondent's facility indicate that Respondent

sold or distributed the product Calcium 5S.

37. On or about June 22, 2016, marketing material for the product Calcium 5S stated, in part:

- i. "Redirects auxin into roots."
- ii. "A special seed-treatment formulation of highly soluble calcium with growth-supporting co-factors to enhance germination and seedling vigor ..."
- iii. "Specially formulated blend of calcium."
- iv. "Promotes rapid, vigorous root tip establishment followed by increased shoot growth for overall improved seedling vigor."
- v. "Calcium 5S moves up the plant and forces auxin from the new leaves down to the roots to promote more cell division for vigorous root growth."
- vi. "Calcium 5S can be foliar applied to temporarily relieve stress."
- vii. "Calcium 5S can also reduce fruit and flower shedding."
- viii. "Increased root growth produces more cytokinin resulting in increased shoot growth and overall improved seedling vigor."

38. An undated Product Specimen Label describing Preferred Uses of Stoller Products states, in part:

- i. "Calcium 5S is used for all the same purposes as Stimulate." Stimulate is an EPA Registered pesticide, discussed in Paragraph 39, below.
- ii. "Calcium 5S contains 5% calcium and growth factors."
- iii. "Calcium 5S is primarily used in situations whereby the growth factor identification is not necessary."

39. Stimulate Yield Enhancer (EPA Reg. No. 57538-13) is a Stoller registered pesticide that contains the following plant regulator active ingredients: gibberellic acid, cytokinin (as kinetin), and indole-3-butyric acid.

40. In the undated Product Specimen Label describing Preferred Uses of Stoller Products, Respondent categorizes Calcium 5S with "Hormone and Plant Growth Regulator

following plant regulator active ingredients: Cytokinin, as kinetin.

48. In the undated Product Specimen Label describing Preferred Uses of Stoller Products, Respondent categorizes Calcium 5X with “Hormone and Plant Growth Regulator Products.”
49. EPA has reason to believe that Calcium 5X is a pesticide as defined by Section 2(u) of FIFRA, 7 U.S.C. § 136(u), 40 C.F.R. §§ 152.3 and 152.15(a).
50. Calcium 5X is not registered as a pesticide pursuant to Section 3(a) of FIFRA, 7 U.S.C. § 136(a).

#### **Cal-Guard**

51. Sales records obtained at the inspection of Respondent’s facility indicate that Respondent sold or distributed the product Cal-Guard.
52. An undated Product Specimen Label describing Preferred Uses of Stoller Products states, in part:
  - i. “Control root disease by down-regulating gibberellic acid in the roots and other plant parts.”

53. EPA has reason to believe that Cal-Guard is a pesticide as defined by Section 2(u) of FIFRA, 7 U.S.C. § 136(u), 40 C.F.R. §§ 152.3 and 152.15(a).
54. Cal-Guard is not registered as a pesticide pursuant to Section 3(a) of FIFRA, 7 U.S.C. § 136(a).

#### **Flower Power**

55. Sales records obtained at the inspection of Respondent’s facility indicate that Respondent sold or distributed the product Flower Power.
56. On or about June 22, 2016, marketing material for the product Flower Power states, in part:

- i. "A Polyamine Complexed Micronutrient with Growth Enhancing Co-Factors and Anti-Oxidant."
  - ii. "Stoller's Flower Power will help to insure sufficient auxin in each flower for stronger pollination during temperature extremes."
  - iii. "A follow-up application of Stoller's Fruit Power will insure adequate cell division to maintain the new fruit."
  - iv. "Reduces ethylene level to allow movement of auxin to the flowering part of the plant."
  - v. "Maintains auxin levels in later developing flowers."
  - vi. "Improves fertilization."
  - vii. "Hold more flowers."
  - viii. "Hold more fruit."
  - ix. "Improves physiological properties of the fruit."
  - x. "Increases calcium levels and improves growth."
57. Auxin is a plant hormone and a well-known plant growth regulator.
58. On or about December 13, 2011, the Product Detail page on Respondent's website at <http://www.StollerUSA.com> advertised the product Flower Power with the following claims:
- i. "Promote increased pollination for more productive plants."
  - ii. "Flower Power is a complex micronutrient and antioxidant with growth enhancing co-factors resulting in increased fruit set and crop yield."
  - iii. "Flower Power increases auxin, the hormone that dictates pollination, in every flower for stronger pollination."
  - iv. "Improves pollination strength during temperature extremes."
  - v. "Holds more flowers and fruit on the plant."
  - vi. "Improves physiological properties of the fruit."
  - vii. "Increases calcium levels and improves growth."
  - viii. "Maintains auxin levels in later developing plants."
  - ix. "Reduces ethylene levels and allows auxin movement to the flower part of the plant."
  - x. "Various Fruit Crops: Apply three pints of Flower Power every 10 to 14 days to increase auxin in every flower."
  - xi. "A follow-up application of Stoller's Flower Power will ensure sufficient cell

division to maintain the new fruit.”

- xii. “Flower Power. A Polyamine Complexed Micronutrient With Growth Enhancing Co-Factors and Anti-Oxidant.”
  - xiii. “The application of 3 pints of Stoller’s FLOWER POWER from bud swell until 5% boom [sic], stopping before 10% flowers, should supply sufficient auxin for the [sic] both the flowers that are present and the developing buds which will become flowers.”
  - xiv. “FLOWER POWER will help to insure sufficient auxin in each flower for stronger pollination during temperature extremes.”
59. EPA has reason to believe that Flower Power is a pesticide as defined by Section 2(u) of FIFRA, 7 U.S.C. § 136(u); 40 C.F.R. §§ 152.3 and 152.15(a).
60. Flower Power is not registered as a pesticide pursuant to Section 3(a) of FIFRA, 7 U.S.C. § 136(a).

#### **Fruit Power**

61. Sales records obtained at the inspection of Respondent’s facility indicate that Respondent sold or distributed the product Fruit Power.
62. On or about June 22, 2016, marketing material for the product Fruit Power stated, in part:
- i. “A single application of Fruit Power will insure adequate cell division and cell differentiation.”
  - ii. “Fruit Power will cause more cell division in the developing young fruit for adequate cell division with proper differentiation of the cells to create a viable embryo.”
  - iii. “Insures proper development of seed embryo.”
  - iv. “Maintain more fruit.”
63. On or about Dec. 13, 2011, Respondent’s website at <http://www.StollerUSA.com> advertised the product Fruit Power with the following claims:
- i. “Fruit Power increases cell division in small fruitlets and seed, which in the presence of abundant calcium will increase fruit retention, promote more uniform sizing of fruiting parts and reduce physiological disorders resulting in higher quality fruit.”

64. EPA has reason to believe that Fruit Power is a pesticide as defined by Section 2(u) of FIFRA, 7 U.S.C. § 136(u), 40 C.F.R. §§ 152.3 and 152.15(a).
65. Fruit Power is not registered as a pesticide pursuant to Section 3(a) of FIFRA, 7 U.S.C. § 136(a).

**Keylate CoMo Classic**

66. Sales records obtained at the inspection of Respondent's facility indicate that Respondent sold or distributed the product Keylate CoMo Classic.
67. On or about June 22, 2016, marketing material for the product Keylate CoMo Classic stated, in part:
- i. "CoMo is extremely effective in reducing excess ethylene from stress in plants."
  - ii. "Improves disease resistance."
  - iii. "Controls excessive growth."
  - iv. "Enhances nodulation and nitrogen fixation in soybeans and other legumes."
  - v. "Improves flower and fruit load."
  - vi. "Reduces the amount of ethylene resulting from stress thereby maintaining vigorous plant growth and increasing genetic expression."

68. EPA has reason to believe that Keylate CoMo Classic is a pesticide as defined by Section 2(u) of FIFRA, 7 U.S.C. § 136(u), 40 C.F.R. §§ 152.3 and 152.15(a).
69. Keylate CoMo Classic is not registered as a pesticide pursuant to Section 3(a) of FIFRA, 7 U.S.C. § 136(a).

**Nitro Plus 9**

70. Sales records obtained at the inspection of Respondent's facility indicate that Respondent sold or distributed the product Nitro Plus 9.

71. On or about June 22, 2016, marketing material for the product Nitro Plus 9 stated, in part:
- i. "Increase disease resistance of plants, compared to other forms of nitrogen (patented technology)."
  - ii. "Cause plants to develop new roots from the crown."
  - iii. "Act as a supplement to traditionally used nitrogen."
72. On or about June 7, 2013, the Stoller Philippines website at <http://stoller.com.ph/cms/nitro-plus-9/> advertised the product Nitro Plus 9 with the following claims:
- i. "It has Calcium and other growth-supporting co-factors that enhance plant growth and yield."
  - ii. "Nitro Plus 9 will make roots more vigorous."
  - iii. "Increase resistance to disease, enhance flowering, storage life, quality of harvested fruiting parts and promote more even crop development resulting in higher yield with decreased physiological damage to fruit and storage value."
73. On or about March 2, 2012, Respondent's website at <http://www.StollerUSA.com> advertised the product Nitro Plus 9 with the following claims:
- i. "Nitro Plus is a liquid form of nitrogen containing amine nitrogen, calcium, and magnesium."
  - ii. "Calcium protects plants against stress ethylene (caused by nitrogen) while developing strong cell walls which increases quality and lessens problems of post-harvest storage and shelf-life."
  - iii. "Nitrogen increases hormone activity."
74. An undated Product Specimen Label describing Preferred Uses of Stoller Products states, in part:
- i. "Nitro Plus is a unique form of amine nitrogen and calcium. It forms a chemical structure which resembles cytokinin hormone."
  - ii. "When applied to plant roots or plant foliage, it immediately stimulates top growth and root growth."

75. EPA has reason to believe that Nitro Plus 9 is a pesticide as defined by Section 2(u) of FIFRA, 7 U.S.C. § 136(u), 40 C.F.R. §§ 152.3 and 152.15(a).
76. Nitro Plus 9 is not registered as a pesticide pursuant to Section 3(a) of FIFRA, 7 U.S.C. § 136(a).

**Rezist**

77. Sales records obtained at the inspection of Respondent's facility indicate that Respondent sold or distributed the product Rezist.
78. On or about June 22, 2016, marketing material for the product Rezist stated, in part:
- i. "University tests have shown that ReZist has the ability to increase the plant's resistance to a variety of diseases."
  - ii. "ReZist will also increase the plant's resistance to other negative growth factors such as drought, salty soil, etc."
  - iii. "Alternatively, ReZist can be used to increase the plant's resistance to disease before any infection occurs."
  - iv. "[ReZist] does, however, increase the plant's natural ability to resist the various diseases and other negative growth factors."
79. On or about December 13, 2011, Respondent's website at <http://www.StollerUSA.com> advertised the product Rezist with the following claim:
- i. "A patented combination of micronutrients and polyamines, ReZist is designed to increase a plant's resistance to disease and nematode toxins."
80. An undated Product Specimen Label describing Preferred Uses of Stoller Products states, in part:
- i. "ReZist is a nutrient solution that contains salicylic acid."
  - ii. "When applied to a plant under disease attack, ReZist will reduce ethylene and increase polyamines."
  - iii. "By doing so, it triggers 'Systemic Acquired Resistance' (SAR) in the plant."
  - iv. "Main Uses: Disease and virus treatment."
  - v. "Main Uses: Control of vegetative plant growth."



81. EPA has reason to believe that Rezist is a pesticide as defined by Section 2(u) of FIFRA, 7 U.S.C. § 136(u), 40 C.F.R. §§ 152.3 and 152.15(a).
82. Rezist is not registered as a pesticide pursuant to Section 3(a) of FIFRA, 7 U.S.C. § 136(a).

#### **White Label Zinc**

83. Sales records obtained at the inspection of Respondent's facility indicate that Respondent sold or distributed the product White Label Zinc.
84. On or about March 2, 2012, Respondent's website at <http://www.StollerUSA.com> advertised the product White Label Zinc with the following claims:
  - i. "White Label Zinc acts like a growth hormone and plays a role in seed and grain formation."

85. EPA has reason to believe that White Label Zinc is a pesticide as defined by Section 2(u) of FIFRA, 7 U.S.C. § 136(u), 40 C.F.R. §§ 152.3 and 152.15(a).
86. White Label Zinc is not registered as a pesticide pursuant to Section 3(a) of FIFRA, 7 U.S.C. § 136(a).

#### **X-Tra Power**

87. Sales records obtained at the inspection of Respondent's facility indicate that Respondent sold or distributed the product X-Tra Power.
88. On or about June 22, 2016, marketing material for the product X-Tra Power stated, in part:
  - i. "Formulated with selectively balanced co-factors."
  - ii. "Provides hormonal balance that promotes early root development and plant vigor during the first 2-3 weeks after planting ..."
  - iii. "Up-regulates key genes associated with phosphate uptake."
  - iv. "X-Tra Power is a selectively balanced nutritional solution with growth-enhancing

co-factors to enhance root growth and early seedling vigor.”

- v. “Promotes female flower production.”
- vi. “Enhances root growth & stem diameter.”
- vii. “X-Tra Power’s mixture of growth enhancing co-factors have been selectively balanced to promote vigorous root growth while the plant is in the infant stage.”

89. On or about April 6, 2017, Respondent’s website at <http://www.StollerUSA.com>

advertised the product X-Tra Power with the following claims:

*Crop Health Therapy Data Sheet*

- i. “X-Tra Power is a unique formulation of Mg, Mn, Cu, Zn with amino-acid growth supporting co-factors” [emphasis added].
- ii. “X-Tra Power will enhance root growth, seedling vigor and reproductive growth setting the stage for higher yield potential.”
- iii. Photo caption: “Bigger root mass, thicker stalk, shorter internode length!”

90. An undated Product Specimen Label describing Preferred Uses of Stoller Products states, in part:

- i. “X-Tra Power will alter the genetic expression of plant cells, in order to make plants more resistant to stress.”

91. EPA has reason to believe that X-Tra Power is a pesticide as defined by Section 2(u) of FIFRA, 7 U.S.C. § 136(u), 40 C.F.R. §§ 152.3 and 152.15(a).

92. X-Tra Power is not registered as a pesticide pursuant to Section 3(a) of FIFRA, 7 U.S.C. § 136(a).

#### IV. ORDER

93. The Respondent is hereby ordered to **immediately cease the distribution and sale** of the pesticide products named in this Order (collectively, the “violative pesticide products”).

94. This Order shall pertain to all quantities of the violative pesticide products which are within the ownership, control, or custody of the Respondent, wherever the violative pesticide products are located.

95. The violative pesticide products shall not be sold, offered for sale, held for sale, shipped, delivered for shipment, received; or having been so received, shall not be delivered, offered for delivery, moved, or removed for disposal from any facility or establishment of the Respondent, for any reason, other than in accordance with the provisions of this Order or any subsequent modifications of this Order by EPA.
96. Should Respondent seek modification of this Order for the purposes of consolidating stocks of the violative pesticide products as part of a voluntary recall or implementing a disposal plan, or any other purposes, such request should be sent via email to Matthew K. Trawick, Assistant Regional Counsel, [trawick.matthew@epa.gov](mailto:trawick.matthew@epa.gov). Approval of such requests may be conditioned upon the maintenance of records accounting for the movement of covered products, and if so, EPA may request such records at any time.
97. Disposal of the violative pesticide products must be conducted in accordance with any applicable local, state, and federal laws.
98. The violative pesticide products shall not be sold or offered for sale via the Internet, from [www.stollerusa.com](http://www.stollerusa.com) or other website, web page, or Internet address that the Respondent owns or controls or whose contents Respondent can control or have modified.
99. Within 10 days of receipt of this Order, the Respondent shall submit to EPA an accounting of all products subject to this order.

- i. The report shall be submitted to:

Lee McMillan  
U.S. EPA Region 6  
Multimedia Division  
Pesticides and Toxics Section (6MM-XP)  
1445 Ross Avenue, Suite 1200  
Dallas, Texas 75202

ii. The report shall include:

- a. A description of all existing product inventory, including the location(s) where the products are held, quantities, and container size. This information must be updated on a monthly basis for the following six months, and thereafter only upon further change to the information; and
- b. A complete list of the Respondent's distributors and direct-sale customers and records of all sales and distributions made to such entities since 2013.

100. This Order is effective immediately upon receipt by the Respondent, and shall remain in effect until EPA has issued a Release of the Order.

101. Any person violating the terms or provisions of this Order may be subject to penalties prescribed by Section 14 of FIFRA, 7 U.S.C. § 136l. Section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1) provides that "any registrant, commercial applicator, wholesaler, dealer, retailer, or other distributor who violates any provision of [FIFRA] may be assessed a civil penalty by the Administrator of not more than \$5,000 for each offense."<sup>1</sup>

102. The issuance of this Order does not constitute a waiver by EPA of its remedies, either judicial or administrative, under FIFRA or any other federal environmental law, to address this matter or any other matter not specified in this Order.

103. The Respondent may seek judicial review of this Order pursuant to Section 16(a) of FIFRA, 7 U.S.C. § 136n(a).

104. If any provision or provisions of this Order is/are subsequently held to be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby and they shall remain in full force and effect.

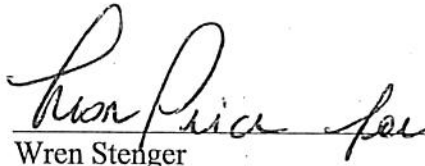
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<sup>1</sup>The Federal Civil Penalties Inflation Adjustment Improvements Act of 2015 and the Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19, increased the penalty that can be assessed under Section 14(a)(1) of FIFRA, [7 U.S.C. § 136l(a)(1)] to \$19,057 for

V. OTHER MATTERS

105. For additional information, please contact Matthew K. Trawick, Assistant Regional Counsel, at 214-665-8142.

July 14, 2017  
Date

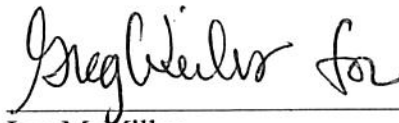
  
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Wren Stenger  
Director  
Multimedia Division  
U.S. EPA – Region 6

**CERTIFICATE OF SERVICE**

I hereby certify that on the 14 day of July, 2017, that the original of this Stop Sale, Use, and Removal Order was sent to the following person by certified mail, return receipt requested 7015-1520-0003-3990-0252:

Counsel for Respondent:

Lynn L. Bergeson  
Managing Partner  
Bergeson & Campbell PC  
2200 Pennsylvania Ave, N.W.  
Suite 100W  
Washington, D.C. 20037



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Lee McMillan  
U.S. EPA Region 6