



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 Wynkoop Street
Denver, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

JAN 08 2020

Ref: 8ENF-AT-P

VIA CERTIFIED MAIL - RETURN RECEIPT REQUESTED
AND ELECTRONIC TRANSMISSION

Tim Cofer, Chief Executive Officer
Central Garden & Pet Company
1340 Treat Boulevard, Suite 600
Walnut Creek, California 94597

Re: STOP SALE, USE OR REMOVAL ORDER
Central Garden & Pet Company

Dear Mr. Cofer:

Enclosed is a Stop Sale, Use or Removal Order (Order) issued by the United States Environmental Protection Agency Region 8 to Central Garden & Pet Company for producing, distributing or selling unregistered pesticide products as described in the Order. ***The Order is effective immediately upon receipt by you, for Central Garden & Pet Company.***

Section 13(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136k(a), authorizes the EPA to issue an order prohibiting the sale, use, or removal of any pesticide by any person who owns, controls, or has custody of such pesticide whenever there is reason to believe the pesticide is in violation of any provision of FIFRA or such pesticide has been or is intended to be distributed or sold in violation of FIFRA. As explained further in the enclosed Order, Central Garden & Pet Company has been and is producing, distributing, or selling unregistered pesticide products.

If you or Central Garden & Pet Company have any questions about this matter, you may contact Dan Webster of my staff at 303-312-7076, or by email at webster.daniel@epa.gov. For any legal questions, please contact Senior Assistant Regional Counsel Erin Agee by phone at 303-312-6374 or by email at agee.erin@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Cobb", written over a horizontal line.

David Cobb, Section Chief
Toxics Enforcement Program
Enforcement and Compliance Assurance Division

Enclosure

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2019 DEC 31 AM 11:21

EPA REGION VIII
HEARING CLERK

In the Matter of:)
)
Central Garden & Pet Company)
1340 Treat Boulevard, Suite 600)
Walnut Creek, California 94597)
)
Respondent)
)

**STOP SALE, USE,
OR REMOVAL ORDER**

DOCKET NO. : FIFRA-08-2020-0011

I. AUTHORITIES

1. The United States Environmental Protection Agency issues this Stop Sale, Use, or Removal Order (Order) pursuant to the authority vested in the Administrator of the EPA by section 13(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, 7 U.S.C. § 136k(a), which authorizes the Administrator of the EPA to issue orders 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 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 such provisions, or when the registration has been cancelled by a final order.
2. Supervisors in the Technical Enforcement Program have been delegated the authority to issue such orders.
3. Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), states “it shall be unlawful for any person in any state to distribute or sell to any person any pesticide that is not registered under section 136a of this title or whose registration has been cancelled or suspended, except to the extent that distribution or sale otherwise has been authorized by the Administrator under this subchapter.”
4. 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.”
5. Section 2(gg), 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.”
6. Section 2(u) of FIFRA, 7 U.S.C. § 136(u), defines a “pesticide” in part, as “any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.”
7. Section 2(t) of FIFRA, 7 U.S.C. § 136(t), defines “pest” in part, as any “form of terrestrial or aquatic plant or animal life or virus, bacteria, or other microorganism (except viruses, bacteria, or other 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].”

II. BACKGROUND

8. Central Garden & Pet Company, Inc. (Central Garden) is a corporation organized under the laws of the state of Delaware and is authorized to do business in the state of Colorado.
9. Central Garden's principal office is located at 1340 Treat Boulevard, Suite 600, Walnut Creek, California.
10. One of Central Garden's distributing facilities is Gro Tec II, Inc. (Gro Tec II), which is located at 2389 Highway 66, Longmont, Colorado (Facility).
11. According to the EPA pesticide production database, the Facility has an EPA registered pesticide production company number of 37351 and an EPA establishment number of 37351-CO-1.
12. According to the EPA pesticide production database, Central Garden has another distribution facility in Georgia. The Georgia Gro Tec II has an EPA registered pesticide production company number of 59144 and an EPA establishment number of 59144-GA-1.
13. Central Garden is a "person" as defined in section 2(s) of FIFRA, 7 U.S.C. § 136(s).

III. BASIS FOR ORDER

A. Unregistered Pesticide Products Found at Gro Tec II in Longmont, Colorado

14. On July 29, 2016, an EPA inspector conducted a for cause inspection at the Facility to determine compliance with FIFRA.
15. At the time of the inspection, the Facility was producing Colorado's Own Premium Weed & Feed 20-10-5, EPA Reg. No. 228-179-37351.
16. According to the website for the EPA's Pesticide Product and Label System, the registration for Colorado's Own Premium Weed & Feed 20-10-5, EPA Reg. No. 228-179-37351, was cancelled on March 9, 2001.
17. During the inspection, the inspector obtained distribution records, a sample label, and photographs demonstrating production and distribution of Colorado's Own Premium Weed & Feed 20-10-5.
18. As noted on the July 29, 2016, Notice of Inspection, the inspector instructed the Facility manager to work with the registrant, Nufarm Americas, Inc., to obtain current labeling for the 228-179-37351 product because required language was absent from the label and the product was therefore misbranded.
19. The Facility reported pesticide production of the 228-179-37351 product to the EPA on EPA form 3540-16 for 2014, 2015, 2016, 2017, and 2018.
20. Central Garden has been producing, distributing, or selling an unregistered pesticide in violation of section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

B. Unregistered Pesticide Products Reported at Gro Tec II in Eatonton, Georgia

21. On or about September 30, 2019, while investigating the unregistered products at the Facility, the EPA inspector noted that the Georgia Gro Tec II distribution facility reported production of Pennington Lawn Weed Killer Granules, EPA Reg. No. 228-223-59144, during the years of 2014, 2015, 2016, 2017, and 2018. This distributor product registration was cancelled by the registrant, Nufarm Americas, Inc., on March 9, 2001.
22. Central Garden's Georgia Gro Tec II distribution facility reported pesticide production of the 228-223-59144 product to the EPA on EPA form 3540-16 for 2014, 2015, 2016, 2017, and 2018.
23. Central Garden's Georgia Gro Tec II distribution facility has been producing, distributing, or selling an unregistered pesticide in violation of section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

IV. ORDER

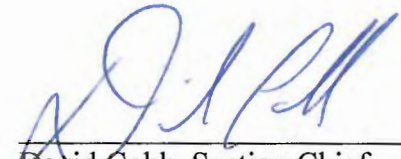
24. The EPA hereby orders Central Garden to stop the sale, use, or removal of all pesticide products subject to this Order: Colorado's Own Premium Weed & Feed 20-10-5, EPA Reg. No. 228-179-37351 **and** Pennington Lawn Weed Killer Granules, EPA Reg. No. 228-223-59144, EFFECTIVE IMMEDIATELY.
25. Central Garden may resume production and distribution of these products after the registrant, Nufarm Americas Inc., submits the Notice of Supplemental Distribution of a Registered Pesticide Product, EPA form 8570-5, to the EPA.
26. No later than two weeks from receipt of this Order, Central Garden must submit distribution records for calendar years 2018 and 2019 for the two products named in paragraph 24. The distribution record for each product shall list the quantity and customer (distributor) who received the finished products for resale.
27. Copies of the completed EPA 8570-5 forms and the distribution records must be submitted to the following:

Dan Webster
US EPA Region 8 (ENF-AT-P)
1595 Wynkoop Street
Denver, CO 80202
28. Any violation of the terms or provisions of this Order by an officer, agent, or other person acting for or employed by Central Garden or its subsidiaries may subject such person as well as Central Garden to civil or criminal penalties as prescribed in section 14 of FIFRA, 7 U.S.C. § 136l.
29. The issuance of this Order shall not constitute a waiver by the EPA of its remedies, either judicial or administrative, under FIFRA or any other federal environmental law, to address this matter or any other matters or unlawful acts not specified in this Order.
30. This Order shall be EFFECTIVE IMMEDIATELY upon receipt by Central Garden.

31. Central Garden may seek federal judicial review of this Order pursuant to section 16 of FIFRA, 7 U.S.C. § 136n.
32. If any provisions of this Order are subsequently held to be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not be affected in any way or impaired thereby and shall remain in full force and effect. The terms of this Order shall remain in effect unless and until the EPA modifies or terminates either the Order or certain provisions of the Order in writing.

12-26-19

Date



David Cobb, Section Chief
Toxics Enforcement Program
Enforcement and Compliance Assurance Division