



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

REPLY TO THE ATTENTION OF:

LC-8J

EXPRESS MAIL AND ELECTRONIC
FedEx Tracking No. 827442919502

Mr. James Hagedorn
CEO and CEO
The Scotts Miracle-Gro Company
14111 Scottslawn Road
Marysville, Ohio 43041

Re: Stop Sale, Use or Removal Order
The Scotts Miracle-Gro Company, The Scotts Company LLC, and
The Ortho Business Group d/b/a The Scotts Company

Dear Mr. Hagedorn:

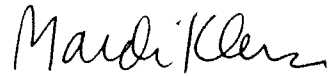
Enclosed is a Stop Sale, Use, and Removal Order (Order) from the U.S. Environmental Protection Agency, Region 5 concerning pesticide products identified in this Order as "Ortho Brush-B-Gon Brush Killer," "Weed Be-Gon Spot Weed Killer Concentrate," and "Weed-Be-Gon Spot Weed Killer" (collectively, the "violative pesticide products"), EPA Registration Numbers 239-2491, 239-2690, and 239-2691, respectively. The enclosed Order requires that you stop all distributions and sales of all violative pesticide products and related pesticide products, except as provided within the Order. The Order shall extend to all quantities and sizes of violative pesticide products and related pesticide products, as described in the enclosed Order. The Order is effective immediately.

Section 13(a) of FIFRA, 7 U.S.C. § 136k(a) authorizes the Administrator of 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 that the pesticide is in violation of any provision of FIFRA or has been or is intended to be distributed or sold in violation of any provision of FIFRA. EPA has reason to believe that The Scotts Miracle-Gro Company, The Scotts Company LLC, and The Ortho Business Group d/b/a The Scotts Company have been and intend to distribute and sell the violative pesticide products.

If you have any questions about this matter or wish to request an informal conference to discuss these alleged violations, you may contact Terence Bonace (LC-8J), Enforcement Officer, Pesticides and Toxics Compliance Section, at the above address, or by telephone at

(312) 886-3387. For any legal matters concerning this Order, please contact Jeffery Trevino (C-14J), Associate Regional Counsel, at the above address, or by telephone at (312) 886-6729.

Sincerely,

A handwritten signature in cursive script that reads "Mardi Klevs".

Mardi Klevs
Chief
Chemicals Management Branch

Enclosure



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

REPLY TO THE ATTENTION OF:

LC-8J

EXPRESS MAIL AND ELECTRONIC
FedEx Tracking No. 827442919498

Mr. James Hagedorn
The Scotts Company LLC
14111 Scottslawn Road
Marysville, Ohio 43041

Re: Stop Sale, Use or Removal Order
The Scotts Miracle-Gro Company, The Scotts Company LLC, and
The Ortho Business Group d/b/a The Scotts Company

Dear Mr. Hagedorn:

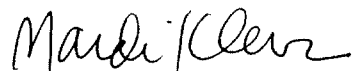
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Sincerely,

A handwritten signature in cursive script that reads "Mardi Klevs".

Mardi Klevs
Chief
Chemicals Management Branch

Enclosure



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

REPLY TO THE ATTENTION OF:

LC-8J

EXPRESS MAIL AND ELECTRONIC
FedEx Tracking No. 827442919487

Mr. James Hagedorn
Chairman and CEO
The Ortho Business Group
d/b/a The Scotts Company
14111 Scottslawn Road
Marysville, Ohio 43041

Re: Stop Sale, Use or Removal Order
The Scotts Miracle-Gro Company, The Scotts Company LLC, and
The Ortho Business Group d/b/a The Scotts Company

Dear Mr. Hagedorn:

Enclosed is a Stop Sale, Use, and Removal Order (Order) from the U.S. Environmental Protection Agency, Region 5 concerning pesticide products identified in this Order as "Ortho Brush-B-Gon Brush Killer," "Weed Be-Gon Spot Weed Killer Concentrate," and "Weed-Be-Gon Spot Weed Killer" (collectively, the "violative pesticide products"), EPA Registration Numbers 239-2491, 239-2690, and 239-2691, respectively. The enclosed Order requires that you stop all distributions and sales of all violative pesticide products and related pesticide products, except as provided within the Order. The Order shall extend to all quantities and sizes of violative pesticide products and related pesticide products, as described in the enclosed Order. The Order is effective immediately.

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If you have any questions about this matter or wish to request an informal conference to discuss these alleged violations, you may contact Terence Bonace (LC-8J), Enforcement Officer, Pesticides and Toxics Compliance Section, at the above address, or by telephone at

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Sincerely,

A handwritten signature in black ink, appearing to read "Mardi Klevs". The signature is written in a cursive, flowing style.

Mardi Klevs
Chief
Chemicals Management Branch

Enclosure

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:

**The Scotts Miracle-Gro Company,
The Scotts Company LLC, and
The Ortho Business Group
d/b/a The Scotts Company
14111 Scottslawn Road
Marysville, Ohio 43041**

Respondents.

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

I. Authorities

1. Section 13(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (FIFRA), 7 U.S.C. § 136k(a), authorizes the Administrator of the U.S. Environmental Protection Agency 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, *inter alia*, 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 FIFRA.
2. This authority has been delegated from the EPA Administrator to the Chief of the Chemicals Management Branch, Land and Chemicals Division, EPA, Region 5.

II. Background

3. Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), states that it shall be unlawful for any person in any state to distribute or sell to any person any registered pesticide if any claims made for it as a part of its distribution or sale substantially differ from any

claims made for it as a part of the statement required in connection with its registration under Section 3 of FIFRA.

4. Section 12(a)(1)(C) of FIFRA, 7 U.S.C. § 136j(a)(1)(C), states that it shall be unlawful for any person in any state to distribute or sell to any person any pesticide the composition of which differs at the time of its distribution or sale from its composition as described in the statements required in connection with their registration under Section 3 of FIFRA in violation of Sections 12(a)(1)(C) of FIFRA, 7 U.S.C. §§ 136j(a)(1)(C).
5. 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.
6. 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.
7. 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.
8. 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. *See also* 40 C.F.R. § 152.15.
9. The Ortho Business Group d/b/a The Scotts Company is the Registrant of Record for the company number 239 assigned by EPA.
10. The Scotts Company merged into The Scotts Company, LLC.

11. The Scotts Miracle-Gro Company is the parent corporation of The Scotts Company, LLC, and owns and markets the Scotts and Ortho brands through its subsidiaries.
12. The Ortho Business Group d/b/a The Scotts Company and The Scotts Company, LLC, are affiliated with The Scotts Miracle-Gro Company.
13. The Ortho Business Group d/b/a The Scotts Company, The Scotts Company, LLC, and The Scotts Miracle-Gro Company are “persons” within the definition of FIFRA.
14. This Order refers to the Ortho Business Group d/b/a The Scotts Company, The Scotts Company, LLC, The Scotts Miracle-Gro Company, and all of their divisions, offices, branches and subsidiaries, collectively, as “the Respondents.”
15. “Ortho Brush-B-Gon Brush Killer” (EPA Registration Number 239-2491) is a “pesticide” within the meaning of FIFRA and is intended for preventing, destroying, repelling, or mitigating weeds.
16. “Weed Be-Gon Spot Weed Killer Concentrate” (EPA Registration Number 239-2690) is a “pesticide” within the meaning of FIFRA and is intended for preventing, destroying, repelling, or mitigating weeds.
17. “Weed-Be-Gon Spot Weed Killer” (EPA Registration Number 239-2691) is a “pesticide” within the meaning of FIFRA and is intended for preventing, destroying, repelling, or mitigating weeds.
18. EPA has reason to believe that Respondents have distributed or sold the pesticide products identified in paragraphs 15 through 17, above, with labeling claims that substantially differ from claims made for it as a part of the statements required in connection with its registration under Section 3 of FIFRA in violation of Sections 12(a)(1)(B) of FIFRA, 7 U.S.C. §§ 136j(a)(1)(B).

III. Order

19. The Respondents are hereby ordered to **immediately** cease the distribution or sale of the pesticide products identified in paragraphs 15, 16, and 17 of this Order as “Ortho Brush-B-Gon Brush Killer,” “Weed Be-Gon Spot Weed Killer Concentrate,” and “Weed-Be-Gon Spot Weed Killer,” including but not limited to all of these products’ alternate brand names (collectively, the “violative pesticide products”).
20. This Order shall pertain to all quantities of the violative pesticide products whose labeling does not conform to labeling submitted to EPA on February 8, 2007, September 23, 2005, and February 27, 2007 (Attachments), respectively, and to any subsequent label changes submitted to EPA as notifications or amendments and accepted by EPA which is within the ownership, control, or custody of the Respondents, wherever the violative pesticide products are located.
21. 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 Respondents, for any reason, other than in accordance with the provisions of this Order or such further Orders as may be issued by EPA in connection with the violative pesticide products.
22. Respondents may immediately begin shipping or distributing the violative pesticide products for the purpose of relabeling and repackaging, within Respondents’ registered pesticide producing establishments or registered pesticide producing establishments under contract to Respondents.

23. Respondents will relabel the violative pesticide product identified in paragraphs 15, 16, and 17 using only the most recent EPA label that was accepted in connection with the registration of the Product on February 8, 2007, September 23, 2005, and February 27, 2007, respectively, and in accordance with any other terms and conditions set forth as part of that acceptance and any subsequent label changes submitted to EPA as notifications or amendments and accepted by EPA.
24. In addition, Respondents may distribute, for the purposes of disposal, the violative pesticide products in compliance with federal, state and local laws and regulations for such disposal.
25. Respondents may resume distribution and production of each pesticide product, provided it complies with the terms and conditions of its latest accepted label, and any subsequent label changes submitted to EPA as notifications or amendments and accepted by EPA and is produced according to the Confidential Statement of Formula accepted by the Office of Pesticide Programs.
26. Any agent, owner, or operator of the Respondents violating the terms or provisions of this Order may subject the violator to civil or criminal penalties as prescribed in Section 14 of FIFRA, 7 U.S.C. § 136l.
27. The issuance of this Order shall 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 matters of unlawful acts not specified in this Order.
28. This Order shall be effective IMMEDIATELY upon receipt by the Respondents.

IV. OTHER MATTERS

29. For any additional information about this Stop Sale, Use, or Removal Order, please contact Terry Bonace, Enforcement Officer at (312) 886-3387. For any legal matters concerning this Order, you are encouraged to contact, Jeffery M. Trevino, Associate Regional Counsel, at (312) 886-6729.

Mardi Klevs

Mardi Klevs
Chief
Chemicals Management Branch

10/31/08

Date