

**FILED**

Jan 14, 2025

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**U.S. EPA REGION 5  
HEARING CLERK**

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

<b>In the Matter of:</b>	)	<b>Docket No. FIFRA-05-2025-0008</b>
	)	
<b>IKI Manufacturing Co., Inc.</b>	)	<b>Proceeding to Assess a Civil Penalty</b>
<b>Edgerton, Wisconsin</b>	)	<b>Under Section 14(a) of the Federal</b>
	)	<b>Insecticide, Fungicide, and Rodenticide</b>
<b>Respondent.</b>	)	<b>Act, 7 U.S.C. § 136l(a)</b>
	)	

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**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 Enforcement and Compliance Assurance Division, United States Environmental Protection Agency (EPA), Region 5.

3. Respondent is IKI Manufacturing Co., Inc. (Respondent), a corporation doing business in the State of Wisconsin.

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. Respondent also waives any rights or defenses that Respondent has, or may have, for this matter to be resolved in federal court, including, but not limited to, any right to a jury trial, and waives any right to challenge the lawfulness of the final order accompanying the consent agreement.

9. Respondent certifies that it is complying with FIFRA, 7 U.S.C. §§ 136-136y, and the regulations promulgated thereunder.

**Statutory and Regulatory Background**

10. Section 8(a) of FIFRA, 7 U.S.C. § 136f(a), authorizes the EPA Administrator to prescribe regulations requiring producers, registrants, and applicants for registration to maintain records with respect to their operations and the pesticides and devices produced as the Administrator determines are necessary for the effective enforcement of FIFRA.

11. Section 2(s) of FIFRA, 7 U.S.C. § 136(s), defines the term "person" as "any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not."

12. Section 2(t) of FIFRA, 7 U.S.C. § 136(t), defines the term "pest" as "(1) any insect, rodent, nematode, fungus, weed, or (2) any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism (except viruses, bacteria, or other micro-organisms on

or in living man or other living animals) which the Administrator [of the EPA] declares to be a pest” under Section 25(c)(1) of FIFRA, 7 U.S.C. § 136w(c)(1). *See also* 40 C.F.R. § 152.5.

13. Section 2(u) of FIFRA, 7 U.S.C. § 136(u), defines the term “pesticide” as, among other things, “(1) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, (2) any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.” Also see 40 C.F.R. § 152.3.

14. 40 C.F.R. §152.3 defines the term “pesticide product” as “a pesticide in the particular form (including composition, packaging, and labeling) in which the pesticide is, or is intended to be, distributed or sold. The term includes any physical apparatus used to deliver or apply the pesticide if distributed or sold with the pesticide.”

15. Section 2(w) of FIFRA, 7 U.S.C. § 136(w), defines the term “produce” in part as “to manufacture, prepare, compound, propagate, or process any pesticide or device or active ingredient used in producing a pesticide.” Also see 40 C.F.R. § 167.3.

16. Section 2(dd) of FIFRA 7 U.S.C. § 136(dd), defines an “establishment” as “any place where a pesticide or device or active ingredient used in producing a pesticide is produced, or held, for distribution or sale.”

17. 40 C.F.R. § 167.3 defines a “producer” as “any person, as described by the Act, who produces any pesticide, active ingredient, or device (including packaging, repackaging, labeling and relabeling).”

18. Section 7(c) of FIFRA, 7 U.S.C. § 136e(c) requires a “producer” operating a registered pesticide-producing “establishment” to inform EPA of the types and amounts of pesticides (and, if applicable, active ingredients used in producing pesticides): (1) which it is producing; (2) which it has produced during the past year; and (3) which it has sold or distributed

during the past year. In addition, 7 U.S.C. § 136e(c) requires that the producer keep the required information current and annually submit the required information to the Administrator, as required by regulations prescribed by the Administrator.

19. 40 C.F.R. § 167.85(a) requires each “producer” operating an “establishment” to submit each year to EPA the reports required by 40 C.F.R. § 167.85(b), concerning any pesticide, active ingredient, or device produced at each establishment (Pesticide Report).

20. 40 C.F.R. § 167.85(b) requires that the Pesticide Report each “producer” annually submits to EPA must include for every pesticide, active ingredient, or device produced at its registered pesticide-producing establishment: (1) the name and address of the establishment; and (2) the amount of pesticide product: (i) produced during the past year; (ii) sold or distributed during the past year; and (iii) estimated to be produced during the current year.

21. 40 C.F.R. § 167.85(c) requires the producer to obtain, complete and annually submit a pesticide reporting form supplied by EPA. The applicable form, “EPA Form 3540-16, Pesticide Report for Pesticide-Producing and Device-Producing Establishments” (EPA Form 3540-16) requires, *inter alia*, identification of the establishment; identification of the company; authorized signature and signature date; and specific pesticide production information.

22. 40 C.F.R. § 167.85(d) requires that the producer annually file the EPA Form 3540-16 on or before March 1, even if the producer has not produced any pesticide products for that reporting year.

23. 40 C.F.R. § 169.2(a) requires all producers of pesticides, devices, or active ingredients used in producing pesticides subject to FIFRA, to maintain records for all pesticides produced showing the: 1) product name; 2) EPA Registration Number (EPA Reg. No.); 3) Experimental Permit Number (if applicable); 4) amounts per batch, and 5) batch identification (numbers, letters, etc.).

24. Pursuant to Section 12(a)(2)(B)(i) of FIFRA, 7 U.S.C. § 136j(a)(2)(B)(i), it is unlawful for any person to refuse to prepare, maintain, or submit any records required by or under, *inter alia*, Sections 7 and 8 of FIFRA.

25. Pursuant to Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L), it is unlawful for any person who is a producer to violate any of the provisions of Section 7 of FIFRA, 7 U.S.C. § 136c.

26. Pursuant to Section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1), and 40 C.F.R. Part 19, the Administrator of EPA may assess a civil penalty against any registrant, commercial applicator, wholesaler, dealer, retailer, other distributor who violates any provision of FIFRA, of up to \$23,494 for each offense where penalties are assessed on or after January 6, 2023.

#### **Factual Allegations and Alleged Violations**

27. At all times relevant to this CAFO, Respondent was a “person” and a “producer” as those terms are defined at Section 2(s) and (w) of FIFRA, 7 U.S.C. § 136(s) and (w).

28. At all times relevant to this CAFO, Respondent was a “producer” as defined at Section 2(w) of FIFRA, 7 U.S.C. § 136(w) of the products:

- a. Ortho Home Defense Max Ant, Roach & Spider, EPA Reg. No. 239-2699;
- b. Clippercide Spray, EPA Reg. No. 954-10;
- c. RID Bed Bug Bedding Spray; EPA Reg. No. 1021-2685 and
- d. Coleman 40% Deet, EPA Reg. No. 79533-5.

29. At all times relevant to this CAFO, Respondent owned or operated a business at 107 Maple Court, Edgerton, Wisconsin 53534 (Respondent's Facility).

30. At all times relevant to this CAFO, Respondent's Facility was an "establishment" as defined at Section 2(dd) of FIFRA, 7 U.S.C. § 136(dd), and 40 C.F.R. § 167.3.

31. At all times relevant to this CAFO, the Respondent's Facility was registered as a pesticide-producing establishment under Section 7 of FIFRA, 7 U.S.C. § 136e, and identified by EPA Establishment Number (EPA Est. No.) 3657-WI-2.

32. On or about March 3, 2020, and August 4, 2020, an inspector employed by the Wisconsin Department of Agriculture, Trade and Consumer Protection (WDATCP) and authorized to conduct inspections under FIFRA conducted an inspection at Respondent's Facility (Inspection).

33. During the Inspection, the inspector collected bin labeling, receiving, production and distribution records for **Ortho Home Defense Max Ant, Roach & Spider**, EPA Reg. No. 239-2699, including production records for calendar year 2020.

34. During the Inspection, the inspector collected bin labeling, receiving, production and distribution records for **Clippicide Spray**, EPA Reg. No. 954-10.

35. During the Inspection, the inspector collected an internal record of products produced by Respondent's facility in calendar year 2019.

### Count 1

36. Complainant incorporates paragraphs 1 through 35 of this CAFO, as set forth in this paragraph.

37. At all times relevant to this CAFO, **Ortho Home Defense Max Ant, Roach & Spider**, EPA Reg. No. 239-2699, was a “pesticide” as defined by Section 2(u) of FIFRA, 7 U.S.C. § 136(u).

38. Because **Ortho Home Defense Max Ant, Roach & Spider**, EPA Reg. No. 239-2699, was a “pesticide,” Respondent was required to comply with the recordkeeping requirements of, *inter alia*, 40 C.F.R. § 169.2(a).

39. Respondent’s production records for calendar year 2020 for **Ortho Home Defense Max Ant, Roach & Spider**, EPA Reg. No. 239-2699, failed to contain an EPA Reg. No. as required by 40 C.F.R. § 169.2(a).

40. Respondent’s failure to maintain complete production records for **Ortho Home Defense Max Ant, Roach & Spider**, EPA Reg. No. 239-2699, on at least one occasion during calendar year 2020 in violation of 40 C.F.R. § 169.2, constitutes an unlawful act pursuant to Section 12(a)(2)(B)(i) of FIFRA, 7 U.S.C. § 136j(a)(2)(B)(i) and subjects Respondent to the assessment of a civil penalty under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

### Count 2

41. Complainant incorporates paragraphs 1 through 35 of this CAFO, as set forth in this paragraph.

42. At all times relevant to this CAFO, **Clippercide Spray**, EPA Reg. No. 954-10, was a “pesticide” as defined by Section 2(u) of FIFRA, 7 U.S.C. § 136(u).

43. Because **Clippercide Spray**, EPA Reg. No. 954-10, was a “pesticide,” Respondent was required to comply with the recordkeeping requirements of, *inter alia*, 40 C.F.R. § 169.2(a).

44. Respondent’s production records for the Facility, EPA Est. No. 3657-WI-1, for calendar year 2020 for **Clippercide Spray**, EPA Reg. No. 954-10, failed to contain an EPA Reg. No. as required by 40 C.F.R. § 169.2.

45. Respondent’s failure to maintain complete production records for **Clippercide Spray**, EPA Reg. No. 954-10, on at least one occasion during calendar year 2020, constitutes an unlawful act pursuant to Section 12(a)(2)(B)(i) of FIFRA, 7 U.S.C. § 136j(a)(2)(B)(i) and subjects Respondent to the assessment of a civil penalty under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

#### **Counts 3-6**

46. Complainant incorporates paragraphs 1 through 35 of this CAFO, as set forth in this paragraph.

47. On or about February 20, 2020; February 16, 2021; May 24, 2022; and February 24, 2023; Respondent submitted its EPA Form 3540-16 (“Production Reports”) for the Facility, EPA Est. No. 3657-WI-1, for production occurring during calendar years 2019, 2020, 2021, and 2022, respectively.

48. The Production Reports for the Facility, EPA Est. No. 3657-WI-1, for calendar years 2019, 2020, 2021, 2022 and Respondent’s internal record of products produced at the Facility in calendar year 2019 identified production and distribution of **RID Bed Bug Bedding Spray**, which Respondent identified as EPA Reg. No. 73049-301-73470.



49. EPA Reg. No. 73049-301 was transferred to EPA Reg. No. 1021-2685 on December 12, 2013. On that date, the supplemental distributor product, EPA Reg. No. 73049-301-73470, was cancelled.

50. At all times relevant to this CAFO, EPA Reg. No. 73049-301-73470 was an invalid EPA Reg. No. for **RID Bed Bug Bedding Spray**.

51. The Production Reports for the Facility, EPA Est. No. 3657-WI-1, for calendar years 2019, 2020, 2021 and Respondent's internal record of products produced at the Facility in calendar year 2019 identified production and distribution of **Coleman 40% Deet**, which Respondent identified as EPA Reg. No. 54287-17-79533.

52. EPA Reg. No. 54287-17 was transferred to EPA Reg. No. 79533-5 on April 26, 2013. On that date, the supplemental distributor product, EPA Reg. No. 54287-17-79533, was cancelled.

53. At all times relevant to this CAFO, EPA Reg. No. 54287-17-79533 was an invalid EPA Reg. No. for **Coleman 40% Deet**.

54. The Production Reports for the Facility, EPA Est. No. 3657-WI-2 for calendar years 2019, 2020, 2021, and 2022, are incomplete because they fail to contain valid EPA Reg. Nos. for **RID Bed Bug Bedding Spray** and **Coleman 40% Deet**, as required by 40 C.F.R. § 167.85.

55. Respondent's failure to submit complete pesticide Production Reports for the Facility, EPA Est. No. 3657-WI-1, for calendar years 2019, 2020, 2021, and 2022 in violation of 40 C.F.R. § 167.85 constitutes four separate violations of Section 12(a)(2)(L) of FIFRA and subjects Respondent to the assessment of a civil penalty under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

### Civil Penalty

56. Pursuant to Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), Complainant determined that an appropriate civil penalty to settle this action is \$24,600. In determining the penalty amount, Complainant considered the appropriateness of the penalty to the size of Respondent's business, the effect on Respondent's ability to continue in business, and the gravity of the violation. Complainant also considered EPA's FIFRA Enforcement Response Policy, dated December 2009.

57. Respondent consents to pay the Assessed Penalty within thirty (30) calendar days after the date of the Final Order ratifying this Agreement is filed with the Regional Hearing Clerk ("Filing Date").

58. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.

59. When making a payment, Respondent shall:

- a. Identify every payment with Respondent's name and the docket number of this Agreement, FIFRA-05-2025-0008;
- b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve proof of such payment to the following persons:

Regional Hearing Clerk (E-19J)  
U.S. EPA, Region 5  
[r5hearingclerk@epa.gov](mailto:r5hearingclerk@epa.gov)

Emma Gloekler (ECP-17J)  
Pesticides and Toxics Compliance Section  
U.S. EPA, Region 5  
[Gloekler.Emma@epa.gov](mailto:Gloekler.Emma@epa.gov)

and  
R5lecab@epa.gov

John Matson (C-14J)  
Office of Regional Counsel  
U.S. EPA, Region 5  
[Matson.John@epa.gov](mailto:Matson.John@epa.gov)

U.S. Environmental Protection Agency  
Cincinnati Finance Center  
Mail to: [CINWD\\_AcctsReceivable@epa.gov](mailto:CINWD_AcctsReceivable@epa.gov)

- c. “Proof of payment” means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent’s name.

60. Interest, Charges, and Penalties on Late Payments. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay the full amount of the Assessed Penalty per this Agreement, EPA is authorized to recover, in addition to the amount of the unpaid Assessed Penalty, the following amounts:

- a. Interest. Interest begins to accrue from the Filing Date. If the Assessed Penalty is paid in full within 30 days, interest accrued is waived. If the Assessed Penalty is not paid in full within 30 days, interest will continue to accrue until any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charged are paid in full. To protect the interests of the United States the rate of interest is set at the Internal Revenue Service standard underpayment rate. Any lower rate would fail to provide Respondent adequate incentive for timely payment;

- b. Handling Charges. Respondent will be assessed monthly a charge to cover the EPA's cost of processing and handling overdue debts; and
- c. Late Payment Penalty. A late payment penalty of 6% per annum, will be assessed monthly on all debts, including any unpaid portion of the Assessed Penalty, interest, penalties, and other charges, that remain delinquent more than 90 days. Any such amounts will accrue from the Filing Date.

61. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Agreement, the EPA may take additional actions. Such actions the EPA may take include, but are not limited to, the following:

- a. Refer the debt to a credit reporting agency or a collection agency pursuant to 40 C.F.R §§ 13.13 and 13.14;
- b. Collect the debt by administrative offset (i.e., withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which included, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds pursuant to 40 C.F.R. Part 13, Subparts C and H;
- c. Pursuant to 40 C.F.R. § 13.17, suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds; and
- d. Request that the United States Attorney General bring a civil action in the appropriate district court to recover the amount outstanding pursuant to 7 U.S.C. § 136l(a)(5).

62. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.

63. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Agreement shall not be deductible for purposes of federal taxes.

### **General Provisions**

64. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: [Matson.John@epa.gov](mailto:Matson.John@epa.gov) (for Complainant), and [jwhite@ikimfg.com](mailto:jwhite@ikimfg.com) (for Respondent). Respondent understands that the CAFO will become publicly available upon filing.

65. Respondent's full compliance with this CAFO resolves only Respondent's liability under FIFRA, 7 U.S.C. § 136, *et seq.*, for federal civil penalties for the violations alleged in the CAFO.

66. This CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

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

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

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

70. Each person signing this CAFO 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.

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

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

**IKI Manufacturing Co., Inc., Respondent**

12/4/2024  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Jason White  
Chief Operating Officer  
IKI Manufacturing Co., Inc.

**United States Environmental Protection Agency, Complainant**

\_\_\_\_\_  
Michael D. Harris  
Director  
Enforcement and Compliance Assurance Division

**In the Matter of IKI Manufacturing Co., Inc.**  
**Docket No.: FIFRA-05-2025-0008**

**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.

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Ann L. Coyle  
Regional Judicial Officer  
United States Environmental Protection Agency  
Region 5