



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

May 27, 2022

VIA EMAIL ONLY

Mr. Darrell Hughes
Representative for ALLIED 100, LLC
Sarnova HC, LLC
5000 Tuttle Crossing Boulevard
Dublin, Ohio 43016
Darrell.hughes@sarnova.com

Consent Agreement and Final Order
In the Matter of ALLIED 100, LLC.
Docket Number **FIFRA-05-2022-0009**

Mr. Hughes:

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 May 27, 2022 with the Regional Hearing Clerk.

The civil penalty in the amount of \$5,000 is to be paid in the manner described in paragraphs 42-43. Please be certain that the docket number is written on both the transmittal letter and on the check. Payment is due by within 30 calendar days of the filing date.

Thank you for your cooperation in resolving this matter.

Sincerely,

ANNA
NGUYEN

Digitally signed by ANNA
NGUYEN
Date: 2022.05.23
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Anna Nguyen
Pesticides and Toxics Compliance Section

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	Docket No. FIFRA-05-2022-0009
)	
ALLIED 100, LLC)	Proceeding to Assess a Civil Penalty
Woodruff, Wisconsin)	Under Section 14(a) of the
)	Federal Insecticide, Fungicide, and
)	Rodenticide Act, 7 U.S.C. § 136l(a)
Respondent.)	
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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, U.S. Environmental Protection Agency (EPA), Region 5.

3. Respondent is ALLIED 100, LLC, which operates the AED Superstore website, and was doing business in the State of Wisconsin in calendar year 2021.

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 any factual allegation 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. §§ 136-136y.

Statutory and Regulatory Background

10. Pursuant to Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), with few exceptions not applicable here, it is unlawful for any person in any state to distribute or sell to any person any pesticide that is not registered under Section 3 of FIFRA or whose registration has been cancelled or suspended.

11. Section 2(p)(1) of FIFRA, 7 U.S.C. § 136(p)(1), defines a “label” as “the written, printed, or graphic matter on, or attached to, the pesticide or device of any of its containers or wrappers.”

12. 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.”

13. Section 2(u)(1) of FIFRA, 7 U.S.C. § 136(u)(1), defines a “pesticide,” in part, as any “substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.”

14. Section 2(t) of FIFRA, 7 U.S.C. § 136(t), defines a “pest” as “(1) 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 declares to be a pest under section [25(c)(1) of FIFRA].”

15. Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), states that 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.”

16. Section 2(a)(1) of FIFRA, 7 U.S.C. § 136(a)(1), defines an “active ingredient,” to mean “in the case of a pesticide other than a plant regulator, defoliant, desiccant, or nitrogen stabilizer, an ingredient which will prevent, destroy, repel, or mitigate any pest.”

17. The regulation at 40 C.F.R. 152.15(a)(1) states that a substance is considered to be intended for a pesticidal purpose, and thus to be a pesticide requiring registration, if the person who distributes or sells the substance claims, states, or otherwise implies (by labelling or otherwise) that the substance (either by itself or in a combination with any other substance) can or should be used as a pesticide.

18. The regulation at 40 C.F.R. 152.15(b) further states that a substance is considered to be intended for a pesticidal purpose, and thus to be a pesticide requiring registration, if 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 a combination with any other substance), or (2) use for manufacture of a pesticide.

19. The Administrator of EPA may assess a civil penalty against any registrant, commercial applicator, wholesaler, dealer, retailer or other distributor who violates any provision of FIFRA of up to \$20,528 for each offense occurring after November 2, 2015 and assessed

after December 23, 2020, pursuant to Section 14(a)(1), 7 U.S.C. § 136l(a)(1), and 40 C.F.R. Part 19.

Factual Allegations and Alleged Violations

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

21. At all times relevant to this Complaint, AED Superstore owned or operated a place of business located at 1800 Highway 51 North, Woodruff, Wisconsin 54568.

22. On or about January 8, 2021, EPA Region 5 received a referral regarding **Aneva Training Manikin Wipes** offered for sale on AED Superstore’s website, at <https://www.aedsuperstore.com/>, the referral noted the pesticidal claims regarding **Aneva Training Manikin Wipes** made on the website.

23. On August 11, 2021, Region 5 visited AED Superstore’s website, where **Aneva Training Manikin Wipes** were offered for sale and observed the following claim listed on the product’s packaging: “To clean manikin face between users.”

24. The packaging of **Aneva Training Manikin Wipes** lists denatured ethyl alcohol as an ingredient.

25. Ethyl alcohol is an active pesticidal ingredient recognized under FIFRA.

26. On August 11, 2021, Region 5 observed the following claim on AED Superstore’s webpage for **Aneva Training Manikin Wipes**: “Make sure your manikin is germ-free after use with our high-quality disinfectant wipes.”

27. On October 7, 2021, Region 5 visited AED Superstore’s webpage, where **Aneva Training Manikin Wipes** were offered for sale and observed the same claims and listed ingredients outlined in Paragraphs 23-26.

Aneva Training Manikin Wipes

28. **Aneva Training Manikin Wipes** is a “pesticide” as that term is defined in Section 2(u) of FIFRA.

29. **Aneva Training Manikin Wipes** is a pesticide, and, as such, is required to be registered under Section 3 of FIFRA.

30. **Aneva Training Manikin Wipes** is not registered under Section 3 of FIFRA and as such, is an unregistered pesticide based on the intended use and pesticidal claims made in relation to the product.

31. On August 11, 2021, AED Superstore offered **Aneva Training Manikin Wipes**, for sale.

32. On October 7, 2021, AED Superstore offered **Aneva Training Manikin Wipes**, for sale.

Count 1

Distribution of Unregistered Pesticide Aneva Training Manikin Wipes

33. Complainant incorporates Paragraphs 1 through 32 of this CAFO as though set forth in this paragraph.

34. On August 11, 2021, AED Superstore distributed or sold **Aneva Training Manikin Wipes**, a pesticide, as that term is defined in Paragraph 13 and is not registered under Section 3 of FIFRA and as such, is an unregistered pesticide.

35. AED Superstore’s distribution or sale of **Aneva Training Manikin Wipes**, constitutes an unlawful act, pursuant to Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

36. AED Superstore’s violation of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

Count 2

37. Complainant incorporates Paragraphs 1 through 32 of this CAFO as though set forth in this paragraph.

38. On October 7, 2021, AED Superstore distributed or sold **Aneva Training Manikin Wipes**, a pesticide, as that term is defined in Paragraph 13 and is not registered under Section 3 of FIFRA and as such, is an unregistered pesticide.

39. AED Superstore's distribution or sale of **Aneva Training Manikin Wipes**, constitutes an unlawful act, pursuant to Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

40. AED Superstore's violation of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

Civil Penalty

41. 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 **\$5,000**. In determining the penalty amount, Complainant considered the appropriateness of the penalty to the size of the 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.

42. Within 30 days after the effective date of this CAFO, Respondent must pay a **\$5,000** civil penalty for the FIFRA violations 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 "AED Superstore" and the docket number of this CAFO.

43. 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 Boulevard
Chicago, Illinois 60604
R5hearingclerk@epa.gov

Anna Nguyen (ECP-17J)
Pesticides and Toxics Compliance Section
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604
Nguyen.anna@epa.gov

Stephen Mendoza (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
mendoza.stephen@epa.gov

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

45. 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.

46. 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

47. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: mendoza.stephen@epa.gov (for Complainant), and darrell.hughes@sarnova.com (for Respondent).

48. The Respondent's full compliance with this CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in this CAFO.

49. 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.

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

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

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

53. 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.

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

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

ALLIED 100, LLC, Respondent

5/20/2022
Date

B. LaDuke
Brian LaDuke
President
ALLIED 100, LLC

United States Environmental Protection Agency, Complainant

MICHAEL HARRIS  Digitally signed by
MICHAEL HARRIS
Date: 2022.05.24
14:00:13 -05'00'

Michael D. Harris, Division Director
Enforcement & Compliance Assurance Division
United States Environmental Protection Agency
Region 5

In the Matter of:
ALLIED 100, LLC
Docket No. FIFRA-05-2022-0009

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.

ANN COYLE Digitally signed by ANN
COYLE
Date: 2022.05.26
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Ann L. Coyle
Regional Judicial Officer
United States Environmental Protection Agency
Region 5

Consent Agreement and Final Order
In the Matter of: ALLIED 100, LLC
Docket Number: [FIFRA-05-2022-0009](#)

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing Consent Agreement and Final Order, docket number [FIFRA-05-2022-0009](#), which was filed on [May 27, 2022](#), in the following manner to the following addresses:

Copy by E-mail to
Attorney for Complainant:

Mr. Stephen Mendoza
Mendoza.Stephen@epa.gov

Copy by E-mail to
Attorney for Respondent:

Mr. Darrell Hughes
Darrell.hughes@sarnova.com

Copy by E-mail to
Regional Judicial Officer:

Ms. Ann Coyle
coyle.ann@epa.gov

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5