

FILED

November 18, 2025

8:51AM

**U.S. EPA REGION 7
HEARING CLERK**

**U. S. ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 RENNER BOULEVARD
LENEXA, KANSAS 66219
BEFORE THE ADMINISTRATOR**

In the Matter of

**Westport Pools, LLC
d/b/a Landmark Aquatic**

Respondent.

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Docket No. FIFRA-07-2025-0115

CONSENT AGREEMENT AND FINAL ORDER

Preliminary Statement

The U.S. Environmental Protection Agency, Region 7 (EPA or Complainant), and Westport Pools, LLC d/b/a Landmark Aquatic (Respondent) have agreed to a settlement of this action before the filing of a Complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. §§ 22.13(b) and 22.18(b)(2).

Jurisdiction

1. This proceeding is an administrative action for the assessment of civil penalties initiated pursuant to Section 14 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 136l and in accordance with the Consolidated Rules of Practice.

Parties

2. Complainant, by delegation from the Administrator of EPA and the Regional Administrator of EPA Region 7 is the Director of the Enforcement and Compliance Assurance Division of EPA Region 7.

3. The Respondent is a limited liability company in good standing under the laws of the state of Missouri.

Statutory and Regulatory Background

4. Congress enacted FIFRA in 1947 and amended it in 1972 and in 1996. The general purpose of FIFRA is to provide the basis for regulation, sale, distribution and use of pesticides in the United States. 7 U.S.C. 136 *et. seq.*

5. Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), states that 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 3 of FIFRA, 7 U.S.C. § 136a, or whose registration has been cancelled or suspended.

6. Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), states it shall be unlawful for any person in any state to distribute or sell to any person any pesticide which is adulterated or misbranded.

7. Section 2(t) of FIFRA, 7 U.S.C. § 136(t), defines “pest” to mean (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-organism on or in living man or other living animals) which the Administrator declares to be a pest under Section 25(c)(1).

8. Section 2(u) of FIFRA, 7 U.S.C. § 136(u), defines “pesticide” to mean any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.

9. Section 2(s) of FIFRA, 7 U.S.C. § 136(s), defines “person” to mean any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.

10. Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), defines “to distribute or sell” to mean 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.

11. Section 2(w) of FIFRA, 7 U.S.C. § 136(w) defines “produce” to mean to manufacture, prepare, compound, propagate, or process any pesticide or device or active ingredient used in producing a pesticide. 40 C.F.R. § 167.3 further defines “produce” to mean to package, repack, label, relabel, or otherwise change the container of any pesticide or device.

12. Section 2(w) of FIFRA, 7 U.S.C. § 136(w) defines “producer” to mean any person who manufactures, prepares, compounds, propagates, or processes any pesticide or device or active ingredient used in producing a pesticide. 40 C.F.R. § 167.3 further defines “producer” to mean any person who packages, repackages, labels, or relabels any pesticide, active ingredient, or device.

13. Section 2(y) of FIFRA, 7 U.S.C. § 136(y) defines “registrant” to mean a person who has registered any pesticide pursuant to the provisions of this subchapter.

14. Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), states it shall be unlawful for any person in any state to distribute or sell to any person any pesticide which is adulterated or misbranded.

15. 40 C.F.R. § 156.10(a), states that every pesticide product shall bear a label containing the information specified by the Act and the regulations in this part and lists what is required.

16. Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L), states that it shall be unlawful for any person who is a producer to violate any of the provisions of section 136e of this title.

17. 7 U.S.C. § 136e(c), states that “the information required by this paragraph shall be kept current and submitted to the Administrator annually as required under such regulations as the Administrator shall prescribe.

18. 40 C.F.R. 167.85(d), states that producer operating an establishment must submit an initial report no later than 30 days after the first registration of each establishment the producer operates. Thereafter, the produce must submit an annual report on or before March 1, of each year, even if the producer has produced no pesticidal product for that reporting year.

19. Section 12(a)(2)(S) of FIFRA, 7 U.S.C. § 136j(a)(2)(S), states that it shall be unlawful for any person to violate any regulation issued under 136(a)(a) or 136q of this title.

20. 40 C.F.R. § 165.3 defines “refiller” to mean a person who engages in the activity of repackaging pesticide product into refillable containers. This could include a registrant or a person operating under a contract with a registrant.

21. 40 C.F.R 165.70(e)(5), states the refiller who is not a registrant, must have the following items at their establishment before repackaging a pesticide product into any refillable container for distribution or sale:

- i. The written contract referred to in paragraph (b)(3) of this section from the pesticide product’s registrant.
- ii. The pesticide product’s label and labeling.
- iii. The registrant’s written refilling residue removal procedure for the pesticide product.
- iv. The registrant’s written description of acceptable containers for the pesticide product.

22. 7 U.S.C. 136q(a)(1), states the Administrator may require certain data requirements and registration of pesticides.

23. 40 C.F.R. § 165.45(f)(2)(iii), requires each stationary container of liquid pesticides must be equipped with a shutoff valve which is capable of being locked closed.

24. Section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1), authorizes a civil penalty of not more than \$5,000 for each offense. The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, 28 U.S.C. § 2461, and implementing regulations at 40 C.F.R. Part 19, increased these statutory maximum penalties \$24,885, for violations that occur after November 2, 2015, and for which penalties are assessed on or after January 8, 2025.

General Factual Allegations

25. Respondent is, and at all times referred to herein was, a “person” within the meaning of FIFRA.

26. Respondent is identified as a pesticide producer establishment and a bulk repackager that owns and operates a facility at 156 Weldon Parkway, Maryland Heights, Missouri 63043.

27. Respondent “distributes” or “sells” a quantity of the pesticide product known as Vertex Concentrate.

28. The registrant for Vertex Concentrate is Hawkins, Inc. (hereinafter “Hawkins”) under EPA registration number 9616-8.

29. Respondent and Hawkins have a repackaging agreement.

30. Respondent’s facility is subject to regular inspections by the EPA to verify compliance with FIFRA, pursuant to section 9 of FIFRA, 7 U.S.C. § 136g.

31. On or about January 23, 2025, a representative from the Missouri Department of Agriculture, acting as a representative of EPA, conducted a neutral scheme producer establishment inspection of Respondent’s facility to determine compliance with FIFRA and related regulations in the Code of Federal Regulations.

32. At the time of the inspection, Respondent had a bulk tank of Vertex Concentrate.

33. At the time of the inspection, the bulk tank of Vertex Concentrate did not have a shutoff valve capable of being locked closed.

34. At the time of the inspection, the repackaging agreement that was provided to the inspector between the Respondent and Hawkins did not contain registrant’s written refilling residue removal procedure for the Vertex Concentrate pesticide product.

Allegations of Violations

35. The Complainant hereby states and alleges that Respondent has violated FIFRA and federal regulations promulgated thereunder, as follows:

Count 1
Failure to have a label

36. The facts stated in Paragraphs 25 through 34 above are herein incorporated.

37. Pursuant to Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), it is unlawful for any person in any state to distribute or sell to any person any pesticide which is adulterated or misbranded.

38. 40 C.F.R. § 156.10(a), states that every pesticide product shall bear a label containing the information specified by the Act and the regulations in this part and lists what is required.

39. Respondent “distributes” or “sells” Vertex Concentrate within the meaning of FIFRA.

40. The EPA inspection revealed that Respondent repackaged a product that contained Vertex Concentrate at the facility.

41. On the day of the inspection, Westport Pools had a bulk tank at their facility containing the Vertex Concentrate pesticide product.

42. Respondent violated Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), by having a distribution bulk tank that was not labeled.

Count 2
Failure to have a complete Repackaging Agreement

43. The facts stated in Paragraphs 25 through 34 above are herein incorporated.

44. Pursuant to Section 12(a)(2)(S), 7 U.S.C. § 136j(a)(2)(S), and 40 C.F.R. § 165.70(e)(5), a repackager must meet certain requirements at the establishment before repackaging a pesticide product into any refillable container for distribution or sale.

45. The EPA inspection revealed that the repackaging agreement between Hawkins, Inc. and Respondent failed to contain the registrant’s written refilling residue removal procedure and written description of acceptable containers for the Vertex Concentrate pesticide product as required by 40 C.F.R. § 165.70(e)(5)(iii) and (iv).

46. Respondent violated Section 12(a)(2)(S), 7 U.S.C. § 136j(a)(2)(S), and 40 C.F.R. § 165.70(e)(5) by not having the required written documentation of container lists and residue removal procedures in the repackaging agreement.

Count 3

Failure to have a lockable shutoff valve on a bulk container

47. The facts stated in Paragraphs 25 through 34 above are herein incorporated.
48. Pursuant to Section 12(a)(2)(S), 7 U.S.C. § 136j(a)(2)(S), and 40 C.F.R. § 165.45(f)(2), each stationary container of liquid pesticides must be equipped with a shutoff valve which is capable of being locked closed.
49. The EPA inspection revealed that the bulk tank of Vertex Concentrate did not have a lockable shutoff valve.
50. Respondent violated Section 12(a)(2)(S), 7 U.S.C. § 136j(a)(2)(S), and 40 C.F.R. § 165.45(f)(2) by not having a lockable shutoff valve on its bulk container.

Count 4

Failure to timely file an annual report

51. The facts stated in Paragraphs 25 through 34 above are herein incorporated.
52. Pursuant to Section 12(a)(2)(L), 7 U.S.C. § 136j(a)(2)(S), pesticide producers must file required reports.
53. Pursuant to 40 C.F.R. § 167.85(d), a producer operating an establishment must submit an initial report no later than 30 days after the first registration of each establishment the producer operates. Thereafter, the producer must submit an annual report on or before March 1 of each year, even if the producer has produced no pesticidal product for that reporting year.
54. Respondent filed its annual report on July 30, 2025.
55. Respondent violated Section 12(a)(2)(L), 7 U.S.C. § 136j(a)(2)(S), and 40 C.F.R. § 167.85(d) by not filing its 2024 annual report on or before March 1, 2025.

CONSENT AGREEMENT

56. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:
- (a) admits the jurisdictional allegations set forth herein;
 - (b) neither admits nor denies the specific factual allegations stated herein;
 - (c) consents to the assessment of a civil penalty, as stated herein;
 - (d) consents to the issuance of any specified compliance or corrective action order;

- (e) consents to any conditions specified herein;
- (f) consents to any stated Permit Action;
- (g) waives any right to contest the allegations set forth herein; and
- (h) waives its rights to appeal the Final Order accompanying this Consent Agreement.

57. By signing this consent agreement, Respondent 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.

58. Respondent consents to the issuance of this Consent Agreement and Final Order and consents for the purposes of settlement to the payment of the civil penalty specified herein.

59. Respondent and EPA agree to the terms of this Consent Agreement and Final Order and Respondent agrees to comply with the terms specified herein.

60. Respondent and EPA agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorneys' fees.

61. Respondent consents to receiving the filed Consent Agreement and Final Order electronically at the following e-mail addresses: evan.neustater@gtlaw.com and mborie@landmarkaquatic.com.

Penalty Payment

62. Respondent agrees that, in settlement of the claims alleged herein, Respondent shall pay a mitigated civil penalty of Twenty-One Thousand Nine Hundred and Eighty-Four Dollars (\$21,984), as set forth below.

63. Respondent shall pay the penalty within thirty (30) days of the effective date of the Final Order. Such payment shall identify Respondent by name and docket number and shall be made using any payment method provided at <http://www.epa.gov/financial/makepayment>. For instructions for wire transfers and additional information, see <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.

64. A copy of the confirmation of payment shall simultaneously be sent to the following:

Regional Hearing Clerk
R7_Hearing_Clerk_Filings@epa.gov; and

Anna Landis, Attorney
landis.anna@epa.gov.

65. Respondent understands that its failure to timely pay any portion of the civil penalty may result in the commencement of a civil action in Federal District Court to recover the full remaining balance, along with penalties and accumulated interest. In such case, interest shall begin to accrue on a civil or stipulated penalty from the date of delinquency until such civil or stipulated penalty and any accrued interest are paid in full. 31 C.F.R. § 901.9(b)(1). Interest will be assessed at a rate of the United States Treasury Tax and loan rates in accordance with 31 U.S.C. § 3717. Additionally, a charge will be assessed to cover the costs of debt collection including processing and handling costs, and a non-payment penalty charge of six (6) percent per year compounded annually will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. 31 U.S.C. § 3717(e)(2).

Effect of Settlement and Reservation of Rights

66. Full payment of the penalty proposed in this Consent Agreement shall only resolve Respondent's liability for federal civil penalties for the violations alleged herein. Complainant reserves the right to take any enforcement action with respect to any other violations of FIFRA or any other applicable law.

67. The effect of settlement described in the immediately preceding paragraph is conditioned upon the accuracy of Respondent's representations to EPA, as memorialized in the paragraph directly below.

68. Respondent certifies, to the best of its knowledge, by the signing of this Consent Agreement that it is presently in compliance with all requirements of FIFRA and its implementing regulations.

69. Full payment of the penalty proposed in this Consent Agreement shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Consent Agreement and Final Order does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of FIFRA and regulations promulgated thereunder.

70. Complainant reserves the right to enforce the terms and conditions of this Consent Agreement and Final Order.

71. Nothing contained in this Consent Agreement and Final Order shall alter or otherwise affect Respondent's obligation to comply with all applicable federal, state, and local environmental statutes and regulations and applicable permits.

General Provisions

72. By signing this Consent Agreement, the undersigned representative of Respondent certifies that they are fully authorized to execute and enter into the terms and

conditions of this Consent Agreement and has the legal capacity to bind the party they represent to this Consent Agreement.

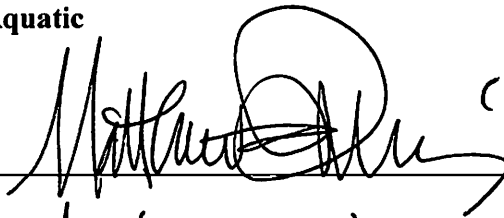
73. This Consent Agreement shall not dispose of the proceeding without a final order from the Regional Judicial Officer or Regional Administrator ratifying the terms of this Consent Agreement. This Consent Agreement and Final Order shall be effective upon filing by the Regional Hearing Clerk for EPA, Region 7. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

74. The penalty specified herein shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal, State and local taxes.

75. This Consent Agreement and Final Order shall apply to and be binding upon Respondent and Respondent's agents, successors and/or assigns. Respondent shall ensure that all contractors, employees, consultants, firms, or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this Consent Agreement and Final Order.

Westport Pools, LLC d/b/a Landmark Aquatic

Date: 11/14/2025

By: 

Matthew Borie
Print Name

CFO
Title

COMPLAINANT
U. S. ENVIRONMENTAL PROTECTION AGENCY

Date: _____

David Cozad
Director
Enforcement and Compliance Assurance Division

Anna Landis
Office of Regional Counsel

FINAL ORDER

Pursuant to Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22, the foregoing Consent Agreement resolving this matter is hereby ratified and incorporated by reference into this Final Order.

Respondent is ORDERED to comply with all of the terms of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(b), the effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

IT IS SO ORDERED.

Karina Borromeo
Regional Judicial Officer

Date

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:

Copy via Email to Complainant:

Anna Landis
Office of Regional Counsel
landis.anna@epa.gov

Brenton Jennings
Enforcement and Compliance Assurance Division
jennings.brenton@epa.gov

Copy via Email to Respondent:

Matt Borie
Landmark Aquatics
156 Weldon Parkway
Maryland Heights, Missouri 63043
mborie@landmarkaquatic.com

Evan Neustater
Greenberg Traurig, LLP
2101 L Street N.W.
Suite 1000
Washington, D.C. 20037
evan.neustater@gtlaw.com

Dated this _____ day of _____, _____.

Signed