

In The Matter Of:
Timothy Wilson, d/b/a
Wilson's Pest Control

Docket No. FIFRA-07-2023-0135
February 25, 2025



Original File Wilson's Pest Control.prn
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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

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In the Matter of:      )
                        )
Timothy Wilson, d/b/a  ) Docket No. FIFRA-07-2023-0135
Wilson's Pest Control, )
                        )
                        ) Respondent.
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The above-entitled matter came on for hearing at the Thomas F. Eagleton United States Courthouse, U.S. Tax Court, 111 South 10th Street, Room 9.170, St. Louis, Missouri 63102, on Tuesday, February 25, 2025 at 9:00 a.m., CST.

BEFORE: THE HONORABLE MICHAEL B. WRIGHT
Administrative Law Judge

APPEARANCES:

On behalf the Complainant:

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On behalf of the Respondent:

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Also Present:

Matthew Hall, Esq., Attorney-Advisor
Jennifer Wolff Almase, Esq., Senior Attorney-Advisor

I N D E X

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS	VOIR DIRE
Candace Bednar	10	51	86	99	--
Kash Kruep	103	135	--	--	--
Timothy Wilson	156	195	--	--	--

E X H I B I T S

EXHIBIT NUMBER	IDENTIFIED	RECEIVED
COMPLAINANT'S		
CX-1 to CX-14	6	6
CX-17 to CX-32	6	6
RESPONDENT'S		
RX-1	164	197
RX-2	162	197
JOINT		
JX-1	8	8

P R O C E E D I N G S

JUDGE WRIGHT: On the record.

Okay, good morning. We are here in the matter of "Timothy Wilson, doing business as Wilson's Pest Control," in Docket No. FIFRA-07-2023-0135.

I'm Michael Wright, the ALJ presiding over this proceeding. I'm authorized to preside over this proceeding pursuant to a designation by Chief Administrative Law Judge. With me is Senior Staff Attorney Jennifer Almase and Staff Attorney Matthew Hall.

I will now ask the parties to identify themselves, starting with the Agency.

MS. KACSUR: Good morning, Your Honor. I am Katherine Kacsur. I am representing the EPA, or the Complainants, in this matter.

Would you like my co-counsel to introduce himself?

JUDGE WRIGHT: Yes.

MR. HILBERT: Good morning, Your Honor. My name is Adam Hilbert. I'm representing the EPA.

JUDGE WRIGHT: Good morning.

MR. RAYMOND: Good morning, Your Honor. I'm Melvin Raymond representing the Respondent Wilson -- Timothy Wilson, d/b/a Wilson's Pest Control.

JUDGE WRIGHT: Good morning.

MR. WILSON: Good morning.

1 JUDGE WRIGHT: Thank you.

2 MR. WILSON: Good morning, Your Honor. Timothy
3 Wilson, Wilson's Pest Control.

4 JUDGE WRIGHT: Good morning.

5 MR. WILSON: Good morning.

6 JUDGE WRIGHT: I understand that no party is
7 invoking the Rule of Sequestration; is that correct?

8 MS. KACSUR: That's correct, Your Honor.

9 JUDGE WRIGHT: Okay.

10 MR. RAYMOND: Correct.

11 JUDGE WRIGHT: Okay. So we can begin.

12 I can tell you that I've gone thoroughly over this
13 record. You may offer a brief opening statement. Keep it
14 efficient and keep this case on track. Please make it brief
15 if you choose to do so.

16 The Respondent may offer an opening statement at
17 this time or at the close of the Agency's case-in-chief, if
18 you choose to do so.

19 Are there any other preliminary matters that the
20 parties want to address before we begin?

21 MS. KACSUR: I have a few preliminary matters,
22 Your Honor. I have a list of acronyms -- common acronyms
23 that we often use that I discussed with your staff attorney
24 that it might be useful. I have a few copies. If you would
25 like me to share that, I'm happy to.

1 JUDGE WRIGHT: Sure. Yeah. That would be nice.

2 (Pause.)

3 JUDGE WRIGHT: Okay.

4 MS. KACSUR: Also at this time, Your Honor, I
5 would like to move exhibits into evidence, and that would be
6 specifically Exhibits 1 through 14, and 17 through 32 of
7 Complainant's exhibits.

8 (Complainant's CX-1 to [CX-14](#), [CX-17](#) to [CX-32](#) marked.)

9 JUDGE WRIGHT: 1 through 14 and what else?

10 MS. KACSUR: 17 through 32.

11 JUDGE WRIGHT: And I understand that these
12 exhibits were stipulated to -- or the admissibility already?

13 MR. RAYMOND: Yes. That is correct, Your Honor.

14 JUDGE WRIGHT: So there's no objection from
15 Respondent?

16 MR. RAYMOND: No.

17 JUDGE WRIGHT: Okay. Complainant's Exhibits 1
18 through 14, and 17 through 32 are admitted.

19 (Complainant's CX-1 to [CX-14](#), [CX-17](#) to [CX-32](#) received.)

20 MS. KACSUR: One final preliminary matter. We
21 would like to request that our paralegal be allowed to
22 operate the screen, and what's called an ELMO projector, to
23 show some demonstrative exhibits, which is just our exhibits
24 with some highlighting on specific text.

25 JUDGE WRIGHT: Okay. That's fine.

1 JUDGE WRIGHT: I do have one thing. The joint
2 stipulations; can we -- is there any objection to admitting
3 that as a joint exhibit?

4 MS. KACSUR: No, Your Honor.

5 MR. RAYMOND: Oh, no, not from Respondent. That's
6 fine Judge.

7 JUDGE WRIGHT: Okay.

8 MR. RAYMOND: That's fine, Judge.

9 JUDGE WRIGHT: So the -- I believe that's the
10 revised Joint Stipulations that was filed on 31st of
11 January, 2025. It does not say "Revised," however, this was
12 the second time it was submitted, I believe.

13 MS. KACSUR: I believe the second time it was
14 filed was February 21st.

15 JUDGE WRIGHT: Okay. Excuse me. Let me just pull
16 that up. Okay, I see that. All right, so the Joint
17 exhibit, the date is still January 31, 2025 on that
18 document. Was there another way that was identified?

19 MS. KACSUR: The EPA signatures should be
20 electronic signatures that contain a date of the new one.
21 If this continues to be an issue, I'm happy to submit
22 another revised version of the Joint stipulations.

23 JUDGE WRIGHT: I think that'll be okay. I do see
24 that your signature -- or the EPA signature is dated
25 February 21, 2025, so that will be the joint set of

1 stipulated facts, exhibits, and/or testimony that would be
2 admitted as Joint [Exhibit 1](#).

3 MR. RAYMOND: Okay. I signed the -- I actually
4 signed it; not the electronic, Judge. My signature on it,
5 if I dated it or not [sic].

6 JUDGE WRIGHT: It's on here, but it's not dated.

7 MR. RAYMOND: Okay.

8 JUDGE WRIGHT: Yes.

9 MR. RAYMOND: Because I had to send it back to EPA
10 after I signed it.

11 JUDGE WRIGHT: Okay. No problem.

12 MR. RAYMOND: So, I just sent a PDF and just sent
13 it back to them without --

14 JUDGE WRIGHT: Okay.

15 MR. RAYMOND: That's how I did it; I sent it
16 electronic.

17 JUDGE WRIGHT: All right. So that's all fine.

18 (Joint JX-1 marked and received.)

19 JUDGE WRIGHT: Okay. All right; you may proceed.

20 MS. KACSUR: All right, thank you, Your Honor.

21 I would like to begin with an opening statement.

22 Your Honor, my name is Katherine Kacsur, and I
23 represent the Environmental Protection Agency in this
24 matter.

25 We're here today because the Respondent, Mr.

1 Wilson, sells improperly packaged pesticides that are
2 missing some or all of their labeling. Additionally, we are
3 here because Mr. Wilson refused to allow EPA to inspect one
4 of his stores. These failures are violations of the Federal
5 Insecticide, Fungicide, and Rodenticide Act, or FIFRA.

6 Pursuant to this Court's January 17, 2025 Order,
7 we, the EPA, must demonstrate by preponderance two elements:
8 first, that the pesticides sold by Mr. Wilson at his North
9 Grand Boulevard location were repackaged; and second, that
10 there were pesticides for sale at Mr. Wilson's Woodson Road
11 location.

12 We will first call as a witness Ms. Candace
13 Bednar, Chief of the Chemical Branch in EPA Region 7's
14 Enforcement and Compliance Assurance Division, or ECAD.

15 Ms. Bednar conducted an inspection of Mr. Wilson's
16 North Grand Boulevard location where she spoke with Mr.
17 Wilson and made observations about his business practices.

18 She'll also testify that she was unable to perform
19 an inspection at Mr. Wilson's Woodson Road store and why
20 this poses a risk to Mr. Wilson's customers in the St. Louis
21 community.

22 We'll also call Mr. Kash Kruep. He is a case
23 officer in EPA Region 7's ECAD. He will testify as to how
24 the EPA calculated the civil penalty, and he will discuss
25 potential harms that can result from selling unregistered

1 and misbranded pesticides.

2 With that, I would like to call to the stand our
3 first witness, Ms. Candace Bednar.

4 JUDGE WRIGHT: Okay. Would you remain standing,
5 please, and raise your right hand.

6 (Whereupon,

7 CANDACE BEDNAR,
8 was called as a witness and, after having been duly sworn,
9 was examined and testified as follows:)

10 JUDGE WRIGHT: You may be seated.

11 DIRECT EXAMINATION

12 BY MS. KACSUR:

13 Q. Can I please have you state your name?

14 A. Candace Bednar.

15 Q. And can you spell that please?

16 A. C-A-N-D-A-C-E, B-E-D-N-A-R.

17 Q. And what is your current occupation?

18 A. I'm the Chemical Branch Chief in EPA Region 7.

19 Q. What are your responsibilities in that position?

20 A. I direct inspections and enforcement in several
21 regulations in the four-state region.

22 Q. What regulations do you work in?

23 A. I work in hazardous waste; underground storage
24 tanks; FIFRA, which is the Federal Insecticide, Rodenticide,
25 Fungicide, Rodenticide Act; the Toxic Substance Control Act

1 for lead; and the Spill Prevention Control and
2 Countermeasures Act.

3 Q. How long have you been in this role?

4 A. Since January of 2020.

5 Q. And what were you doing before you were in this
6 role?

7 A. Prior to that, I was a credentialed inspector and
8 case review officer for the Environmental Protection Agency
9 Region 7.

10 Q. What does it mean to be a credentialed inspector?

11 A. At the Environmental Protection Agency, you have
12 to go through a process to receive inspector credentials
13 that includes training, medical monitoring, review of
14 inspection reports and regulations, and performing
15 inspections under another inspector that is experienced, as
16 well as leading inspections until you are able to qualify
17 for your inspector credentials.

18 Q. And what did you do before you were in this role
19 with the EPA?

20 A. I worked for the Missouri Department of Natural
21 Resources for about 10 years in the solid waste and
22 hazardous waste regulations, also doing enforcement and
23 inspections.

24 Q. What is your college degree in?

25 A. I have a degree in Fisheries and Wildlife

1 Management from the University of Missouri-Columbia.

2 Q. You mentioned that you work in enforcement of
3 FIFRA. How many FIFRA matters, or cases, have you worked
4 on?

5 A. Probably hundreds. I've reviewed cases. I assign
6 casework to other FIFRA case review officers. And we
7 discuss tips and complaints that come in. So I've worked
8 extensively the last 11 years.

9 Q. And have you done inspections under FIFRA?

10 A. I have.

11 Q. About how many FIFRA inspections have you done?

12 A. Probably about a dozen. And I've been in
13 attendance, or a supporting role, during inspections and
14 many more inspections than that.

15 Q. Can you describe for us a little bit about what
16 FIFRA is?

17 A. FIFRA is the regulations that apply to the sale,
18 distribution, registration, and use of pesticides in the
19 United States.

20 Q. Can you describe for us what registration of
21 pesticides is?

22 A. So when a company has a pesticide that they want
23 to sell in the United States, they must go under a -- a
24 pretty arduous process to register that pesticide with the
25 Environmental Protection Agency. That includes providing

1 information about the ingredients, the efficacy of the
2 pesticide, whether it is safe to use, how to use it, when it
3 can be used even, at what amounts. So that registration
4 process is done through our headquarters, and a pesticide
5 becomes registered so that it can be safely used and
6 effectively used.

7 Q. How is this information relayed to customers?

8 A. So in FIFRA, what we like to say is "The label is
9 the law."

10 Q. Okay.

11 A. And the label has all the important information
12 that is -- that includes the name of the pesticide, the
13 active ingredients, safety data, what protect -- personal
14 protective equipment should be used, how the pesticide
15 should be applied, how -- and how to properly dispose of it
16 after it has been used.

17 Q. Why is it important that all of these requirements
18 that you're describing are met by people who are registering
19 and selling pesticides?

20 A. Because pesticides do come with an inherent risk,
21 if they are improperly used, the pesticide label provides
22 the user and the public with -- well, provides the user the
23 proper way to apply the pesticide so that it is safe to use.

24 Q. Have you ever seen anyone be harmed if any of
25 these requirements are not followed?

1 A. Yes. There are -- there are many incidents of
2 pesticide poisoning, exposures, from -- from people, to
3 children, to pets.

4 Q. After a pesticide is registered, are there any
5 more information providing or reporting requirements under
6 FIFRA?

7 A. Yes. Pesticides that are produced, the producer
8 must report annually a form, it's called the 3540-16, and it
9 includes information about the name of the pesticide, the
10 pesticide registration number, the amount that is produced,
11 the amount that is distributed, the amounts that is sold.
12 Every year. And even if it is a zero amount, they are
13 required to report to the Environmental Protection Agency.

14 Q. Does the EPA approve of these forms once they are
15 received?

16 A. It doesn't exactly approve of the forms; that we
17 receive them, and the reporting is required. And then
18 sometimes the system automatically flag something if it's --
19 if it's not quite right.

20 Q. Taking a step back here, you've mentioned
21 producing pesticides. Can you tell us a little bit about
22 what that means "to produce a pesticide"?

23 A. So producing a pesticide is actually a pretty
24 broad definition. You're creating a pesticide, or you could
25 be repackaging a pesticide, relabeling a pesticide, labeling

1 a pesticide for consumer use.

2 Q. What does it mean to "repackage" or "relabel" a
3 pesticide?

4 A. So repackaging is a special subsection of
5 producing a pesticide, let's say, and it take -- you take
6 the original pesticide from the original container and put
7 it into a different container and put the label on it. And
8 that is done under a repackaging agreement between two
9 companies.

10 Q. Are there any specific requirements for, say, one
11 company to be able to repackage another company's pesticide?

12 A. Yes. Under FIFRA, it is required that you have a
13 repackaging agreement in place between the two companies
14 because the registrants spends a lot of time and money
15 registering their pesticide, so it is a benefit to them to
16 be able to have someone repackage it, but they have to have
17 an agreement. The pesticide has to be placed in the proper
18 containers. It has to have the complete and entire
19 pesticide label on the pesticide.

20 Q. Can a pesticide be repackaged before being sold
21 and still be under that original pesticide registration with
22 the EPA?

23 A. Could you repeat that question?

24 Q. I will rephrase. Can a pesticide be repackaged
25 and sold while keeping its original registration with the

1 EPA?

2 A. It can be, as long as all those requirements are
3 met and in place. The repackaging agreement, using the
4 right containers, having the complete label on it, I mean,
5 it's obviously the same ingredients and uses on it.

6 Q. What happens if some of or all of those
7 requirements are not met?

8 A. Then that pesticide would not -- would -- it would
9 be unregistered.

10 Q. Can words on the registered EPA label be modified?
11 Such as the directions for use or hazard and precautionary
12 statements? Can they be paraphrased or summarized when
13 repackaging a product?

14 A. Absolutely not.

15 Q. I'm going to ask a few more theoretical questions
16 here. Can a person sell a repackaged pesticide if the
17 repackager doesn't have an agreement or contract with the
18 registrant of the pesticide?

19 A. No.

20 Q. Is the repackager of a pesticide necessarily the
21 same person as the person who ultimately sells the
22 pesticide?

23 A. No.

24 Q. Could a person who repackages a pesticide, but
25 doesn't meet all of those repackaging requirements, register

1 his new pesticide with the EPA?

2 A. No.

3 Q. I'm going to turn now to the specific case today.
4 Are you familiar with Wilson's Pest Control?

5 A. I am.

6 Q. Can you tell us how you are familiar with Wilson's
7 Pest Control?

8 A. In about 2022, the Missouri Department of
9 Agriculture reached out to us because they had -- were
10 having difficulty completing an inspection at Wilson's Pest
11 Control, and so we decided to help them with that.

12 Q. How did you proceed after receiving this referral?

13 A. So first, we had our Section 7 coordinator, which
14 Section 7 is the annual reporting that is submitted to the
15 Environmental Protection Agency, by pesticide producers,
16 reviewed. And when it was reviewed, one of the pesticide
17 registration numbers didn't appear to be right.

18 In -- in repackaging agreements, you can only have
19 a repackaging agreement with the original registrant, and it
20 looked like maybe they were producing the wrong, kind of,
21 pesticide from the paperwork -- the annual paperwork, so we
22 had some questions about that, and we decided to reach out
23 to do an inspection.

24 Q. Did you ultimately conduct an inspection?

25 A. Yes. We did.

1 Q. And where was that inspection?

2 A. It was 2400 Grand -- North Grand Boulevard in St.
3 Louis, Missouri.

4 Q. And do you remember when that inspection was?

5 A. June 15th. Could I look at the Inspection Report?

6 MS. KACSUR: Your Honor, may she look at an
7 exhibit to refresh her memory?

8 JUDGE WRIGHT: Sure.

9 (Witness examined the document.)

10 THE WITNESS: Yes, June 15, 2022.

11 BY MS. KACSUR:

12 Q. Who all was present at this inspection?

13 A. So, it was Andrew Landry, a FIFRA inspector with
14 Region 7, Mr. Timothy Wilson, the owner of Wilson's Pest
15 Control, and myself.

16 Q. Who is Andrew Landry?

17 A. Andrew Landry is a credentialed FIFRA inspector.

18 Q. Is he still employed by EPA Region 7?

19 A. No. He's not.

20 Q. Can you walk us through this inspection that you
21 performed?

22 A. Sure. We arrived at the location and took some
23 photographs, what we call starting photographs outside, to
24 show that they were open for business.

25 We entered the storefront, and Mr. Wilson was

1 present behind the counter, provided credentials and a
2 Notice of Inspection, and Mr. Wilson consented to the
3 inspection, and we began going through the Section 7 Annual
4 Pesticide Reporting issues.

5 At the time, we also noticed some pesticides that
6 were on the shelves for sale that appeared -- that did not
7 appear as traditional pesticides. The labeling wasn't
8 smooth. They weren't brand names that I was familiar with,
9 and so we asked about those, and Mr. Wilson explained how he
10 manufactures those in the back on-site.

11 Q. Can you describe the layout of the store?

12 A. Sure. When you enter, there are what we call
13 pesticide devices. Those are more like the traps that are
14 for -- for pests. On the left, there's a large counter that
15 Mr. Wilson was working behind, where he was answering phone
16 calls, has a cash register, that type of thing. The
17 paperwork. And then on the right was more shelving and
18 display cases where pesticides were offered for sale.

19 Q. What types of pesticides were being offered for
20 sale that you saw?

21 A. There were insecticides, termiticides. Lots of
22 things for dealing with pests.

23 Q. And what led you to believe at this store that
24 pesticides were being held for sale?

25 A. Well, during the inspection, a customer did enter

1 the store and purchase items that Mr. Wilson pointed her
2 towards.

3 Q. Were you able to inspect or see any other parts of
4 this store?

5 A. So, we asked to see the -- like, the pesticide
6 pour-up station that was in the back. Mr. Wilson was very
7 busy, but he allowed us back there briefly to observe where
8 he would take pesticides -- registered pesticides from one
9 container and pour them into another container, and then he
10 would place a label of his own on the container.

11 Q. And how did you know that that was Mr. Wilson's
12 practice?

13 A. There was, like, a bench where he worked, and he
14 had containers -- he had blank containers, he had labels
15 that were printed off that he would apply, funnels that he
16 was using to go from one container to the other. And then
17 Mr. Wilson described the practice of having a large, like,
18 55-gallon container of pesticides offsite at a different
19 location that he would pour into a smaller container, and
20 then he would take that to the St. Louis location,
21 storefront location, and pour it up in the back into these
22 smaller containers for sale.

23 Q. Were there any other pesticides for sale, other
24 than the liquid pesticides you're describing?

25 A. Yes. After we were speaking with Mr. Wilson,

1 there were, like, laundry baskets of -- like, the plastic
2 kind full of containers of plastic baggies of pesticides for
3 rodenticides, mainly. So there was -- there was both what
4 we call throw packs and then block bait that is used on
5 small mammals.

6 Q. Can you describe for us what a "throw pack" is?

7 A. So "throw pack" is, kind of, an industry term
8 where they have a granular pesticide in a small container
9 that they place in places to -- for rodents typically, and
10 that they eat through the packaging to access the pesticide.

11 Q. And you also mentioned another type of
12 rodenticide. Can you describe that for us, more, as well?

13 A. So bait blocks are hardened blocks that contain
14 the -- the active ingredient and also an attractant to
15 attract small mammals, and they chew through that block, eat
16 it, and access the pesticide.

17 Q. Let's turn now to our first exhibit, CX-1, which I
18 believe is already displayed on the projector there. Do you
19 recognize this exhibit?

20 A. I do.

21 Q. Can you describe what it is for us?

22 A. It is the Pesticide Inspection for Wilson's Pest
23 Control.

24 Q. Who wrote this report?

25 A. Mr. Andrew Landry.

1 Q. Have you reviewed this report in full?

2 A. I have.

3 Q. Do you agree with everything written in this
4 report?

5 A. I do.

6 Q. How long after the inspection was this report
7 written?

8 A. The first draft was done within days. There are
9 some minor edits that went back and forth, and it was signed
10 in less than a month.

11 Q. Let's look now at CX-2. Do you recognize this
12 exhibit?

13 A. I do.

14 Q. Can you describe what it is?

15 A. It is the photographs from the inspection on June
16 15th of 2022.

17 Q. Who took these photos?

18 A. Andrew Landry.

19 Q. Can you please describe generally what is in these
20 photographs?

21 A. We have the starting photographs that show the
22 outside of the building, photographs inside showing
23 pesticides for sale on store shelves, and then each
24 pesticide that we had questions about or concerns for were
25 taking -- we took photos of all the sides of the pesticide.

1 There are pictures of the rodenticides that were for sale in
2 clear, zippered top bags, the many varieties of those.
3 There's some photographs from the back area where there was
4 the pour up station where pesticides were manufactured. And
5 it's a photograph of a receipt. Things like that from that
6 day.

7 Q. Now, I would like to discuss some of the specific
8 products that you found. So, let's turn back to CX-1, and
9 let the record reflect Ms. Bednar has already identified and
10 expressed her familiarity with CX-1.

11 Can I have you turn to Page 6 of CX-1, and can I
12 have you read the highlighted text that is on the screen?

13 MS. KACSUR: Sarah, would you mind zooming in a
14 bit?

15 THE WITNESS: "Mr. Wilson showed us three
16 different rodenticide products he currently offers for sale
17 in what the industry refers to as 'throw packs': Final,
18 Talon G, and Contrac. Products Final and Talon G are in
19 0.88 ounce net weight throw packs bags, and Contrac is in
20 a -- is in 1.5 ounce net weight throw pack bags (Figure 9).
21 All three rodenticides had partial labeling and included
22 registration number, first aid, and directions for use.
23 Wilson's repackages six of these throw pack bags into
24 zipper-top resealable, plastic bags with no additional
25 labeling."

1 Q. Can you repeat for us what pesticides were being
2 sold in throw packs?

3 A. So that would be Final, Talon G, and Contrac
4 [sic].

5 Q. And what led you to believe that these were
6 repackaged into resealable, plastic zip-top bags?

7 A. Because they would not have come from the
8 registrant in that type of packaging and without the
9 complete label on the outside.

10 Q. What type of packaging would they have come in
11 from the registrant?

12 A. So these are second generation rodenticides, and
13 so because they have such an ability to poison non-target
14 species immediately, like with the first contact with it,
15 ingestion, they are not to be sold to the general consumer
16 public; they're supposed to be sold to pesticide
17 professionals, and so they would be in a larger container.
18 The container would be sturdy to unintentional access, and
19 they would have the complete FIFRA label, which is much
20 longer.

21 Q. Have you ever seen pesticide throw packs sold like
22 this before?

23 A. I have not.

24 Q. And can you describe for us, again, how these
25 throw packs were held for sale or distribution at Mr.

1 Wilson's store?

2 A. So he had them sorted into little bins behind the
3 counter that he would sell to the public.

4 Q. Were there any individual throw packs not in a
5 zip-top bag being held for sale?

6 A. I did not observe any of those.

7 Q. Let's focus now on one of the products, Contrac.
8 Let's turn to CX-3. Do you recognize this document?

9 A. I do.

10 Q. Can you describe what it is for us?

11 A. It's the Label Amendment for Contrac Rodenticide
12 Ready To Use Place Pacs.

13 Q. What is a "Label Amendment"?

14 A. So when a -- when a label is initially registered
15 with the Environmental Protection Agency, it goes through
16 that long registration process, checking efficacy, checking
17 safety, discussing the wording that should be on the label.
18 Sometimes things have to be amended or changed slightly.
19 Maybe a use of the pesticide is added or removed. And so a
20 label will be amended along the way.

21 Q. And who is the registrant for this product?

22 A. Bell Laboratories.

23 Q. Let's turn now to Page 3 of CX-3. What is on this
24 page?

25 A. This is the Contrac Rodenticide Ready To Use Place

1 Pacs label. Accepted label.

2 Q. What is the date on this page?

3 A. 9/28/2015.

4 Q. At the time of the inspection, was this the most
5 recently approved label for Contrac throw packs?

6 A Yes.

7 Q. Can I have you please read all of the highlighted
8 text on this page?

9 A "Pest Control Operator Use Label." "Outer
10 Container - Complete Label - Package Weight 16 Pounds or
11 Greater." "Net Weight: 16 Pounds to 50 Pound containers."

12 Q. Can I now have you turn to Page 7 of CX-3? And
13 what is on this page?

14 A. This is the Contrac Rodenticide Ready To Use Place
15 Pac label.

16 Q. Why would there be multiple labels for one
17 product?

18 A. When a company registers them, they can register
19 several different labels. Like this label is slightly
20 different. It has a smaller size container.

21 Q. Can I have you read the highlighted text on this
22 page?

23 A. "Pest Control Operator Use Label." "Inner
24 Container - Complete Label - Package Weight 2 Pounds to 10
25 Pounds." "Individual sale is prohibited by law." "Net

1 Weight: 2 Pounds to 10 Pound Containers."

2 Q. Can you now turn to Page 11 of CX-3? What is on
3 this page?

4 A. This is the inner label. It's abbreviated for
5 Contrac Rodenticide Ready To Use Place Pac.

6 Q. Can I have you read the highlighted text on this
7 page?

8 A. "Pest Control Operator Use Label." "Inner
9 Container - Abbreviated Label - Individual Place Pac."
10 "Individual sales prohibited by law. "Net Weight: 1.5
11 ounces."

12 Q. Let's turn now to CX-2. Specifically Page 40 of
13 CX-2. And let the record reflect that Ms. Bednar has
14 already identified and expressed her familiarity with CX-2.

15 Can I have you describe what is on Page 40 of CX-
16 2?

17 A. This is the Contrac Ready To Use Place Pacs in a
18 zipper -- a zip-top container on the counter of Mr. Wilson's
19 Pest Control business."

20 Q. Can I have you turn to Page 41 of CX-2 and tell us
21 what's on this page?

22 A. This is just the backside of that same container.

23 Q. Can I have you turn to Page 42 of CX-2 and
24 describe for us what's on this page?

25 A. This is the individual Place Pac taken out of the

1 clear, zip -- zipper-top bag.

2 Q. And can I have you turn to Page 43 of CX-2 and
3 tell us what's on this page?

4 A. This is the backside of that throw pack.

5 Q. Is there a net weight given on these throw packs?

6 A. Yes. The net weight is 1.5 ounces.

7 Q. Based on this net weight and our previous review
8 of CX-3, the Contrac labels, are the Contrac throw packs
9 correctly labeled for sale or distribution at Mr. Wilson's
10 store?

11 A. No. They are not.

12 Q. Let's turn now to a different type of throw pack.
13 Let's turn to CX-4. Do you recognize CX-4?

14 A. Yes.

15 Q. Can I have you describe what this is?

16 A. This is the Label Amendment for Final Rodenticide
17 Ready-To-Use Place Pacs.

18 Q. Please turn to Page 3 of CX-4. What is on Page 3
19 of CX-4?

20 A. This is the accepted label for Final Rodenticide
21 Ready-To-Use Place Pacs.

22 Q. Can I have you please read the highlighted text on
23 this page?

24 A. "Outer Container - Complete Label - Package Weight
25 16 Pounds or Greater." "Net Weight: 16 Pounds to 50 pound

1 containers."

2 Q. Just taking a small step back here, regarding CX-
3 4, at the time of the inspection, was this the most recently
4 approved label for the Final throw packs?

5 A. Yes.

6 Q. Okay. Can I have you turn to Page 7 of CX-4?
7 What is on this page?

8 A. This is the inner container for Final Rodenticide
9 Ready-To-Use Place Pacs.

10 Q. Can I have you read the highlighted text on this
11 page, as well?

12 A. "Inner Container - Complete Label - Package Weight
13 2 Pounds to 10 Pounds." "Net Weight: 2 Pounds to 10 Pound
14 Containers." "Individual sale is prohibited by law."

15 Q. Can you now turn to Page 11 of CX-4? And when
16 you're there, can you describe what's on this page?

17 A. This is the Abbreviated Label for Final
18 Rodenticide Ready-To-Use Place Pacs.

19 Q. Can I have you read the highlighted text on this
20 page?

21 A. "Inner Container - Abbreviated Label - Individual
22 Place Pacs."

23 Q. Can I have you turn the page to [CX-12](#)? Oh, I'm so
24 sorry, to Page 12 of CX-4. And what is on this page?

25 A. This is -- this is more of the label.

1 Q. Can I have you read the highlighted text on this
2 page?

3 A. "See label on outer packaging for additional
4 precautionary information." "Net Weight: 0.88 ounces."
5 "Individual sale is prohibited by law."

6 Q. Let's now turn back to CX-2, specifically Page 30.
7 Can you describe what's on this page?

8 A. These are Final throw packs in a zipper-top clear
9 bag.

10 Q. Can you please turn to Page 31 and describe for us
11 what's on Page 31?

12 A. This is the back side of that zipper-top container
13 of Final throw packs.

14 Q. Can I have you turn to Page 32 and describe for us
15 what is on this page?

16 A. This is the throw packs in a zipper-top bag, along
17 with an individual throw pack taken out of the zipper-top
18 bag.

19 Q. Can I have you turn to Page 33 and describe what
20 is on this page?

21 A. This is an up-close view of the individual throw
22 pack of Final.

23 Q. Can I have you turn to Page 34 and describe for us
24 what's on this page?

25 A. This is the back of that same throw pack of Final.

1 Q. And lastly, can I have you turn to Page 35 and
2 describe for us what is on this page?

3 A. This is that same container of -- throw pack of
4 Final.

5 Q. Is there a net weight on these throw packs of
6 Final?

7 A. 0.88 ounces.

8 Q. And where did you find that? Can you give a page
9 number?

10 A. Of the photographs?

11 Q. Yes.

12 A. Okay. Page 35.

13 Q. Based on this net weight and your review of CX-4,
14 the Approved Label for Final, are the Final throw packs
15 correctly labeled for sale or distribution at Mr. Wilson's
16 store?

17 A. No. They are not.

18 Q. Turning now to the last throw pack, let's turn to
19 CX-6. Do you recognize this document?

20 A. Yes.

21 Q. Can you describe what it is?

22 A. This is the label for Talon G Rodenticide Bait
23 Pack Mini Pellets with Bitrex.

24 Q. At the time of the inspection, was this the most
25 recently approved label for these throw packs?

1 A. Yes.

2 Q. Can I have you turn to Page 3 of CX-6? Can you
3 tell us what is on Page 3?

4 A. This is the Master Label for Talon G Rodenticide
5 Bait Pack Mini Pellets with Bitrex.

6 Q. Can I please have you read the highlighted text on
7 this page?

8 A. "(Master)(pail for bait packs and box of 2
9 pails)." "Individual sale prohibited by law (pail only)."
10 "Distribution to and sale in consumer stores, including
11 grocery stores, drug stores, hardware stores, and club
12 stores is prohibited." "8 pounds 4 ounces, 3/32 mini
13 pellets, (pail only)." "16 pounds 8 ounces, 3/32 mini
14 pellet (box only) Net weight."

15 Q. That is a lot of numbers. Can you tell us what
16 those numbers might mean?

17 A. So, it's showing how there's a total weight of 8
18 pounds 4 ounces in the pail, or the 16 pounds 8 ounces in
19 the box. So, it's a -- it's the large aggregation of those
20 mini throw packs.

21 Q. Can we now turn to Page 9 of CX-6? Can you
22 describe what is on this page?

23 A. This is the Master Label of Talon G Rodenticide
24 Bait Pack Mini Pellets with Bitrex.

25 Q. Can I have you read the highlighted text on this

1 page?

2 A. "(25-gram bait pack)." "Individual sale
3 prohibited by law." "Distribution to and sales in consumer
4 stores, including grocery stores, drug stores, hardware
5 stores, and club stores is prohibited." "0.88 ounces, 3/32
6 mini pellets. Net weight."

7 Q. Let's turn back now to CX-2 at Page 36. And when
8 you're there, can you tell us what is on Page 36?

9 A. This is the Talon G throw packs in a zipper-top
10 clear bag.

11 Q. Can I have you turn to Page 37 and describe what
12 is on Page 37?

13 A. This is that zipper-top bag of Talon G throw packs
14 turned over to see the backside.

15 Q. Can I have you turn to Page 38 and describe what
16 is on that page?

17 A. This is one of the Talon G throw packs taken out
18 of the zipper-top bag to show the label.

19 Q. And lastly, can I have you turn to Page 39 and
20 tell us what is on this page?

21 A. This is the reverse side of that Talon G Mini
22 throw pack.

23 Q. Is there a net weight on these throw packs?

24 A. 0.88 ounces.

25 Q. Based on that net weight you just gave, and our

1 review of CX-6, are the Talon G throw packs properly labeled
2 for sale or distribution at Mr. Wilson's store?

3 A. No. They are not.

4 Q. I'm now going to ask a few questions about all
5 three of the types of throw packs that you've just talked
6 about.

7 Is there any label on the plastic zip-top bags
8 containing the throw packs?

9 A. No.

10 Q. If a person attached the full EPA registered label
11 to the zip-top bags containing the throw packs, would that
12 product then be sold correctly?

13 A. No.

14 Q. Would your response change if someone else was the
15 person who put the throw packs into the plastic bags before
16 giving them to someone to sell?

17 A. No.

18 Q. Could a person register the zip-top bags of throw
19 packs as pesticides with the EPA?

20 A. No.

21 Q. What would the EPA approved form of these three
22 products look like for being sold or distributed?

23 A. So, they would not be able to be sold in a clear,
24 zipper-top bag. They would require a sturdy container that
25 prevented accidental interaction with people, pets,

1 wildlife. They would have a sturdy lid on it. They would
2 be a larger size. And they would not be sold to ordinary
3 consumers. They are for pesticide operators to use.

4 Q. Let's now turn to the bait blocks that you
5 mentioned earlier. The four bait blocks at issue today.

6 So let's turn back to CX-1 at Page 7. Can I have
7 you read the highlighted text on this page?

8 A. "Mr. Wilson explained that he sells some --the
9 same rodenticide products offered for sale in throw packs,
10 but in block form to customers as well (Figure 10). These
11 products were repackaged into similar zipper-top resealable
12 bags, but had no pesticide labeling, including first aid,
13 directions for use, and storage information."

14 Q. Can I have you read the next highlighted excerpt?

15 A. "Mr. Wilson also showed us another bag of brown
16 rodenticide blocks (Figure 11). This product was also sold
17 and repackaged in an unlabeled resealable bag."

18 Q. And can I have you read the last highlighted
19 excerpt there? It begins with "Ms. Bednar asked Mr.
20 Wilson."

21 A. "Ms. Bednar asked Mr. Wilson to stop selling these
22 products until EPA reviews the regulation and requirements
23 for correct rodenticide packaging. Mr. Wilson agreed and
24 stated we would stop, but asked about a plastic container he
25 had as an alternative packaging to the plastic bags. Ms.

1 Bednar and I stated that it would be better than the zip --
2 zipper plastic baggies, but again stressed that these
3 products needed the labeling information found under their
4 EPA registration and master labeling."

5 Q. Have you ever seen pesticides sold like this
6 before as described on this page?

7 A. No. I have not.

8 Q. Let's turn now to the first type of block
9 rodenticide, so let's turn to [CX-30](#). Do you recognize this
10 document? I'll give you a moment, apologize.

11 A. Yes. This is the Label Amendment for Contrac All-
12 Weather Blox.

13 Q. At the time of the inspection, was this the most
14 recently approved label for the Contrac blocks?

15 A. Yes.

16 Q. Can you please turn to Page 3 of [CX-30](#)? Can you
17 tell us what is on this page?

18 A. This is the approved -- Accepted Label for Contrac
19 All-Weather Blox.

20 Q. Can I have you read the highlighted text on this
21 page?

22 A. "Outer Label: Pest Control Operator Use Label."
23 "Net Contents: 10 gram blocks/ 726 to 2,268 Blocks.
24 Alternate Sites -- Size: 28 gram blocks/ 259 to 816 Blocks.
25 Net Weight: 16 Pounds to 50 Pounds (7.26 to 22.68

1 kilograms). "For Pest Control Operator Label: Add the
2 following for packages containing less than 16 pounds of
3 bait: It is illegal to sell this product in packages
4 holding less than 16 pounds of bait."

5 Q. Can you now turn to Page 8 of [CX-30](#)? And can you
6 tell us what's on this page?

7 A. This is the Contrac All-Weather Blox Accepted
8 Label with an Alternate Brand Name of Ratrac Blox.

9 Q. Can I have you read the highlighted text on this
10 page?

11 A. "Inner Label: Pest Control Operator Use Label.
12 "Net Content: 6 -- 10, pardon me, Block / 45 to 453 Blocks.
13 Alternate Sizes: 10 gram block / 16, 460 -- 640 Block. Net
14 Weight: 1 to 2 -- to 10 pounds (0.453 to 4.53 kilograms.)"
15 "Individual sale is prohibited by law."

16 Q. Can you now turn to Page 24 of [CX-30](#)? Can you
17 tell us what is on this page?

18 A. These are the optional graphics that can be used
19 on the container.

20 Q. Is one of the optional graphics a photo of the --
21 what the blocks look like themselves?

22 A. Yes. The blue blocks there.

23 Q. Let's turn to CX-2, Page 47. Can you please
24 describe what is on Page 47?

25 A. Page 47 shows bait -- rodenticide bait blocks

1 placed in a clear, zipper-top bag.

2 Q. And can you turn to Page 52 of CX-2? Can you
3 describe what is in this photo?

4 A. This is the bag of blue rodenticide placed next to
5 the Contrac bags. During the inspection Mr. Wilson said
6 that the bait blocks were the same as the throw packs; the
7 same active ingredients, same pesticide.

8 Q. So specifically he said that the bait blocks in
9 this photo were the same as the Contrac throw packs in this
10 photo?

11 A. Correct. They would be the bait block form of the
12 throw packs.

13 Q. Let's turn now to [CX-31](#). Can you -- or do you
14 recognize this document?

15 A. Yes. This is the accepted label for Final All-
16 Weather Blox.

17 Q. At the time of the inspection, was this the most
18 recently approved label for the Final blocks?

19 A. Yes. It was.

20 Q. Can I have you turn to Page 3 of [CX-31](#)? And can
21 you tell us what is on this page?

22 A. This is a copy of the Accepted Label for Final
23 All-Weather Blox.

24 Q. Can you read the highlighted text on Page 3?

25 A. "Pesticide Control Operator Use Label." "Outer C

1 Container - Complete Label - Package Weights 16 Pounds or
2 Greater."

3 Q. Can I have you turn to Page four of [CX-31](#) and tell
4 us what is on this page?

5 A. This is a continuation of the label for Final.

6 Q. Can I have you read the highlighted text on this
7 page?

8 A. "Net Weight: 16 Pounds to 50 Pound Containers."

9 Q. Can I have you turn to Page 7 -- excuse me, page 7
10 of [CX-31](#)? Can you tell me what is on this page?

11 A. This is the Accepted Label for Final All-Weather
12 Blox.

13 Q. Can I have you read the highlighted text on this
14 page?

15 A. "Pesticide Control Operator Use Label." Inner
16 Container - Complete Label - Packaging Weight 1 Pound to 10
17 Pound."

18 Q. Can I have you turn to Page 8 of [CX-31](#)? And what
19 is on Page 8?

20 A. This is a continuation of the pesticide label for
21 Final.

22 Q. Can I have you read the highlighted text on this
23 page?

24 A. "Net Weight: 1 Pound to 10 Pound Containers."
25 "Individual sale is prohibited by law."

1 Q. Can I have you turn to Page 11 of [CX-31](#)? Can you
2 tell us what is on this page?

3 A. It has the optional marketing statements and
4 optional graphic.

5 Q. Can you describe the optional graphic for us?

6 A. It is a color picture of red bait blocks that are
7 Final.

8 Q. Let's turn back to CX-2, Page 48. Can I have you
9 describe what is on Page 48?

10 A. These are the rodenticide bait blocks in a zipper-
11 top clear bag next to -- paired up with the Final throw
12 packs.

13 Q. Can I have you turn to Page 51 of CX-2? And can
14 you describe what is on Page 51?

15 A. It is the rodenticide bait blocks that were
16 identified by Mr. Wilson as containing Final and then next
17 to that is the throw packs in a zipper-top bag.

18 Q. All right. Next we will talk about another bait
19 block. Let's turn to [CX-32](#). Do you recognize CX-32?

20 A. Yes.

21 Q. Can you tell us what it is?

22 A. It is the Label Amendment to Talon Weatherblok XT.

23 Q. At the time of the inspection, was this the most
24 recently approved label for Talon Weatherbloks?

25 A. Yes.

1 Q. Can I have you turn to Page 3 of [CX-32](#)? What is
2 on Page 3 of [CX-32](#)?

3 A. It is the Accepted Label for Talon Weatherblok XT.

4 Q. Can I have you read the highlighted text on this
5 page?

6 A. "[Master Label]." "[individual sale prohibited by
7 law (inner packaging less than 16 pounds)]." "Distribution
8 to and sales in consumer stores including grocery stores,
9 drug stores, hardware stores, and club stores is
10 prohibited."

11 Q. Let's turn back to CX-2, Page 49. And when you're
12 there can you tell us what is on Page 49?

13 A. So this is a photograph of the Talon G bait blocks
14 placed in a clear, zipper-top bag.

15 Q. Can you please turn to Page 50 and tell us what is
16 on Page 50?

17 A. These are the bait blocks of Talon G in a zipper-
18 top bag next to, and paired with, the Talon G throw packs in
19 a zipper-top bag.

20 Q. My next few questions will address all three of
21 the bait blocks you just described: Contrac, Final, and
22 Talon.

23 Is there any labeling on any of the plastic zip-
24 top bags containing the blocks?

25 A. No. There was not.

1 Q. If a person attached the full EPA registered label
2 to the zip-top bags of the blocks, would that product then
3 be labeled properly?

4 A. No. It would not.

5 Q. How difficult do you think it would be to find the
6 Master labels for these blocks on the Internet?

7 A. It would be difficult because you don't have the
8 product name even on the Ziploc. The Master label does
9 change; uses can be taken away or removed, things can be
10 added. And there's some very important first aid
11 information that is time sensitive, that is vitally
12 important for consumers if they were to use this product.

13 Q. Can you speak more specifically about that first
14 aid information?

15 A So these second-generation anti-coagulants are
16 dangerous if they are ingested by either children, a person,
17 a pet, or a non-target animal like wildlife. They need to
18 immediately be -- see a physician or veterinarian and the
19 typical -- typically the remedy is Vitamin K to prevent them
20 from bleeding out. It's a simple -- it's a simple remedy
21 but it needs to be applied quickly.

22 Q. What does the EPA registered and approved form of
23 these bait blocks look like to be sold or distributed?

24 A. So these bait blocks would be in a much larger
25 container. As discussed in all the labels, it's typically a

1 larger size of 10 pound, 16 pound, 50 pounds. They're only
2 supposed to be sold to professionals in the pesticide
3 industry. The container itself would be sturdy with a
4 closing lid to prevent accidental interaction with non-
5 target species, pets, children, people, and it would have
6 the full label on it. Full and complete label.

7 Q. Can I have you turn to CX-2 at Page 76, and can
8 you tell us what is in this photo?

9 A. This is in the back area of the store near the --
10 what was considered the pour-up station for the liquid
11 pesticides, and it is the 18 pound container of Contrac All-
12 Weather bait blocks. As you can see, it's a sturdy
13 container with a lid.

14 Q. Can I have you turn to Page 77 and describe what
15 is on that page?

16 A. This is an up-close view of the active
17 ingredients.

18 Q. And can I have you turn to Page 78 and describe
19 what is on that page?

20 A. So this would be the back side of the pail and
21 have the complete label printed and affixed to the
22 container.

23 Q. So the pail that you've identified on Page 76, 77,
24 and 78, does that match the EPA registered form of bait
25 blocks that you were just describing?

1 A. Yes.

2 Q. All right. Now, let's discuss the last bait block
3 that was being sold. Let's turn to CX-5. Do you recognize
4 CX-5?

5 A. Yes.

6 Q. Can you tell us what it is?

7 A It's the Label Amendment for Maki Mini Blocks.

8 Q. At the time of the inspection, was this the most
9 recently approved label for Maki Mini Blocks?

10 A. Yes.

11 Q. Can I have you turn to Page 3 of CX-5, and can you
12 tell us what is on Page 3?

13 A. It is the Accepted Label for Maki Mini Blocks.

14 Q. Can I have you read the highlighted text on this
15 page?

16 A. "PCO Use Label, Center/Front Panel." "Net Weight:
17 28 gram blocks packaged in containers of 16 Pounds up to
18 2,000 Pounds." "Statement required on the label of inner
19 packages holding less than 16 pounds of bait: It is illegal
20 to sell this product in individual containers holding less
21 than 16 pounds of bait."

22 Q. Let's turn back now to CX-2 at Page 53. Can you
23 describe what is on Page 53 of CX-2?

24 A. It is a clear, zipper-top bag of what Mr. Wilson
25 identified as mini -- Maki Mini bait blocks.

1 Q. Can you turn to Page 54 and describe what is on
2 this page?

3 A. It is the reverse side of that Ziploc bag of Maki
4 Mini Blocks.

5 Q. Can you turn to Page 55 and describe what is on
6 this page?

7 A. Yes. This is a specimen label for Maki Mini
8 Blocks.

9 Q. Was there any label on the plastic zip-top bags
10 containing the Maki Mini Blocks?

11 A. No. Mr. Wilson located a copy of this paper label
12 in his store.

13 Q. Is the label on Page 5 of CX-2 a complete label
14 for Maki Mini Blocks?

15 A. Essentially, it is a complete label, but it is
16 missing the net weight.

17 Q. If a person attached this label on Page 55 to the
18 zip-top bags of the Maki Mini Blocks, would that product
19 then be labeled and sold properly?

20 A. No.

21 Q. If a person attached the EPA registered label with
22 the net contents to the zip-top bags of Maki Mini Blocks,
23 would that product then be sold properly?

24 A. No.

25 Q. All right. Now, I would like to shift gears to

1 talk about Count 21 from our complaint.

2 Are you aware of any other facilities owned or
3 operated by Mr. Wilson?

4 A. Yes. Mr. Wilson had a -- has a second location in
5 Overland, Missouri.

6 Q. Do you know the address of that location?

7 A. I don't know it off the top of my head.

8 Q. Can you please describe your familiarity with this
9 location?

10 A. So we were aware that the second location existed,
11 and we decided to do an inspection at that second location
12 to see if Wilson's Pest Control was in compliance with the
13 Stop Use, Removal Order that had been issued by EPA for the
14 liquid pesticides and the rodenticide bait blocks and throw
15 packs.

16 Q. Did you inspect this location?

17 A. We attempted to inspect the location.

18 Q. Can you please walk us through your attempts to
19 inspect this location?

20 A. So we arrived at the store. It was myself and
21 Amelia Patterson, a EPA inspector. We entered the business
22 store and introduced ourselves to a lady behind the counter,
23 who indicated she was busy in the middle of some training --
24 online training. We told her that we wanted to do an
25 inspection, presented our federal credentials and a Notice

1 of Inspection. And she asked why we hadn't called ahead for
2 the inspection, and told us to wait outside while she
3 contacted her attorney.

4 Q. Did you call ahead to schedule this inspection?

5 A. No. We did not.

6 Q. Why not?

7 A. We, typically, in most cases, do not call ahead
8 for inspections. We like to determine if a business is in
9 compliance based on how they are normally.

10 Q. You identified a Ms. Patterson. Can you tell us
11 who she was?

12 A. She is -- she was an EPA credentials inspector
13 with Region 7.

14 Q. Is Ms. Patterston -- Ms. Patterson still employed
15 with EPA Region 7?

16 A. She is not.

17 Q. Can you tell us the date of this inspection? This
18 attempted inspection.

19 A. I might not be able to remember it exactly from
20 memory.

21 Q. Let's turn to [CX-17](#). Do you recognize this
22 exhibit?

23 A. I do.

24 Q. Can you tell us what it is?

25 A. It is a FIFRA Site Memo that was done after the

1 attempted inspection for Mister -- Wilson's Pest Control at
2 2616 Woodson Road, Overland, Missouri.

3 Q. Who wrote this memo?

4 A. I did.

5 Q. And what date does it have for the attempted
6 inspection?

7 A. July 27, 2023.

8 Q. How long after the attempted inspection did you
9 write this?

10 A. Within days.

11 Q. Can I have you please read the highlighted text
12 beginning, "The exterior entry door."

13 A. And you want me to read all of it at once?

14 Q. You can go ahead and read all of the highlighted
15 text, actually.

16 A. Okay.

17 Q. Thank you.

18 JUDGE WRIGHT: Counsel, can I just ask why you're
19 asking her to read it? The document's, I believe -- is this
20 one of the ones that are in evidence? It is.

21 MS. KACSUR: Yes, Your Honor.

22 JUDGE WRIGHT: And, you know, we can read it. It
23 speaks for itself, really. So, I just want to keep things
24 moving efficiently.

25 MS. KACSUR: Okay, Your Honor. We can forego

1 reading this document.

2 JUDGE WRIGHT: Okay.

3 BY MS. KACSUR:

4 Q. Ms. Bednar, can you walk us through this attempted
5 inspection in your own words and everything that you saw?

6 A. Sure. When we entered the storefront, there were
7 pesticide products for sale throughout the store.

8 On the left was a bunch of containers of
9 pesticides that looked very similar to the rodenticides that
10 we observed at the St. Louis Downtown location that were in
11 Ziploc bags. In these bins, that you typically see at maybe
12 a grocery store or a Whole Foods type store, they were
13 priced and then they indicated what mammal they were
14 supposed to prevent or kill. And there were several colors
15 of bait blocks and throw packs offered for sale on the store
16 floor.

17 On the right, there were more just liquid
18 pesticides and things that I had seen similar to what was at
19 the Downtown St. Louis location.

20 And there was a counter, which someone was working
21 behind.

22 Q. So, in your opinion, did pesticides appear to be
23 for sale at this location?

24 A. Yes. They were on the store floor, accessible to
25 customers. They were bagged up. They were priced and

1 labeled.

2 Q. Let's turn now to [CX-29](#). When you're there, can
3 you tell us if you recognize [CX-29](#)?

4 A. This is the drafted Notice of Inspection for
5 Wilson's Pest Control in Overland, Missouri.

6 Q. Did the -- did you have this with you at the
7 attempted inspection you've been describing?

8 A. I did.

9 Q. Were you able to share this with the woman at the
10 store that you were attempting to inspect?

11 A. I tried to provide it to her and to Mr. Wilson,
12 but they did not want to have the inspection.

13 Q. What, if any, risk of harm is there from a place
14 that produces or sells pesticides denying an EPA inspection?

15 A. If EPA is unable to determine if pesticides are
16 being sold -- that are being sold are in compliance with
17 FIFRA, we would not be able to know whether they were
18 labeled correctly. Often in inspections we take samples,
19 and we have those evaluated in a laboratory. We're not able
20 to provide compliance assistance so that they avoid problems
21 in the future. So, it is vital that we are able to inspect
22 facilities that sell pesticides to the public.

23 MS. KACSUR: No further questions, Your Honor.

24 JUDGE WRIGHT: Respondent's witness.

25 MR. RAYMOND: Oh, yeah.

1 CROSS-EXAMINATION

2 BY MR. RAYMOND:

3 Q. Ms. Bednar, I represent Mr. Wilson. I'm Melvin
4 Raymond; I have a question for you.5 As far as your experience with FIFRA, you
6 mentioned that was one of the areas that you have experience
7 in; is that correct?

8 A. Yes.

9 Q. And you said you've been doing that since January
10 of 2020?11 A. No. I'm sorry if I was unclear. I actually did
12 FIFRA probably since 2013, at least --

13 Q. 2013.

14 A. -- as a case review officer and an inspector, and
15 then I became a supervisor in 2020.16 Q. And have you inspected establishments like
17 Wilson's Pest Control in your experience with FIFRA
18 inspections before? This type of establishment?

19 A. Yes.

20 Q. How many would you say you've done? This
21 inspection occurred in 2022, so prior to that?22 A. Probably about 10 facilities that I was a lead
23 inspector, but I --

24 Q. Right.

25 A. -- participated in many more inspections.

1 Q. Were they about the same size as Mr. Wilson's
2 establishment? He's a very small business; I think it's --
3 he's just -- he's solo.

4 A. So, interestingly, he is -- would not be the
5 smallest business that I've inspected. But -- pesticides
6 can be sold anywhere, so a storefront like that is pretty
7 standard.

8 Q. Okay. And you would say that the Wilson's Pest
9 Control was a storefront type of establishment?

10 A. Yes.

11 Q. During your inspection in June of 2022, was Mr.
12 Wilson the only person you saw working there?

13 A. He was the only person behind the counter working,
14 answering the phones, and using the register, but I was
15 aware that he had pesticide technicians that he was sending
16 out and coming back in --

17 Q. Okay.

18 A. -- and that type of thing.

19 Q. Now, what did you say prompted your inspection of
20 Wilson's Pest Control?

21 A. So, we were contacted by Missouri Department of
22 Agriculture, the state agency in Missouri, that does
23 pesticide establishment inspections because they had had
24 difficulty getting an inspection at the facility and had
25 wanted us to help with that.

1 Q. So, they contacted the EPA and requested
2 assistance?

3 A. Yes.

4 Q. Did they say they could not -- Mr. Wilson had
5 refused inspection before? Or what was the problem with --
6 the -- what was the difficulty?

7 A. The inspectors characterized their contact at the
8 location, once they identified themselves as inspectors, as
9 a little bit abrasive and they did not want to do the
10 inspection, didn't have time to do the inspection, and they
11 were not able to do the inspection.

12 Q. But they didn't say that Mr. Wilson had refused to
13 allow inspection?

14 A. No. They did not completely say that.

15 Q. Did they ever say that they were prevented from
16 doing an inspection there?

17 A. They didn't complete the inspection.

18 Q. Now, does --

19 A. So no.

20 Q. Do you know whether or not the State inspects
21 annually? Is that the practice, if you know?

22 A. It typically is not annually because that would be
23 a lot of inspections.

24 Q. Do you know how often they would do inspections of
25 establishments like Wilson's Pest Control?

1 A. It would vary, depending on how many inspectors
2 they have at any given time and what they are looking to
3 inspect. So, Mr. Wilson's facility is a -- is a registered
4 pesticide facility, so that would be inspected that way.
5 And it's also a storefront, so you could do a marketplace
6 inspection there, as well.

7 Q. And you say, "registered." Is he registered with
8 the State and the EPA? Or -- or what?

9 A. I'll speak mainly to what he's did (sic) with the
10 Environmental Protection Agency. He's registered as a
11 pesticide producer and that is why he was filling out that
12 3540-16 Form.

13 Q. Okay.

14 A. And I believe that he is a licensed pesticide
15 applicator, and that is through the state of Missouri.

16 Q. Okay. Do you know what Wilson's registration as a
17 pesticide producer, what that means? That's under the
18 State, as I understand it. Or was that under EPA?

19 A. No. That -- as a producing facility, so he
20 produces a pesticide at that location, and that would be the
21 Downtown St. Louis location.

22 Q. That is with --

23 A That is -- that is with the Environmental
24 Protection Agency.

25 The State of Missouri is in charge of -- of the

1 registered pesticide applicator, which requires you to take
2 a test and do some annual training and things.

3 Q. Okay. So you mentioned he was a -- Wilson was a
4 applicator. Is that all, like, the same as a
5 professional -- a licensed professional technician, if you
6 know?

7 A. It would be similar, yeah, I believe. I'm less
8 familiar with state regulations.

9 Q. Okay. All right. How long did this inspection
10 take? The one in June of 2022 at the Grand facility.

11 A. Several hours.

12 Q. Several hours? More than -- how many? How many
13 would you say?

14 A. Would it be okay to look at the Inspection
15 Report --

16 Q. Yeah. sure.

17 A. -- because it will -- it tells our in time and our
18 out time.

19 Q. Oh, okay. Is that [Exhibit 1](#) there? Or --

20 And while you're looking, this was the first
21 inspection that the EPA conducted of Wilson's Pest Control;
22 is that correct?

23 A. To my knowledge. Now, we don't retain records.
24 If something isn't -- it is over 10 years, so there could
25 have been one. I know that Mr. Wilson's pest control

1 business was in business for a long time.

2 Q. So as far as you know, then this was the first one
3 within 10 -- the 10-year period at least; is that correct?

4 A. Yeah.

5 Q. All right.

6 A. I would say that we were in the inspection for a
7 couple hours. It looks like we started around 10, and I
8 know we ended, you know, a little after lunch.

9 Q. And was Mr. Wilson cooperative during that entire
10 time?

11 A. He was.

12 Q. Okay. He showed you around the facility. And did
13 he answer all your questions?

14 A. He did.

15 Q. Okay. Let me ask a little bit about the Form 3540
16 [sic]; I think there's one in the EPA's exhibits. What
17 exactly is the purpose of that form? Is it just for the
18 establishment to just inventory to the EPA what they're
19 offering for sale? Is that the main purpose of the form?

20 A. Well, actually, if -- for instance, if a store --
21 a big-box retailer, Walmart, they don't need to do this
22 form, because they just sell something that is produced
23 somewhere else. This annual reporting is for facilities
24 that produce -- produce pesticides. They report the
25 pesticide name, the registration number, the amount of

1 pesticide that is produced, sold, and distributed. So those
2 could be three separate numbers. Sometimes you produce a
3 lot and then it's not sold by the end of the year, so it
4 rolls into the next year. That type thing.

5 Q. Okay. Did you say that that's not a EPA-generated
6 form, the Form 3540?

7 A. It is. It is an EPA-generated form.

8 Q. Okay. And tell me again, I know there's
9 definitions about what -- as it applies to Mr. Wilson,
10 what -- how is he a producer? Explain how that term applies
11 to Wilson's Pest Control?

12 JUDGE WRIGHT: Excuse me, Counsel, is your client
13 there, is he okay?

14 MR. RAYMOND: No. Could we pause for a minute?

15 THE WITNESS: Sure.

16 (Pause.)

17 JUDGE WRIGHT: And let me know if you need to take
18 a break.

19 MR. RAYMOND: Yeah. Can we have a -- just a few
20 minutes?

21 JUDGE WRIGHT: Okay. We'll come back at 10:40.
22 So we can go off the record, ma'am.

23 (Whereupon, a brief recess was taken.)

24 JUDGE WRIGHT: Okay, we're back on the record.

25 MR. RAYMOND: Yes. Yes, Sir. Thank you, Your

1 Honor, for the pause.

2 JUDGE WRIGHT: And Ms. Bednar, you can retake the
3 stand, and you're still under oath.

4 CROSS-EXAMINATION (continued)

5 BY MR. RAYMOND:

6 Q. Okay, Ms. Bednar, we're going to resume our -- my
7 questions.

8 I think I left off with asking you how -- I think
9 you had -- your testimony was that Mr. Wilson was a
10 producer. The question was, how does that term in the
11 EPA -- as far as EPA considers, how does that apply to Mr.
12 Wilson, as far as being a producer, as far as the EPA is
13 concerned?

14 A. So, producing a pesticide can be mixing the
15 ingredients up themselves, like separate ingredients and
16 creating a new product. It can also be repackaging a
17 pesticide, so taking it from the original container into a
18 different container. You could also be a pesticide producer
19 even if you had packaged pesticides that you applied a label
20 to. So, it does have a bit of a broader definition than
21 what people --

22 Q. Okay.

23 A. -- would traditionally think.

24 Q. And for a small establishment, or any -- any
25 establishment, how would a person know about all of these

1 things, as far as registration? Repackaging? Does the EPA
2 provide any, kind of, ongoing guidance? Information?

3 A. So, there would be information on the internet.
4 There's a lot of information for that there. And Wilson's
5 Pest Control was a registered establishment, so they were
6 aware that they were a producer.

7 Q. Okay. But in terms of making the establishment
8 aware of the pretty extensive regulation regarding
9 registration of pesticides, regarding repackaging, regarding
10 labeling, does the EPA provide any way that -- information
11 or assistance, knowledge, or, you know, information to them
12 about -- with regard to all of that? The, kind of, thing
13 you were saying they had to do as far as labeling and
14 registration.

15 A. So, that -- typically, that information can be
16 found online. There are associations. Pesticide training,
17 like the applicator training, they would be aware of some of
18 the requirements for pesticides. So, that would probably be
19 in there.

20 Q. Is that offered by the EPA, the pesticide
21 training?

22 A. So, that would be the Missouri Department of
23 Agriculture's training that they have in the state.

24 Q. Okay.

25 A. On the state level.

1 Q. So, the EPA doesn't offer anything other than
2 what's out there on the Internet? And I guess the burden is
3 on the establishment to, kind of, school themselves about
4 all of those things: repackaging, registration, labeling; is
5 that correct?

6 A. Pesticide companies, when they get into the field
7 of dealing with pesticides, they're aware of the FIFRA
8 regulations. Or they make themselves aware. It does
9 depend. You know, if you were simply a store putting things
10 on the shelf, that would be much less of a burden to follow
11 FIFRA regulations, but there still would be some
12 requirements.

13 Q. Um-hmm.

14 A But when you manufacture or create a pesticide,
15 you became a registered -- EPA-registered facility, you --
16 it goes along with knowing something about the regulations
17 and being familiar with it.

18 Q. And by putting stuff on the shelf for sale, I
19 guess, that would be -- you could go to a section of the
20 grocery store and there's pesticides and so on that you can
21 buy there; that's putting it on the shelf and not -- and
22 selling it just like it comes to you? Just like it -- you
23 receive it from the supplier.

24 A. Yes. Yes. In fact, they are regulated. And we
25 call those -- when we do an inspection at a grocery store or

1 a big box store, those are "marketplace inspections" is what
2 we call them.

3 Q. Did you ask Mr. Wilson during your inspection who
4 he sold to? Who his customers were? Did that come up?

5 A. He indicated that he was -- he had been
6 established in the area for a long time.

7 Q. Um-hmm.

8 A He had a local customer base. He said that they
9 also applied some of their pesticides in local HUD housing
10 or Section 8 housing.

11 Q. Would that have been individual consumers? Or
12 would that have been technical professionals who provided
13 pest control services to third parties?

14 A. So, applying pesticides in like a multi-unit
15 facility in Missouri, you would have to be a pesticide
16 technician and have licensing.

17 Q. And as I understand it --

18 A. Or be under the control of one.

19 Q. Is it your understanding that Mr. Wilson had a
20 license to provide pest control services?

21 A. Yes.

22 Q. And did he tell you, or did you find out during
23 the course of the inspection after some point, he does
24 provide product to licensed professional technicians?

25 A. I'm not sure that that come -- that came up.

1 Q. Okay. You mentioned that part of your procedure,
2 you -- when you arrived at -- for the inspection that you
3 presented, I think you said, credentials?

4 A. Correct.

5 Q. Tell me about that. What you did when you got
6 there? You and the other -- the other person, Landry, as
7 far as presenting credentials and telling him what you were
8 doing and who you were and all that.

9 A. For the June 15, 2022 inspection at the Downtown
10 location?

11 Q. Yes.

12 A. Okay.

13 Q. Let's start with that one.

14 A. All right. So, that one was actually scheduled in
15 advance, so he was aware that we were coming and had
16 scheduled some time for us to discuss the FIFRA issues.

17 Q. How long in advance was it scheduled? And what
18 kind of notice did you --

19 A. Well, it was several days, I -- I know that. I
20 would have to look through the Inspection Report, but it had
21 been scheduled in advance over the telephone.

22 Q. Okay. Did you do that yourself? Or somebody on
23 the EPA staff in Region 7 do that?

24 A. It would be Andrew Landry.

25 Q. Oh, he was one of the inspectors along with you?

1 A. Yeah. Um-hmm.

2 Q. Okay.

3 A. Yes.

4 Q. All right. So you told him about it a few days in
5 advance, and so when you got there, what happened as far as
6 credentials and all that? Oh, did you send out any, kind
7 of, written notice about the inspection? What you would be
8 doing and that, kind of, thing?

9 A. I'm --

10 Q. If you know.

11 A. -- uncertain.

12 Q. You say you didn't do it.

13 A. I think emails might have been sent ahead of time,
14 as well, but I know that phone calls had occurred.

15 Q. All right. And as far as credentials, what did
16 you present to him when you got there, as far as
17 credentials?

18 A. So, we have federal FIFRA inspector credentials.
19 They're -- at the time, they've changed since this time,
20 they're like a billfold with our signature and a picture of
21 ourselves that indicate that they're a federal credential
22 for inspecting.

23 Q. Okay. And Mr. Landry had, I guess, the same
24 thing?

25 A. Yes.

1 Q. Okay. So, Mr. Wilson was expecting you then since
2 this had been noticed up previously?

3 A. Yes.

4 Q. For the June. Okay, and for the inspection in
5 July of 2023 of the Woodson facility, I take it that was
6 without notice?

7 A. Yes.

8 Q. And what was it that prompted that one? That
9 inspection.

10 A. We were trying to determine if the FIFRA Stop
11 Sale, Use, and Removal Order that had been placed on the
12 liquid pesticides that were found in violation during the
13 June 15, 2022 inspection were being offered for sale, or the
14 rodenticides were being offered for sale that were under the
15 Stop Sale.

16 Q. And as far as being offered for sale, were you
17 able to make any definitive conclusions about that? About
18 whether or not Wilson was still selling things that you had
19 found to be a problem with the June inspection?

20 A. In my opinion, it appeared that rodenticides were
21 still being offered for sale at the store because they were
22 on -- with the footprint of the store, they were accessible
23 to customers who could walk in off the street, they were
24 priced and placed in bins available to the public.

25 Q. Okay. And was that the rodenticides and the

1 insecticides? Or just the insecticides?

2 A. It was just the rodenticides that I observed. We
3 did not spend much time in the store.

4 Q. Okay. So you didn't determine whether or not --
5 you said it appeared that things were being offered for
6 sale, but you don't know whether or not he was actually
7 still selling it, do you? From the July 2023 visit?

8 A. Right. I don't have definitive proof. No one
9 came in and bought some while I was standing there. No.

10 Q. Did you actually get inside in July, for the July
11 2023 inspection?

12 A. In the store?

13 Q. Yeah.

14 A. Yes.

15 Q. Wood -- I'm talking about Woodson now.

16 A. Yes.

17 Q. Okay. Because you said that he refused to allow
18 the inspection, I believe, so but you got in, you're saying?

19 A. We entered the store; we spoke with the woman who
20 was there.

21 Q. All right.

22 A. She asked us to step outside and we obliged, so we
23 stepped outside while she contacted her attorney -- or their
24 attorney.

25 Q. Okay.

1 A. And then we awaited the -- which would be you, to
2 arrive at the facility.

3 Q. With no notice and on the spot there but --

4 A. Yeah, I know.

5 Q. Okay. So what was the further conversation after,
6 I guess, you stepped out? What happened after that?

7 A. Mr. Wilson arrived, and we went back into the
8 store. I again offered my --

9 Q. How much later was that that Mr. Wilson himself
10 arrived?

11 A Well, I remember it was a very hot day, but it was
12 rather quick. So.

13 Q. July, okay.

14 A Yeah. It was -- it was, like, very warm.

15 Q. Right.

16 A. And I was glad that it was quick.

17 Q. Okay.

18 A. Probably 20, 25 minutes.

19 Q. Okay. And during that time were you in the store,
20 you -- you and Mr. Landy -- Patterson, I believe --

21 A. Um-hmm.

22 Q. -- on that one; were you in the store or outside
23 of the store?

24 A. Outside of the store, because we had been asked to
25 go outside.

1 Q. Okay. And when Mr. Wilson got there, did you talk
2 to him inside the store or outside the store?

3 A A little of both.

4 Q. Okay. So he let you in?

5 A. Yes.

6 Q. You and Ms. Patterson?

7 A Yes.

8 Q. And what did you do when you got in there?

9 A I again -- I located my credentials, and I
10 presented the Notice of Inspection and the credentials,
11 because I knew that that is actually required to say --

12 Q. As part of your procedure?

13 A. Yes. As part of our procedure. And Mr. Wilson
14 did not want to have the inspection occur that day. He
15 wanted counsel to be there, as well.

16 Q. Okay. And what was your response, if any?

17 A That it could be considered a denial of an
18 inspection, but we can also not force somebody to do an
19 inspection at that time.

20 Q. Did you offer to or discuss rescheduling of the
21 inspection, maybe when counsel was present since they had --
22 he had asked about that?

23 A. We -- we talked a little bit about whether we
24 could come back the next day or later that afternoon.

25 Q. Okay. And what was the -- what did he say about

1 that, Mr. Wilson?

2 A. So, at that point, I left it to the attorney that
3 is assigned to the case to have discussions with you, the
4 attorney.

5 Q. Okay. All right; did you leave after that?

6 A Yes.

7 Q. Were you aware that counsel, myself, we did
8 respond to and provided some pictures and different
9 information about that inspection? Were you aware of that?

10 A I believe so.

11 Q. Okay. And did you ask Mr. Wilson if he was, in
12 July of 2023, if he was still selling the items that you had
13 found to be a problem from your early inspection?

14 A. I remember discussing that specifically with the
15 lady at the store. I don't remember discussing it
16 specifically with Mr. Wilson.

17 Q. So, you don't remember asking him if he was still
18 selling the insecticides and the rodenticides that had been
19 a problem you had found in the prior inspection?

20 A. So, further questioning would have -- so once you
21 deny an inspection, we're not supposed to continue asking
22 questions. We can't take photographs. We can't collect
23 information, and -- we can from the public area, from the
24 public right of way, but further -- further questioning or
25 asking about things, besides getting to the inspection and

1 advising them about how a person -- about how denial of an
2 inspection could be considered a violation, that's
3 essentially all we can do at that point.

4 Q. And how long would you say you were -- you were
5 there after Mr. Wilson arrived?

6 A I would say probably 20 minutes.

7 Q. Okay. Did Mr. Wilson or the lady who was there, I
8 think it was Stacy Humphrey, did she at some point let you
9 know that the items -- the rodenticides and the insecticides
10 that appeared to be on sale, they were there for
11 distribution to their licensed professional techs and not
12 for sale to individual consumers?

13 A. Yes. The lady at the store did state that.

14 Q. Was that Stacy Humphrey who told you that?

15 A. She did not provide her name.

16 Q. Oh, but she told you that?

17 A. Yes.

18 Q. That information was conveyed to you?

19 A. Yes.

20 Q. Okay. And, you -- while you were there at the
21 Woodson facility, you had -- did any customers come? Did
22 you witness any sales?

23 A I did not.

24 Q. Did any customers come in while you were there?

25 A. No.

1 Q. Okay. Did you take any photographs while you were
2 there? I guess you didn't have an opportunity to do that or
3 what?

4 A. No. We did not take photographs.

5 Q. Okay.

6 A. Of the inside of the store. Before we entered --

7 Q. The Woodson, I'm talking --

8 A. -- the store --

9 Q. -- Woodson facility.

10 A. Yeah, we did take a photograph of the outside of
11 the building --

12 Q. The outside.

13 A. -- from the public right of way.

14 Q. You talked about registration and repackaging
15 agreements between, I guess, companies. Do you know if the
16 companies like Bell and some of the suppliers, do you know
17 if they are -- is it -- they make repackaging agreements
18 with small businesses like Mr. Wilson's business? Does that
19 happen actually -- that you were aware of?

20 A. They could. I don't know. So, part of the money
21 making of a registered pesticide and a registrant is that if
22 they make repackaging agreements with other companies, they
23 make money off of those repackaging agreements. So, they
24 typically do make several repackaging agreements. I can't
25 speak to the size of the business that they would do with

1 it.

2 Q. Okay. As far as you know, was the -- the
3 repackaging agreements that may occur in the industry, is
4 that between, like, really large companies and not between
5 real small companies, like, Wilson's Pest Control? If you
6 know.

7 A. I would say that it runs the gamut from, you know,
8 the large Bell-type of companies having repackaging
9 agreements with different companies. Essentially, they --
10 the registrant has done all the heavy lifting and the work
11 going through the registration process, and if they can get
12 a --another company, even if it's just, like, a small
13 repackager to repackage that product for sale and go for a
14 different niche market, maybe a smaller market, maybe it's
15 the generic store name, they will do it because it benefits
16 them.

17 Q. You mean financially?

18 A Financially.

19 Q. Were you aware that Mr. Wilson, at least on his
20 behalf, he did investigate the issue about repackaging, and
21 he was told that they don't do that; Bell and some of the
22 others. Were you aware of that?

23 A No.

24 Q. Okay. Now, the -- you talked a lot about the
25 registration and the labeling that's required. The throw

1 packets and so on, there is some information on the back of
2 the label about some of the stuff, as far, as use and safety
3 and the ingredients; is that not true on the throw packs?

4 A. That is true.

5 Q. And so it's not like the consumer doesn't have any
6 information, even though it's not 20 Pages or it's not the
7 complete requirement of labeling for EPA, but a lot of
8 information is on there about safety and how to use it and
9 what to use and all that; is that correct? On the throw
10 pack -- the back of the throw packs, and even in the -- on
11 at least the throw packs.

12 A. Yes. There is information on there on first aid
13 and safety.

14 Q. Right. Okay, so there is some information on
15 there. Did you have any conversation with Mr. Wilson about
16 whether or not in the 30, more than -- almost 40 years he's
17 been in business, what he does, as far as, at the point of
18 sale what he -- what his practice is as far as advising
19 consumers about how to use the product and about safety and
20 that, kind of, thing? Did you -- did he tell you about what
21 he did at the point of sale when he made sales to consumers?

22 A. Yes. Mr. Wilson stated that he provided consumers
23 information about how to use the product and to --

24 For instance, I believe he stated to throw it
25 behind -- the bait blocks, to throw it behind a large

1 appliance to prevent unintentional access to it.

2 Q. Okay. Did he mention that he gave safety data
3 sheets to consumers at the time that he made the sale?

4 A. Yes.

5 Q. He mentioned that to you? Okay. Did you ever see
6 the safety data sheet that he said that he gave to --

7 A. No.

8 Q. -- consumers?

9 A. I just saw the Maki Mini Blocks label that he had
10 on site.

11 Q. Okay. What did he say about that exactly? If you
12 can -- as best you can recall about what he did, as far as,
13 informing consumers about safety and use of the product?
14 That kind of thing. If you can remember the conversation.

15 A. Right. That he explains that -- how to use it,
16 and that they can Google it on their phone to get more
17 information.

18 Q. Okay. Following your -- the June inspection, was
19 the next thing that happened was the issuance of the Stop
20 Sale, Removal Order? Was that next? Or did you provide
21 anything else in terms of, for instance, any kind of
22 warnings or anything by way of what he could do to comply
23 with the thing that you found? The problem that you found?
24 Was any of that done before he issued the Stop Sale Order?

25 A. So, Mr. Wilson was really receptive to the

1 information that we provided during the inspection, and did
2 commit to not sell the bait blocks and throw packs in the
3 plastic containers -- or the plastic Ziploc containers. So
4 we provided that, kind of, what we would consider compliance
5 assistance at that point. And then the Inspection Report
6 was sent to Wilson's Pest Control so that laid out the
7 potential violations and then the Stop Sale was issued. And
8 that Stop Sale, is pretty common in -- in any case where a
9 pesticide is misbranded. It could have even the smallest
10 thing wrong on the pesticide label and under FIFRA those
11 items go under a Stop Sale, Use or Removal Order.

12 Q. So, if I understand you correctly then, it seems
13 like a Stop Sale would be the, I guess, the most severe
14 penalty.

15 Is everything short of that Stop Sale in terms of
16 let's say you found a few violations, or is there anything
17 less than a Stop Sale Order when you find any, kind of,
18 violations?

19 A. So after an inspection, if it is a minor violation
20 we would typically issue a Notice of Warning letter that
21 tells the company that there was a violation and that it
22 should be corrected. But these violations were particularly
23 egregious because of the potential for contact with the
24 public, people not knowing how to apply it, it being in
25 plastic baggies.

1 Q. Did Mr. Wilson tell you that in the almost 40
2 years he had been in business that he was not aware of a
3 single customer who had been harmed by the products that he
4 sold?

5 A. He did state that.

6 Q. Okay. After your inspection, were you aware that
7 Mr. Wilson wasn't complying? Did you find any, like -- find
8 that he was not complying with anything you found in the
9 inspection in June of 2022?

10 A. Could you re-ask that question?

11 Q. Did you find that he -- after the inspection of
12 June of 2022, did the EPA determine that Mr. Wilson was not
13 complying with the EPA, as far as the problems you found
14 during the inspection?

15 A. I think that I myself would not have known whether
16 he was in compliance, but the case officer who was working
17 on the case at the time, probably reviewed information that
18 came through his representation, which was you, to determine
19 whether --he was definitely making efforts to comply with
20 the Stop Sale, Use and Removal order.

21 Q. So your answer is, no, you didn't have any
22 evidence that he was not complying after the inspection of
23 June, as far as you know?

24 A. As far as I know.

25 Q. Okay. You mentioned that during the inspection

1 that you did provide advice to Mr. Wilson about, I guess,
2 what he could do to comply, and he was receptive to that.

3 Do you remember what you told him about what he
4 could do to -- by way of compliance? Or the conversation
5 during the inspection?

6 A. We told him that you couldn't sell the bait blocks
7 and the throw packs and the plastic baggies. It didn't
8 appear that you could do that.

9 Q. Anything else that you can remember?

10 A. Not that I can remember at the moment.

11 Q. What about the insecticide? Did you have any
12 instruction about that? The refilling of containers from
13 the big gallon things to smaller containers?

14 A. We were interested in how he obtained a label for
15 the pesticides. So typically in a repackaging agreement,
16 the registrant will provide a printed label to the repacker,
17 or have those printed for them so that they're applying the
18 correct label, and then Mr. Wilson indicated that he found,
19 like, a printing company to print those up for him, so we
20 indicated that that probably -- you could not do that. In
21 an inspection we are not allowed to declare a violation. We
22 have to say they are "potential violations." We're also not
23 allowed to instruct people on how to correct the violations.
24 We can point out potential violations. We can walk them
25 through some solutions that they could do, but we can't

1 direct them what to do.

2 The directing of what to do is in the Stop Sale,
3 Use, Removal Order, so that's where it gets directed
4 these -- and the determination that these are in violation
5 is done, and they're directed to stop selling them. Don't
6 remove them. Don't use them. And that's what is done at
7 that point.

8 Q. Let me ask; is there any way that a producer, such
9 as Wilson's Pest Control, could label a product that they
10 received from a supplier that would comply with EPA
11 regulations regarding labeling? Is that possible? Would
12 you need an agreement with the supplier or what?

13 A. Yes. They would need a repackaging agreement with
14 the pesticide registrant. It would have to be a complete
15 and total label. They would have to have the net contents
16 on it for their size container. They would have to have the
17 EPA -- registered EPA facility, which is unique to every
18 physical location on the label, as well.

19 Q. So in order for, let's say, Wilson's Pest Control
20 to comply with the labeling regulations, he would have to, I
21 guess, get a registration of his own for the product that he
22 was labeling, if I understand you correctly.

23 A. No. They would not have to have their own
24 registration, for the -- they wouldn't have to register the
25 pesticide. They would have to have a repack agreement with

1 the registrant and that agreement would cover them. It
2 would have laid out how they had to make it, what the
3 ingredients had to be, even if they are pouring from a
4 larger container to a smaller container, and then -- but
5 doing that repackaging means that they have to be an EPA
6 registered facility, which Mr. Wilson's Pest Control was a
7 EPA registered facility.

8 Q. Okay. So, I guess then, theoretically if he was
9 going to label with a packaging agreement, he would use the
10 registrant's EPA number, and he would need to get his own
11 registration number?

12 A. So the pesticide number specific for this
13 pesticide would -- would be the same.

14 Q. Okay. All right. The same as --

15 A. But the label could have a different name on it.
16 Like, it could be a box store insecticide or whatever.

17 Q. Yeah. Or some other brand, if you will?

18 A. Yes. A branding. A branding that you could do.
19 But his facility, because they were doing the repackaging,
20 would still need the EPA -- or EPA registered facility.

21 Q. Which he had?

22 A. Yes.

23 Q. Okay. Would the -- would a supplier like a Bell's
24 allow a small operator to repackage and label? I guess,
25 theoretically they could, but does that really happen?

1 A. I'm unaware. I can't speak to that. But they
2 are -- they know that in EPA enforcement we hold both the
3 registrant and the repackager liable for violations.

4 Q. All right. You mentioned several times when you
5 were going through [Exhibit 3](#), and the other exhibit, I think
6 it was 31, involving some, I guess, manufacturers who --
7 whose label complied with the EPA regulations that
8 individual sale is prohibited by law.

9 That's, I guess, is that on the label of the ones
10 that -- the compliance labels?

11 A. Yes. That was on the Accepted Labels by EPA.

12 Q. Is that required to be on there in order to comply
13 with the EPA labeling regulations?

14 A Yes. Because these second generation rodenticides
15 can be so problematic to wildlife, non-target species, they
16 have tried to reduce their -- their being sold to consumers,
17 so they're not sold at hardware stores individually and that
18 type of thing.

19 Q. So, that's what that means then, "individual sale
20 prohibited"? It means that certain -- distribution is
21 limited to, I guess -- it cannot be by hardware stores and
22 so on? That's what it means?

23 A. Yes. So, they -- this is -- this is for pesticide
24 professionals to use. So, a pesticide professional would
25 have this available for them to apply with the knowledge.

1 These have to have bait stations if they're outdoors, which
2 is like a hard box that prevents unintended access to them
3 when they are outside. Things like that. So, a
4 professional needs to be using them.

5 Q. Would their -- would the requirements for sales to
6 professional pest control technicians, for instance, are the
7 requirements the same with respect to labeling, registration
8 and so on? Is it the same for professionals as it would be
9 for let's say individual consumers? As far as what, like
10 say, Mr. Wilson would have to do with if he was selling to
11 professional pest control technicians, for instance? Would
12 that be the same thing as it would be for an individual
13 consumer? Would he have to do the same thing?

14 A. So these -- essentially, the rodenticides would
15 not be sold to consumers. The ordinary consumer would
16 not --

17 Q. Okay. None of them?

18 A. None of the ones that we've discussed today.
19 There are other ones that are not the second generation
20 rodenticides that have been determined to be problematic for
21 exposure to other animals.

22 Q. Okay.

23 A. But these would not be sold to consumers. That's
24 why they sell them in such large quantities, so that the
25 average citizen wouldn't want to buy a 50-pound --

1 Q. Right. Yeah. Right.

2 A. -- pail of them.

3 Q. Okay. So I guess if the -- the suppliers, they
4 could provide sales to individual consumers in, let's say,
5 if not 2 ounces or 0.88, let's say 5 pounds. They could do
6 that, couldn't they? Sell it to individual consumers in
7 smaller quantities, less than 50 pounds, for instance?

8 A. For these rodenticides, they're very specific
9 about the size of the container that they can be sold in.

10 Q. Okay.

11 A. Because they don't want consumers using and
12 applying these. It can --

13 Q. What would be the size for -- the size limitation,
14 as far as weight, for sales of the rodenticides to
15 individual consumers?

16 A. So they could buy a different type of rodenticide
17 that are not as -- that don't have the potential risk that
18 these carry.

19 Q. Okay.

20 A. This is a very real risk for accidental exposure
21 to non-target animals like wildlife, to pets, and to
22 children. There is an attractant in these that is -- could
23 be -- attract a lot of different type of things, so they are
24 dangerous, in some forms, if they're not applied properly,
25 if they don't use the bait stations, if they aren't used by

1 a professional. So, they would not be available to
2 consumers.

3 Q. Okay. Does that include all of the rodenticides
4 that we're talking about here today; they could not be sold
5 to individual consumers?

6 A. The ones that we are talking about, yes. Now,
7 there are --

8 Q. All of them? I think it's 10 or so; all of them?

9 A. Yes. They -- there are other rodenticides that
10 are available to the public for the public to use that do
11 not carry this risk.

12 Q. Okay. What about insecticides? Same question.
13 Is there any -- can any of the insecticides that Wilson's
14 Pest Control was selling, could any of those be sold to
15 individual consumers?

16 A. Those were -- those are not restricted like the
17 rodenticides are.

18 Q. Okay.

19 A. So they are for consumer use.

20 Q. So in other words, Mr. Wilson could, given proper
21 packaging they could sell insecticides to individual
22 consumers?

23 A. If he had a repackaging agreement with the
24 registrant.

25 Q. Okay. One other question about the Form 3540.

1 How often does EPA require that producers like Wilson's Pest
2 Control have to submit that form?

3 A. It is an annual form.

4 Q. Annual form, all right. And as far as you know,
5 did Mr. Wilson -- was he filing the 3540's annually? I
6 think one is -- you got one in evidence.

7 A. Yes.

8 Q. All right.

9 MR. RAYMOND: I think I'm almost done here.
10 Judge, can I have a little have to have a little side with
11 my client to make sure I've caught everything and --
12 (Counsel confers with client.)

13 MR. RAYMOND: Thank you.

14 BY MR. RAYMOND:

15 Q. Ms. Bednar, what is the difference between a first
16 generation and second generation, I guess, pesticide as far
17 as restricted use?

18 A. So first -- excuse me. First generation
19 rodenticides are things like warfarin. If you're familiar
20 with that, that's also a blood pressure control medicine.

21 Q. Yes.

22 A. Just different -- different amounts in the
23 products. Those -- typically, the first generation
24 rodenticides, they would have to be eaten multiple times to
25 cause death of the animal. It's --

1 Q. I'm sorry, can you repeat that? Multiple?

2 A. So they would have to ingest the pesticide
3 multiple times. They would have to feed --

4 Q. Oh, I see. Okay.

5 A -- on the rodenticide that has the attraction in
6 it multiple times to die.

7 Q. Okay.

8 A. The second generation ones, which were, kind of,
9 created because certain animals like the Norway Rat had
10 become resistant to the first generation ones. They are --
11 one time that they are ingested will poison the animal. So
12 that is why it makes wildlife susceptible to them. They'll
13 eat it, and then anything, any wildlife up the chain could
14 be poisoned by that animal. So, it's -- it's a quicker -- a
15 quicker problem from ingestion; they can eat it just the one
16 time.

17 Q. Right. So, it's like a -- I guess, more
18 concentrated? Or at least it causes death upon one --

19 A. Yes.

20 Q. -- one ingestion?

21 A. Yeah.

22 Q. Not multiple ingestions?

23 A. Um-hmm.

24 Q. Okay. Can you explain what "restricted use"
25 means, as opposed to a "general use"?

1 A. So a restricted use pesticide can only be used by
2 someone who is licensed to use it. There has to be records
3 kept for everyone for -- everyone who it's sold to. When
4 you sell a restricted use pesticide, you have to write down
5 that person's pesticide applicator information, their --
6 their license, what the -- what pesticide was sold to them,
7 and those are considered restricted use pesticides.

8 Q. And, I guess, the other category is general use,
9 which that's different from restricted use?

10 A. Yes.

11 Q. And explain general use so I'm clear about that.

12 A. So, the general use pesticides would not be
13 restricted only to people who could purchase restricted use
14 pesticides.

15 Q. So, I guess, the licensed people would be, like,
16 licensed pest control technicians, for instance, that might
17 be the persons who would be licensed that you're referring
18 to?

19 A. They have to have a specific license to use
20 restricted use pesticides.

21 Q. A specific license for a particular -- oh, it's a
22 special license?

23 A. Yes. Yes. There's special licensing for that.

24 Q. And the special license, does that would go to
25 what the product is -- the pesticide is? Or what -- what

1 would it cover, the special license?

2 A. So, somebody who had that license would have
3 special training and maintain that license, and they would
4 have refresher-type trainings.

5 Q. And generally, who -- who would issue those
6 licenses? It would be the state and not the EPA?

7 A. I believe it is with the state, but I would have
8 to check that for sure.

9 Q. Okay. All right.

10 A. And -- yeah, I believe.

11 Q. All right.

12 MR. RAYMOND: Okay, that's all the questions I
13 have, Your Honor. Thank you, Ms. Bednar.

14 THE WITNESS: Thank you.

15 JUDGE WRIGHT: Any re-examination?

16 MS. KACSUR: I have just a few questions, Your
17 Honor.

18 JUDGE WRIGHT: Okay.

19 REDIRECT EXAMINATION

20 BY MS. KACSUR:

21 Q. If throw packs can't be sold individually, why do
22 they have any required labeling pursuant to the EPA?

23 A. On the outside -- the individual containers, why
24 there is labeling there? Is that what you're asking?

25 Q. On the throw pack itself. On the little bag.

1 A. I believe it's because it's precautionary in case
2 someone was to come in contact with the throw pack, they
3 would know what it was.

4 If it had been applied by a professional --
5 pesticide professional, and perhaps you moved into an
6 apartment and you moved the -- moved something and you found
7 it, you would know that it was a rodenticide.

8 Q. Does a safety data sheet have all of the same info
9 as an EPA approved label for a pesticide?

10 A. No. It would be missing things like directions
11 for use, how to apply the pesticide, which is pretty much --
12 very important for pesticides.

13 Q. What, if any, hurdles are there to finding out if
14 there has been an adverse reaction to contact with a
15 pesticide?

16 A. So pesticide poisonings are more common than
17 people think, but they are reported to -- they can be
18 reported to an anonymous line that protects whoever reports
19 them, so those don't get reported. Veterinarians who
20 encounter a dog that has been sickened by a pesticide,
21 perhaps, they are unaware that they're supposed to report
22 that, as well. It's fairly -- it's fairly common for them
23 not to do that.

24 For people, there are a lot of HIPAA restrictions
25 that don't allow health information to be shared with

1 agencies that regulate things or the companies that make a
2 pesticide, so it would be very difficult to know if an
3 adverse reaction occurred from pesticides.

4 Q. Do you know why Missouri was not able to complete
5 their initial inspections at Mr. Wilson's?

6 A. Missouri indicated that they had some safety
7 concerns. They didn't feel like the inspection would go
8 well if somebody was uncooperative with them because they
9 were looking at so many records.

10 Q. My last question; have you seen smaller businesses
11 that sell pesticides fully comply with the requirements of
12 FIFRA?

13 A. I have.

14 Q. Thank you.

15 MS. KACSUR: No further questions.

16 JUDGE WRIGHT: I have some questions.

17 Just to follow up on that last question about the
18 businesses that you've seen that fully comply with the sales
19 of pesticides to consumers. Are those -- were you observing
20 the second generation type pesticides or pesticides being
21 sold?

22 THE WITNESS: I have never seen -- at a small,
23 like, business marketplace, seen those for sale in the
24 buckets. That is typically done in a little bit larger
25 storefront.

1 JUDGE WRIGHT: Okay. There was a question about
2 the second generation rodenticides only requiring the animal
3 to eat the poison once before it would be killed.

4 THE WITNESS: Um-hmm.

5 JUDGE WRIGHT: Did you say that that dead -- for
6 example, that dead rodent who had ingested the second
7 generation rodenticide, that dead rodent can then become,
8 kind of, like a secondary way to kill other wildlife?

9 THE WITNESS: Yes. And even -- even first
10 generations will do that, but yes.

11 JUDGE WRIGHT: Okay. So a dead rat who ate one of
12 these blocks could be out in the environment and kill, you
13 know, a bird coming by to eat it?

14 THE WITNESS: Yes. Or a cat.

15 JUDGE WRIGHT: Okay. Okay. Could Mr. Wilson
16 break up these bulk containers? We saw those large buckets,
17 and sell those to -- the broken up, you know, the contents
18 of the containers themselves to pest control operators and
19 be in compliance with the regulations?

20 So, for example --

21 THE WITNESS: Right, right. I don't think he
22 could --

23 JUDGE WRIGHT: Okay.

24 THE WITNESS: -- because his own pesticide
25 applicators, he could provide that to them, and they could

1 use it. The act of selling them. When you sell it, you
2 have to have it packaged, marked, and labeled completely
3 correctly. And so, but if he was -- if he was supplying it
4 to his own people that were using it to apply, then that
5 would be different. He would be breaking it up for people
6 that worked for him.

7 JUDGE WRIGHT: Are there specific forms of
8 business that they would have to comply with in order to be
9 determined to be his own applicators or his own people?
10 Could they be independent contractors for his business? Or
11 do they have to be employees? Because I can imagine a
12 situation where, you know, he has independent contractors
13 maybe that come and regularly get these, you know,
14 pesticides from him and not individual consumers, but they
15 would be required to purchase rodenticides.

16 THE WITNESS: I -- that's probably a little into
17 the law part, but I would think that they would have to be
18 his employees omit to be able to break these up and provide
19 it to them. Because he has to have oversight of the
20 technicians as the certified technician, so they would have
21 to be under his control, and you can't really do that when
22 they're an independent contractor.

23 JUDGE WRIGHT: Okay. There's an exhibit, let me
24 see here. [CX-29](#), that was the Notice of Inspection of the
25 Woodson Road facility. You had mentioned, or testified,

1 that Mr. Wilson's -- or Wilson's Pest Control was an EPA
2 registered facility.

3 Does the registration apply to the company, and
4 then any location that he chooses to do business at? Or is
5 it registered --the registered facility is actually
6 identified as one location, and he would have to register a
7 separate location under a different registration?

8 THE WITNESS: Yes. So the registration would only
9 apply to the Downtown location. It's geographic specific,
10 so if he wanted to produce pesticides at the Overland,
11 Missouri location, then he would have to have an EPA
12 registered establishment there, as well.

13 JUDGE WRIGHT: Was the Overland establishment an
14 EPA registered facility?

15 THE WITNESS: I don't believe it was, but I don't
16 know if he was producing pesticides there. I can only say
17 that he was producing pesticides at the Downtown location.

18 JUDGE WRIGHT: And why is that?

19 THE WITNESS: From the examination of the back
20 room where they had the pour-up station, so consolidating,
21 you know, pouring it up into different containers and
22 labeling it, that would be pesticide production. So.

23 JUDGE WRIGHT: And you did not inspect the
24 Overland location so you could not testify that it was a
25 producing --

1 THE WITNESS: Correct.

2 JUDGE WRIGHT: -- location?

3 Okay. What kind of compliance assistance does EPA
4 offer to pesticide producers such as Mr. Wilson's business?

5 THE WITNESS: So, compliance assistance wise, we
6 do have information on the internet from EPA for FIFRA.
7 State inspections, they always do compliance assistance with
8 those, as well. We do -- when we do an inspection, we do
9 compliance assistance.

10 I'm not as familiar with compliance assistance
11 because I work primarily on enforcement.

12 JUDGE WRIGHT: Okay. So, is an inspection part of
13 an enforcement mechanism? Or could that also be part of a
14 compliance assistance program?

15 THE WITNESS: We usually do both. We usually --
16 we're looking for -- to ensure that pesticides that are
17 being sold, used, or produced are in compliance with FIFRA.

18 And then we're also there to discuss any things
19 that may be a problem or could potentially become a problem.
20 Or if a business owner asks us about how to do something,
21 they're thinking of expanding to something else, we can,
22 kind of, walk through that or -- or get them some help with
23 that.

24 JUDGE WRIGHT: Okay. Does EPA's -- if you know,
25 does EPA's inspection authority apply to any location where

1 pesticides may be stored?

2 THE WITNESS: So, we wouldn't necessarily be able
3 to inspect storage, but if they're offered for sale, use,
4 sale or use, we would be able to inspect. So, we can
5 inspect big companies such as Bayer that make thousands of
6 different pesticides and those inspections take days and
7 days and days. Or we can inspect like a little storefront,
8 a QT Gas Station, for instance, if they have pesticides on
9 the shelf, we can look to see if they are in compliance with
10 FIFRA.

11 JUDGE WRIGHT: Okay. And having pesticides on a
12 shelf is an indication -- in a storefront, is an indication
13 of them being available for sale to the public?

14 THE WITNESS: Yes.

15 JUDGE WRIGHT: Could it also be an indication of
16 them being available for pesticide -- you know, what is the
17 term? The operators that come in that work for Mr. Wilson
18 to pick up and then use in the business?

19 THE WITNESS: It has been my experience that
20 pesticides offered for sale on a storefront and available
21 and open to customers are for sale. If it was not for sale,
22 I would imagine they would be behind the counter or in the
23 back room where people pick up their equipment for the day
24 and that type of thing.

25 JUDGE WRIGHT: Okay. What information did you

1 receive -- or did you receive any information about the
2 Overland location that suggested it was a place where
3 pesticides and rodenticides were being offered for sale to
4 the general public?

5 THE WITNESS: So, it is a storefront with, like,
6 an open sign and a door and shelving and things, so from the
7 attempted inspection you could observe that. I believe that
8 Missouri Department of Agriculture had attempted to, or had
9 visited the location and indicated that they had pesticides
10 for sale there, as well.

11 JUDGE WRIGHT: Okay. Did Mr. Wilson mention to
12 you at any time during the inspection, or when you were
13 trying to arrange an inspection, that he provided pesticide
14 products to licensed applicators?

15 THE WITNESS: I was not the one who set the
16 inspection up, so I would not be aware of that conversation.

17 JUDGE WRIGHT: Okay. I want to just call your
18 attention to [CX-29](#), again, and I just want to find out from
19 you what's the procedure for providing or filling out and
20 providing this Notice of Inspection?

21 THE WITNESS: So in FIFRA, it is a bit unique from
22 the other programs that I am familiar with. If you have a
23 reason to visit the facility, you suspect a violation, you
24 mark it as a For-Cause Inspection.

25 Typically, if you do inspections in other

1 environmental media, you don't tell them ahead of time, but
2 FIFRA is unique, so before I went, because it is a bit of a
3 unique situation, I had to figure out what potential
4 violations, not knowing that they were occurring, but
5 potential violations we would be looking for: if the SSURO
6 was in violation; if pesticides were being sold without the
7 labeling, they would be misbranding; if they were
8 repackaging pesticides, that would be a problem. And often,
9 this part is filled out. We receive tips and complaints
10 from the public, and sometimes they will allege that they're
11 dumping pesticides or they're burning pesticides, and we
12 fill that out having no knowledge whether there is that
13 violation, but that is what we will be looking for. In --
14 among other things.

15 So that -- we fill that part out. Because this is
16 a little bit complicated, I went ahead and did that before I
17 went on site and had that ready.

18 JUDGE WRIGHT: Okay. And in this case, the
19 violations suspected were based on what?

20 THE WITNESS: It wasn't that we inspect --
21 inspected -- expected, excuse me, violations, but we wanted
22 to ensure compliance with the Stop Sale, Use Removal Order,
23 so we would look to see if those things were for sale, if
24 they're -- things were improperly packaged, maybe there was
25 another pour-up station, that type of thing, so since those

1 are potential violations that we would say is a For-Cause
2 Inspection, we wrote those down.

3 Again, whenever we do an inspection, if somebody
4 from the public has made a tip and complaint, or if another
5 agency has told us, "Oh, I don't know, they're doing
6 something, we think they're doing something wrong," or "We
7 find a product on the store shelves that is in violation of
8 FIFRA," we track it back up to the manufacturer to see if
9 that's where the violation occurs.

10 JUDGE WRIGHT: And in this -- on this occasion for
11 [CX-29](#), do you recall when you filled this out?

12 THE WITNESS: It was a couple of days before the
13 inspection.

14 JUDGE WRIGHT: Okay. And the inspection was on,
15 was it July 27, 2023?

16 THE WITNESS: Yes.

17 JUDGE WRIGHT: Okay. Do you typically provide a
18 copy of this to the person at the location?

19 THE WITNESS: We do. This is on a form that
20 has -- that you write on, and it imprints into the underside
21 that's yellow, and we keep the top white copy, and we
22 provide the yellow copy to the facility.

23 JUDGE WRIGHT: Who did you provide this copy to?

24 THE WITNESS: So they would not take this, so I
25 did not provide it to anybody.

1 JUDGE WRIGHT: Okay.

2 THE WITNESS: We -- I have -- we retained both --
3 both of these.

4 JUDGE WRIGHT: When do you typically sign off on
5 it at the bottom here on this form? It says your name and
6 then "Signature of Inspector," and then has the "Date" and
7 "Time."

8 THE WITNESS: At the beginning of the inspection
9 when we receive consent to do the inspection.

10 JUDGE WRIGHT: Okay.

11 THE WITNESS: First thing.

12 JUDGE WRIGHT: Do you know if you provided one of
13 these notices to Mr. Wilson upon its inspection of the other
14 facility?

15 THE WITNESS: Yes. We did.

16 JUDGE WRIGHT: Okay. Was -- do you know if that
17 was included in your Inspection Report?

18 THE WITNESS: It would have been an attachment to
19 the Inspection Report.

20 JUDGE WRIGHT: Okay. I want to go to CX-2.

21 THE WITNESS: Okay.

22 JUDGE WRIGHT: Pages 30 to 35. If you look at
23 these, are these the place packs or throw packs?

24 THE WITNESS: Yes. These are the Final ones.

25 JUDGE WRIGHT: Okay. Can you explain why they're

1 not properly labeled, referring to Page 33 and 34
2 specifically?

3 THE WITNESS: So this would -- which specifically?

4 JUDGE WRIGHT: I believe Page 33 and 34 are the
5 front and back of the same place pack.

6 THE WITNESS: This would be considered an
7 Abbreviated Label, and it would not have everything that is
8 required for a FIFRA label. It has a lot of information on
9 it, but not the complete FIFRA label, which is required. If
10 a container is this big for FIFRA, they will literally have
11 off of it, and it's allowed to be sold in like a two or
12 three ounce container, they will have attached a booklet
13 that contains the complete and total label, even though the
14 booklet itself may be larger than the container. So this
15 would just be an Abbreviated Label for an individual throw
16 pack.

17 JUDGE WRIGHT: Okay. And looking at CX-5. On CX-
18 5 Page 3, you read at the top "PCO Use Label."

19 THE WITNESS: Um-hmm.

20 JUDGE WRIGHT: What does "PCO" stand for?

21 THE WITNESS: Pesticide Control -- I know this.
22 Sorry for the acronym. "Official" maybe? I'm unclear about
23 the -- but it means somebody who has the training and is
24 able to use this.

25 JUDGE WRIGHT: Okay. If you can give me just one

1 moment?

2 THE WITNESS: Okay.

3 (Pause.)

4 THE WITNESS: May I answer that question now that
5 I've recalled?

6 JUDGE WRIGHT: Which question was that?

7 THE WITNESS: The PCO.

8 JUDGE WRIGHT: Oh, sure. Please.

9 THE WITNESS: Pesticide Control Operator. That
10 was what it is.

11 JUDGE WRIGHT: Okay. I have no further questions
12 for you.

13 Do the parties have any questions based upon the
14 questions I asked?

15 MS. KACSUR: No, Your Honor.

16 JUDGE WRIGHT: Okay.

17 MR. RAYMOND: Just a couple of them.

18 RECROSS-EXAMINATION

19 BY MR. RAYMOND:

20 Q. Ms. Bednar, I think you said that Exhibit [CX-29](#),
21 which is a Notice of Inspection, was not provided to
22 Wilson's Pest Control. That was the one from July 2023, I
23 believe. Just wanted to make sure I was clear on that.

24 A. A copy was not provided. It was not accepted. We
25 would --

1 Q. All right.

2 A. -- provide it after everyone signed it.

3 Q. And I think for this inspection in June, in your
4 exhibits, a Notice of Inspection was provided and that was
5 in advance of the inspection; is that correct? Or was it at
6 the time of the inspection?

7 A. The Notice of Inspection would have been at the
8 time of the inspection. On some of the photographs, I think
9 you can even see it a little bit in the corner.

10 Q. Right. Right. Yeah.

11 A. But it would have been provided at the time of the
12 inspection.

13 Q. Is that at the end of it? Or --

14 A. No. At the beginning.

15 Q. At the beginning.

16 A. At the beginning; you have to have consent to do
17 the inspection.

18 Q. So you would provide that with the credentials?
19 You would do it at that time?

20 A. Yeah. You present credentials and the Notice of
21 Inspection.

22 Q. And what I -- I wanted to be clear about whether
23 or not either the inspection in June of 2022 or the one in
24 July of 2023 was for cause of Wilson's?

25 A. I'm sorry; what was the question?

1 Q. Was the -- either inspection for cause?

2 A. Both inspections were for cause.

3 Q. All right.

4 MR. RAYMOND: That's all. Thank you.

5 JUDGE WRIGHT: That's all?

6 THE WITNESS: Thanks.

7 JUDGE WRIGHT: I have a couple more questions.

8 THE WITNESS: Um-hmm.

9 JUDGE WRIGHT: The [CX-29](#), the Notice of
10 Inspection, who refused to accept that?

11 THE WITNESS: It was offered to both the person
12 who was behind the counter; the lady that was behind the
13 counter, and to Mr. Wilson, and they were not going to
14 consent to the inspection without the presence of their
15 attorney.

16 JUDGE WRIGHT: Understood. I have no further
17 questions. And you may step down. Thank you.

18 THE WITNESS: Thank you.

19 (Witness excused.)

20 JUDGE WRIGHT: It is now 5 after Noon, and I
21 understand the Agency has another witness; is that correct?

22 MS. KACSUR: Yes, Your Honor. We have one more
23 witness.

24 JUDGE WRIGHT: Okay. How long do you think that's
25 going to take?

1 MS. KACSUR: I would estimate an hour to an hour
2 and a half.

3 JUDGE WRIGHT: hour to hour and a half, okay. So
4 why don't we take lunch; take a break for lunch. And I
5 understand that there is a cafeteria in the building, and we
6 can come back at 12:50. Okay, off the record.

7 (Whereupon, at 12:04 p.m., a luncheon recess was taken.)

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A F T E R N O O N S E S S I O N

1 JUDGE WRIGHT: Okay, we're on the record.

2 Okay, it is 12:53 and the Respondent's counsel is
3 not present. Oh, here he comes. Are we ready to proceed?

4 MR. RAYMOND: Yes, Your Honor.

5 JUDGE WRIGHT: Okay. Agency, if you can call your
6 next witness that would be great.

7 MR. HILBERT: The EPA calls Kash Kruep to the
8 stand.

9 JUDGE WRIGHT: You can remain standing and raise
10 your right hand.
11 (Whereupon,

12 KASH KRUEP,
13 was called as a witness and, after having been duly sworn,
14 was examined and testified as follows:)

15 JUDGE WRIGHT: All right.

16 DIRECT EXAMINATION

17 BY MR. HILBERT:

18 Q. Would you please state your name?

19 A. Kash Kruep.

20 Q. And would you spell that for us?

21 A. It's K-A-S-H. Last name is K-R-U-E-P.

22 Q. And where did you go to college?

23 A. University of Central Missouri.

24 Q. And what degree did you get?

25 A. I have a Bachelor's in Biology, Conservation

1 Enforcement.

2 Q. And who is your current employer?

3 A. The EPA.

4 Q. And what is your position with the EPA?

5 A. I am a FIFRA inspector/enforcement officer.

6 Q. And how long have you been with the EPA?

7 A. For one year.

8 Q. And where did you work before coming to the EPA?

9 A. I previously worked at the Missouri Department of
10 Agriculture.

11 Q. And what were your roles at the Missouri
12 Department of Agriculture?

13 A. When I started, I was a Pesticide Use
14 Investigator. And then after a couple years, I was promoted
15 to the Chief Pesticide Use Investigator.

16 Q. And what were some of your duties while you worked
17 at the Missouri Department of Agriculture?

18 A. I conducted inspections and investigations that
19 included, like, pesticide dealer establishments, checked
20 licenses of applicators, as well as investigations related
21 to pesticide drift.

22 Q. So between your time at MDA and the EPA, how long
23 have you been working with pesticides in FIFRA?

24 A. Five years.

25 Q. And how many inspections have you conducted

1 between your time at MDA and EPA?

2 A. Over 20 -- or over 2,200.

3 Q. And what does that entail when you do a pesticide
4 inspection for the MDA?

5 A. MDA, we -- if -- we would go in to a business, and
6 we would check their applicator licenses and make sure that
7 they were all up-to-date, and they were following the state
8 regulations of record-keeping, as well as having the proper
9 licenses for the type of business they were doing. We would
10 also look at the -- if they were a pesticide marketplace, we
11 would look at the products they had for sale on their
12 shelves.

13 Q. Now, what are your primary responsibilities with
14 EPA?

15 A. So for EPA, as I mentioned, I'm a FIFRA inspector,
16 credentialed inspector, and a enforcement officer. So as
17 the inspector, I'll go out and conduct inspections. And
18 then as the enforcement officer, I'll get cases assigned to
19 me and review those.

20 Q. And how do you become a FIFRA credentialed
21 inspector?

22 A. Lots of online training, and then also in-field
23 training with another credentialed inspector following, and
24 then also leading inspections under their guidance.

25 Q. Okay. You said you would review cases. Would you

1 please describe that process?

2 A. Yeah. So a case will be assigned to me from my
3 manager, and then I will get the case file. I'll review the
4 information in the case. We'll send transmittal letters
5 out, saying the case was assigned and all that. But -- and
6 then essentially through the process of reviewing all the
7 information, we'll assess if there's any violations in the
8 case.

9 Q. And what happens if you find there are violations?

10 A. If we find any violations, we utilize a document
11 called our Enforcement Response Policy, ERP, to assess those
12 violations as to whether the penalty will be, like, a civil
13 penalty, or it will be a, like, a warning letter.

14 Q. And so what is the -- what is your role in the
15 case today?

16 A. I'm a case review officer.

17 Q. And in the course of that, did you conduct any
18 research about Wilson's Pest Control?

19 A. Yes. I did.

20 Q. And what kind of business is Wilson's Pest
21 Control?

22 A. They are a pesticide applicator business, as well
23 as a, like, a dealer or marketplace.

24 Q. And how many applicators are employed by Wilson's
25 Pest Control?

1 A. Only one, according to the Missouri Department of
2 Agriculture.

3 Q. And how do you know this?

4 A. Because there's this website which we utilized as
5 an inspector there called MOPlants. It's public access,
6 anybody can get on to it. But it shows that there's only
7 one licensed applicator at Wilson's Pest Control. That's
8 Mr. Wilson.

9 Q. And are you required to register your applicators
10 with the state of Missouri?

11 A. Yes. Yeah. So if you're going to perform any
12 service -- pesticide service, making any applications, you
13 must be a certified licensed applicator. And if you have
14 anybody working underneath you, the -- those people have to
15 be pesticide technician licenses.

16 Q. And how frequently is this website updated?

17 A. Very regularly. The ladies in the office who
18 update that website, soon as the information is sent to
19 them, I mean a couple days.

20 Q. Okay. You mentioned the FIFRA ERP. I would like
21 to do a broad overview of the ERP before we get into our
22 specific penalty here and how the EPA arrives at a number.

23 Would you please turn to [CX-20](#) and let me know
24 when you're there.

25 A. I am there.

1 Q. Do you recognize this document?

2 A. Yes. This is the FIFRA Enforcement Response
3 Policy.

4 Q. And what is the purpose of this response policy?

5 A. Essentially, we utilize it, again, in -- when
6 assessing penalties, but it -- it promotes consistency, and
7 it assesses the statutory factors.

8 Q. What do you mean when you say, "it promotes
9 consistency"?

10 A. So across -- you know, every case we get assigned
11 to us is different. For example, size of business, what the
12 pesticides are, so this policy is a guideline for when we're
13 assessing the penalties to make sure every -- it's fair and
14 equitable treatment.

15 Q. Now, would you please turn to [CX-21](#) A, and let me
16 know when you're there.

17 A. I am there.

18 Q. And what is this?

19 A. This is the FIFRA Civil Penalty Calculation
20 Worksheet.

21 Q. And how do you recognize it?

22 A. This is the document that we fill out when we are
23 calculating penalties.

24 Q. Okay. So what is the first part of the penalty?

25 A. First part would be Appendix A.

1 Q. And what does the "FTTS" code mean?

2 A. So, the FTTS Code relates to the Statutory
3 Violation. It's just, like a -- an abbreviated code.

4 Q. And what does the "Violation Level" mean?

5 A. So that's the assigned Violation Level of 1
6 through 3 -- or I'm sorry, 1 through 4. And the greater the
7 violation is, the lower the number. So a 1 would consist of
8 like a more serious violation than a 4.

9 Q. Okay. Now, what is the next part of the penalty
10 policy? Or excuse me, the penalty.

11 A. Yeah. That would be "Appendix C - Table 2," the
12 "Size of Business Category."

13 Q. And why does the EPA evaluate this?

14 A. It's, again, based off the statutory factors.

15 Q. And how is the "Violator Category" determined?

16 A. So 14(a)(1) category would be any sort of
17 registrant or commercial applicator, and then 14(a)(2) would
18 be a private business --

19 Q. And --

20 A. -- or private applicator, sorry.

21 Q. Sorry, no, please continue.

22 A. No. Private applicator would be somebody who
23 would be making their own applications on their own property
24 would be a 14(a)(2).

25 Q. Okay. And how is the Size of Business Category

1 determined?

2 A. So when we generate the information for the Size
3 of Business Category, there's a OneStop report that is
4 generated. We request that to be generated by someone in-
5 house. It collects all the information related to the
6 business. So it would be the general or average revenue for
7 the business, sales revenue, addresses associated, and
8 number of employees. And then -- so we gather that and then
9 if the sales revenue on that form is less than \$1 million,
10 then it would be a Category III business. If it was more
11 than a million but less than 10 million, that would be a
12 Category II and then a Category I would be over \$10 million
13 in sales.

14 Q. Now, what is the next part of the penalty?

15 A. Next part would be "Appendix C - Table 1 - FIFRA
16 Civil Penalty Matrix."

17 Q. And what is the "Base Penalty"?

18 A. The Base Penalty is the penalty for the account
19 and that was -- is factored from the Size of Business
20 Category and the Violation Level. There's a chart in the
21 ERP that essentially the higher the Violation Level and the
22 larger the business then the more severe or higher the Base
23 Penalty is.

24 Q. When you say, "higher the Violation Level," what
25 do you mean?

1 A. So, and I -- yeah. So, the -- I mean "higher," as
2 in a lower number. So, like, a 1, again, is the most severe
3 and 4 being the least severe in this case. And -- yeah.

4 Q. Yeah. How does the EPA assess the "Gravity" of a
5 violation?

6 A. The gravity again comes from the Statutory Factors
7 in the ERP.

8 Q. Um-hmm. Would you please turn to [CX-20](#), Page 34?

9 A. I am there.

10 Q. What are the Gravity factors that the EPA looks at
11 as a whole?

12 A. We look at the, like, "Toxicity" of the pesticide,
13 "Human Harm," "Environmental Harm," "Compliance History,"
14 and "Culpability."

15 Q. Now, how does the EPA assess the "Pesticide's
16 Toxicity"?

17 A. So, again, coming from the ERP on Appendix B here,
18 every pesticide is assigned a signal word, so that's where
19 we get this from. So, "1" being "Toxicity -
20 Category III or IV, signal word 'Caution' or pesticide
21 unregistered and ingredients lower or minimum risk
22 category."

23 Number 2, "Toxicity - Category II, signal word
24 'Warning' or pesticide's unregistered and unknown, but not
25 expected to meet Category I toxicity criteria."

1 And then 3 being, "Category I pesticides, signal
2 word 'Danger,' restricted use pesticides, pesticides with
3 flammable or explosive characteristics or pesticides that
4 are associated with chronic health effects or pesticide is
5 unregistered and the ingredient or labeling indicate a
6 Category I toxicity."

7 Q. And who determines what category of signal word a
8 pesticide gets?

9 A. That would be once a product is registered; it is
10 based off the active ingredient and that is, like, EPA,
11 like, headquarters.

12 Q. So just backing up a little bit; the product is
13 registered with who?

14 A. The EPA.

15 Q. And so then who assigns the signal word?

16 A. The EPA.

17 Q. Now, how does the EPA determine potential "Human
18 Harm"?

19 A. So again, pulling from the ERP here, we utilize
20 this chart. So "0" would be "Negligible harm to human
21 health anticipated." "1" being "Minor potential or actual
22 harm to human health." "3" being "Unknown or potential
23 serious or widespread harm to human health." And "5" being
24 "Actual or serious widespread harm to human health."

25 Q. And how does the EPA determine potential

1 "Environmental Harm"?

2 A. In the same way, from the same chart. I'll read
3 from it again. "Negligible harm to the environment
4 anticipated" is a "0." "1" is "Minor potential or actual
5 harm to the environment." "3" being "Unknown or potential
6 serious or widespread harm to the environmental health."
7 And "5" being "Actual serious or widespread harm to the
8 environment (e.g. crops, water, livestock, wildlife,
9 wilderness, or other sensitive natural areas)."

10 Q. And what does the EPA take into account when
11 determining a Respondent's "Compliance History"?

12 A. So compliance history is factored from the
13 previous five years of formal enforcement actions. We can
14 also factor in any state actions that might be involved.

15 Q. And what do you mean when you say, "formal
16 enforcement action"?

17 A. So it would be something like a Warning Letter or
18 a Civil Penalty.

19 Q. And what does the EPA take into account when
20 determining a Respondent's "Culpability"?

21 A. Culpability, essentially, is the knowingness or
22 the willingness of the violation. So if somebody is more
23 experienced in it, in say FIFRA or pesticides, their
24 culpability would go up because of their experience.

25 Q. And how long has Wilson's Pest Control been a

1 registered pesticide establishment?

2 A. Since 1995.

3 Q. Now, how are all these values added together?

4 A. So we take those factors, and the values
5 associated with them, once it's been decided, and then those
6 are all summed up on the Civil Penalty Calculation
7 Worksheet.

8 Q. At this time, please turn to [CX-21](#) A. And for the
9 record, Mr. Kruep has already shown his familiarity with
10 this exhibit.

11 Can the value in Line 7f impact the penalty at
12 all?

13 A. Yes. It can increase or reduce it. Or keep it
14 the same.

15 Q. Can you explain how that works?

16 A. Yes. So once we get a Total Gravity Adjustment,
17 any value between 9 and 11, the Base Penalty does not have
18 adjustment to it. If it's lower than a 9, so say an 8, it
19 will have a reduction. And then anything higher than 11
20 will have an increase.

21 Q. And what are those modifying?

22 A. So those are modifying the Base Penalty amount,
23 which is Line 6 off of the Calculation Worksheet.

24 Q. And so on Appendix C - Table 3, the Adjustments,
25 what is the Percentage Adjustment?

1 A. So the Percentage Adjustment is that value that of
2 the adjustment, so the percentage. So, if it's -- we'll use
3 "8" as an example, an "8" is a 10 percent reduction, which
4 then reflects also the dollar adjustment from the Base
5 Penalty.

6 Q. And just to clarify, and what ultimate amount of
7 money is being subtracted from what?

8 A. The Base. So -- can you repeat that, sorry.

9 Q. When we modify the Penalty, what is being
10 modified?

11 A. When the Penalty is being modified, it's -- the
12 Base Penalty is.

13 Q. Now, what is the next part of the Penalty process?

14 A. The next part is the Final Penalty.

15 Q. And how is that calculated?

16 A. So if you have multiple counts per page, or per
17 document, you'll take the Base Penalty multiplied by the
18 number of counts, and then that will give you the total.
19 And then we have an Inflation Multiplier, which is 1.42324;
20 that gets added on that to adjust for inflation. And then
21 that will give you your final base -- or Final Penalty for
22 the counts.

23 Q. And how is the Inflation Multiplier determined?

24 A. It is from -- issued via the Federal Register.

25 Q. So now moving on to the specifics of the penalty

1 we have here today, what pesticides are represented in
2 Counts 1 through 4?

3 Q. So Count 1 would be the green Contrac block,
4 rodenticide block; Count 2 would be the red Final
5 rodenticide block; Count 3 would be the blue Talon G
6 rodenticide block; and Count 4 is the Maki Mini brown
7 rodenticide block.

8 Q. And why were these pesticides grouped together for
9 the purposes of assessing a penalty?

10 A. Because they were repackaged in the same way. And
11 they have the same similar products, both all rodenticides.

12 Q. What is the FTTS Code for Counts 1 through 4?

13 A. That would be 1AA.

14 Q. And what is 1AA?

15 A. It relates to the Statutory Violation 12(a)(1)(A),
16 which is sale of an unregistered pesticide.

17 Q. And what is the Violation Level for Counts 1
18 through 4?

19 A. 1.

20 Q. And what does a 1 mean?

21 A. 1 just means based off of the Statutory Violation
22 pulled from the ERP, it rates the sale of an unregistered
23 pesticide as a Level 1 Violator Category.

24 Q. And what was the Violator Category for Counts 1
25 through 4?

1 A. Yes. Violator Category is 14(a)(1), which means
2 the business is a commercial applicator, wholesaler, dealer,
3 retailer.

4 Q. And what was the size of Violator Category
5 assessed as?

6 A. So again, from that OneStop Report that was
7 generated in this case, total sales were under \$1 million,
8 so it would be a Category III.

9 Q. Now, does Blocks 4 and 5 change here across the --
10 all the penalties assessed in this case?

11 A. They do not.

12 Q. And why do they not change?

13 A. Because they're all the same across the board for
14 the same business.

15 Q. Now, what was the Base Penalty determined to be
16 for Counts 1 through 4?

17 A. \$7,150.

18 Q. And how is that determined?

19 A. Based on the chart in the ERP, a Level -- or
20 Category III business and a Level 1 violation. That's the
21 Base Penalty.

22 Q. Now, what was the Pesticide Toxicity determined to
23 be for Counts 1 through 4?

24 A. A 1.

25 Q. And why was that value assessed?

1 A. Based on the labels of the products, they had the
2 signal word "Caution"

3 Q. And why were the blocks given the signal word
4 "Caution"?

5 A. Because they have a -- an -- they were assigned
6 that from EPA.

7 Q. And what was the Human Harm determined to be for
8 these counts?

9 A. So for the rodenticide blocks that were repackaged
10 into the plastic bags, they were assessed at a 3.

11 Q. And why were they -- why was it assessed as a 3?

12 A. So because the blocks inherently are a poison, a
13 rat poison, they have an inherent danger. They're the
14 anticoagulant. Ingestion, especially from children, is
15 extremely toxic. It causes uncontrolled bleeding. And then
16 also the products themselves, you know, they look similar
17 to, like, a candy or something like that, and the bags they
18 were in were easily accessible to children to open.

19 Q. Was there any labeling on the bags?

20 A. And there was -- yes; no -- no labeling on the
21 bags at all.

22 Q. And what impact would that have on potential Human
23 Harm?

24 A. If -- so, if somebody -- say a child was to ingest
25 this, or an adult, then that person wouldn't have the

1 necessary information to relate that to their healthcare
2 provider, emergency room, or whoever. And then, you know,
3 the -- the label specifically says that Vitamin K is a
4 treatment for this. And so that could be valued time wasted
5 not knowing exactly what was ingested.

6 Q. And what was the Environmental Harm assessed for
7 Counts 1 through 4?

8 A. Also a 3.

9 Q. And why was that?

10 A. For the same sort of reason, plastic bags with no
11 labeling, this product, you know, as we have talked about
12 before, ingested by an animal, and then that animal is eaten
13 by another one can be passed along, and as well, it's -- has
14 the same effects on animals as it would on a person.

15 Q. And what value was assessed for the Compliance
16 History for Counts 1 through 4?

17 A. It would be a 0.

18 Q. And why?

19 A. Because there was no formal actions with Wilson's
20 Pest Control in the last 5 years.

21 Q. And what was the Culpability assessed as?

22 A. As a 2.

23 Q. And why was a 2 chosen?

24 A. With Mr. Wilson's, you know, 30-plus years of
25 experience starting in 1995, I felt that there was some

1 knowingness that should have been present. And that comes
2 from the ERP, as well, that Level 2.

3 Q. Let's turn back to [CX-20](#), Page 34. Can you read
4 the value for 2 under "Culpability"?

5 A. Yes. "Culpability unknown or the violation
6 resulting from negligence."

7 Q. And so why was a 2 selected for Counts 1 through 4
8 on Culpability?

9 A. Because that's how we felt; was it or was either
10 unknown and more than likely resulting from negligence.

11 Q. Now, do the values in -- the value for Compliance
12 History change across this penalty?

13 A. It does not.

14 Q. And why is that?

15 A. Because Compliance History did not change because
16 it's all based off of the previous five years.

17 Q. And does the Culpability value change across this
18 penalty?

19 A. It does not.

20 Q. And why is that?

21 A. Because the -- of the same reasoning, you know, we
22 believe it resulted from negligence.

23 Q. And so, what were the Total Value for all the
24 Appendix B factors for Counts 1 through 4?

25 A. It would be a 9.

1 Q. Did that impact the Base Penalty at all?

2 A. It did not. Anything from a 9 to 11 is a 0
3 percent adjustment.

4 Q. And what was the Final Penalty for Counts 1
5 through 4?

6 A. Final Penalty, you take the Base Penalty of \$7,150
7 and you'll multiply that times the four counts to get
8 \$28,600. And then we'll multiply that times the inflation
9 factor to get a total of 40,705.

10 Q. And when you say, "by the four counts," what are
11 the four Counts?

12 A. The four rodenticide blocks; the blue -- the sale
13 of an unregistered pesticide for the four blue Contrac
14 rodenticide block, the red Final rodenticide block, the blue
15 Talon G rodenticide block, and the Maki Mini rodenticide
16 block.

17 Q. Now, can you please turn to [CX-21](#) B, which is Page
18 3 of [CX-21](#)? Let me know when you're there.

19 A. I'm there.

20 Q. Are you familiar with [CX-21](#) B?

21 A. I am.

22 Q. And how is that?

23 A. This is the FIFRA Civil Penalty Calculation
24 Worksheet for Counts 5 through 7.

25 Q. And how do you know that?

1 A. This is the document that we prepared. It says
2 "Counts 5 through 7" right there.

3 Q. And what pesticides encompass Counts 5 through 7?

4 A. Yes. So Count 5 would be the Contrac throw pack,
5 and then Count 6 would be the Final throw pack, and then
6 Count 7 would be the Talon G throw pack rodenticides.

7 Q. And why were these pesticides grouped together for
8 the purposes of assessing a penalty?

9 A. Because they are all -- they were all repackaged
10 in the same way, and they are all the same type of product.

11 Q. And what is the FTTTS Code for Counts 5 through 7?

12 A. It is also 1AA.

13 Q. And what is the corresponding Violation Level?

14 A. Would be 1.

15 Q. And what is the subsequent Base Penalty for Counts
16 5 through 7?

17 A. 7,150.

18 Q. And is that determined in the same way, using the
19 same chart, in Counts -- as it was in Counts 1 through 4?

20 A. Yes.

21 Q. Now, how was the Pesticide Toxicity determined for
22 Counts 5 through 7?

23 A. So, once again, we looked at the throw pack
24 labels, and they all had the same signal word of "Caution."

25 Q. And this was assessed in the same way as it was in

1 Counts 1 through 4?

2 A. That's correct.

3 Q. And what was the Human Harm determined to be for
4 Counts 5 through 7?

5 A. We assessed it at a Level 1.

6 Q. And why is that?

7 A. So these products, they did have -- they were in
8 the same zip-top bags, but they did have some minor
9 Abbreviated Labeling on there, not the full labeling. And
10 then they did have the additional exterior packaging. These
11 products still have the same types of active ingredients
12 that cause the, you know, anticoagulation, additional
13 bleeding, but they were in a slightly more secured package.

14 Q. And what do the products in Counts 5 through 7,
15 when they arrive at a place like Wilson's Pest Control, what
16 packaging are they in?

17 A. Typically, what I've seen is that packages like
18 this will be in a 5-gallon bucket. It'll be opaque, so you
19 can't really see what's in it directly. And you'll be able
20 to open a solid snap-lock type lid.

21 Q. And what was the Environmental Harm assessed for
22 Counts 5 through 7?

23 A. Also a 1.

24 Q. And why is that?

25 Q. Same reason as before. They had the additional

1 packaging for the outside of the pellets and the additional
2 labeling. But they still have the same, again, effect if it
3 were to be opened and eaten by non-target species, get into
4 the water or something like that, have the same effect.

5 Q. And has the Compliance History amount changed from
6 Counts 1 through 4?

7 A. It is not.

8 Q. And why not?

9 A. Because it's the same; no violations in the last
10 five years.

11 Q. And has the Culpability amount changed from Counts
12 1 through 4?

13 A. No. It is assessed the same for all violations.

14 Q. And what was the Total Value for all the Appendix
15 B factors in Counts 5 through 7?

16 A. A 5.

17 Q. And did that impact the Base Penalty at all?

18 A. It did.

19 Q. And how did it impact the Base Penalty?

20 A. The Base Penalty created a 40 percent reduction or
21 reduction of \$2,860 from the Base Penalty of \$7,150.

22 Q. And is that for each count?

23 A. Yes.

24 Q. And so what is the Final Penalty for Counts 5
25 through 7?

1 A. So the new adjusted Base Penalty was \$4,290 after
2 the reductions. And then we multiply that times the three
3 counts to get \$12,870. And then we multiply that by the
4 1.42324 Inflation Multiplier to get a total of \$18,317.

5 Q. Now, would you please turn to [CX-21](#) C, which is
6 Page 5. And let me know when you're there.

7 A. I am there.

8 Q. Are you familiar with [CX-21](#) C?

9 A. Yes. It is the FIFRA Civil Penalty Calculation
10 Worksheet for Counts 8 through 10.

11 Q. And what pesticides are represented in Counts 8
12 through 10?

13 A. For count 8, it is the professional insect growth
14 regulator; Count 9 is the pest control concentrate; and then
15 Count 10 is the Wilson's Termite and Ant Control.

16 Q. At this time I'll have you turn to CX-7, please,
17 and let me know when you're there. Page 3 of CX-7.

18 A. All right, I'm there.

19 Q. And what is Page 3 of CX-7?

20 A. This is the Master Label for N + P Regulator,
21 which is also known as Tekko Pro.

22 Q. And what product does this Master Label relate to
23 in our case today?

24 A. It would be the insect growth regulator.

25 Q. Thank you. And would you please turn to CX-8,

1 Page 3?

2 A. I'm there.

3 Q. And what is this? What is CX-8, Page 3?

4 A. It is the Tengard HG Termiticide/Insecticide
5 Master Label.

6 Q. And what product does that relate to in our case
7 today?

8 A. It would be the professional pest control
9 concentrate.

10 Q. Can you say that again? What is the name of the
11 product it relates to in our case today?

12 A. The pest control concentrate.

13 Q. Now, would you please turn to CX-9, Page 4. And
14 what is Page 4 of CX-9?

15 A. This is the Menace 2.4 percent ME insecticide
16 Master Label.

17 Q. Does "Menace" go by any other names?

18 A. Yes. "Monterey" is another name. Monterey
19 Termite and Carpenter Ant Control.

20 Q. And what label does this -- what product relates
21 to the label in our case today?

22 A. It would be Count 10, which is the termite and
23 ant -- Wilson's Termite and Ant Control.

24 Q. Now, would you please turn back to [CX-21](#) C. It's
25 Page 5? And why were these pesticides grouped together for

1 the purposes of assessing a penalty?

2 A. So they were all liquid insecticides, and they
3 were all repackaged in the same manner into the plastic
4 jugs.

5 Q. And what is the FTTS Code for Counts 8 through 10?

6 A. 1AA.

7 Q. And what is the Violation Level for Counts 8
8 through 10?

9 A. Violation Level 1.

10 Q. And what is the Base Penalty for Counts 8 through
11 10?

12 A. \$7,150.

13 Q. What was the Pesticide Toxicity determined to be
14 for Counts 8 through 10?

15 A. It was a 1.

16 Q. And how was this determined?

17 A. Based off of the Master Labels from the related
18 products; they all had the signal word "Caution."

19 Q. And what was the Human Harm determined to be for
20 Counts 8 through 10?

21 A. So, it was also a 1.

22 Q. And why is that?

23 A. Because while these products, insecticides, again
24 they're meant to kill something, a couple of these, in
25 particular, are neurotoxins; they affect your -- your eyes,

1 nerves if it were to get in there, but the packaging on them
2 was more secure and there was minimal, minor labeling on the
3 containers themselves.

4 Q. And what was the Environmental Harm determined to
5 be for Counts 8 through 10?

6 A. Also a 1.

7 Q. And why is that?

8 A. And for the same reasons of Human Harm; product
9 again is a neurotoxin, affects the nerves of animals and
10 wildlife in the same manner it would a person.

11 Q. And did the Compliance History change from Counts
12 1 through 4?

13 A. It did not.

14 Q. And did the Culpability amount change from Counts
15 1 through 4?

16 A. It did not.

17 Q. And so what was the total value of the Appendix B
18 factors in Counts 8 through 10?

19 A. 5.

20 Q. And did that impact the Base Penalty?

21 A. It did. It had a 40 percent reduction.

22 Q. And so what was the new number for purposes of
23 calculating the Penalty?

24 A. So the new Final -- or new Base Penalty was
25 \$4,290.

1 Q. And what was the Final Penalty for Counts 8
2 through 10?

3 A. So you take that \$4,290, multiply that times the
4 three counts to get \$12,870. And you multiply it by the
5 Inflation Factor of 1.42324 to get \$18,317.

6 Q. Now, would you please turn to [CX-21](#) D, which is
7 Page 7. Are you familiar with [CX-21](#) D?

8 A. Yes.

9 Q. And how are you familiar with it?

10 A. This is the FIFRA Civil Penalty Calculation
11 Worksheet for Counts 11 through 14.

12 Q. And what pesticides are represented by Counts 11
13 through 14?

14 A. These are the same rodenticide blocks; Contrac,
15 Final, Talon G, and Maki Mini as Counts 1 through 4.

16 Q. And what is the FTTS Code for Counts 11 through
17 14?

18 A. 1EF.

19 Q. And what is "1EF"?

20 A. So that is -- relates to the Statutory Violation
21 12(a)(1)(E), which is sale of a misbranded pesticide.

22 Q. And what was the corresponding Violation Level for
23 this FTTS Code?

24 A. It is a 1.

25 Q. And what was the Base Penalty for Counts 11

1 through 14?

2 A. \$7,150.

3 Q. Now, did the Appendix B factors for Counts 11
4 through 14 change from Counts 1 through 4?

5 A. They did not.

6 Q. And why did they not?

7 A. Because it's the same pesticides as Counts 1
8 through 4.

9 Q. And so why would that not necessitate a change in
10 the Appendix B factors?

11 A. Because it's based off of the pesticide's
12 toxicity, harm, and the compliance history, and it's -- it's
13 all the same information.

14 Q. And so were there any changes to the Base Penalty?

15 A. No.

16 Q. And what was the final total penalty amount for
17 Counts 11 through 14?

18 A. For 11 through 14, we took the Base Penalty of
19 7,150, multiplied it times the four counts to get \$28,600,
20 and then multiplied that times the Inflation Multiplier of
21 1.42324 to get 40,705.

22 Q. Would you please turn to [CX-21](#) E, which is Page 9.
23 Are you familiar with [CX-21](#) E?

24 A. Yes.

25 Q. How are you familiar with it?

1 A. This is the FIFRA Civil Penalty Calculation
2 Worksheet for Counts 15 through 17.

3 Q. And what pesticides are represented in Counts 15
4 through 17?

5 A. These would be the rodenticide throw packs, the
6 same as Counts 5 through 7.

7 Q. And what is the FTTS Code for Counts 15 through
8 17?

9 A. 1EE.

10 Q. And why is the FTTS Code different in Counts 15
11 through 17, as compared to Counts 11 through 14?

12 A. So because these products did have an Abbreviated
13 Label in there, we assessed it at a lower severity Violation
14 Level.

15 Q. And what is that Violation Level?

16 A. Would be 3.

17 Q. And what is the corresponding Base Penalty value
18 for Counts 15 through 17?

19 A. So based off the Violation Level 3 and the Size of
20 Business Category, also III, we got a Base Penalty of
21 \$2,830.

22 Q. And did the Appendix B factors change from Counts
23 15 through 17 from Counts 5 through 7?

24 A. They did not.

25 Q. And why did they not?

1 A. Because the -- again, the products are the same as
2 the previous counts.

3 Q. And were there any changes to the Base Penalty?

4 A. There was. There was a 40 percent reduction.

5 Q. And what is the Final Penalty for Counts 15
6 through 17?

7 A. With the 40 percent reduction off the Base
8 Penalty, you get a new Base Penalty of 1,698. And you
9 multiply that times the three counts to get \$5,094. And
10 then you multiply that times the Inflation Multiplier to get
11 1.4 -- or of 1.42324 to get the Total Combined Penalty of
12 \$7,250.

13 Q. Now, will you please turn to [CX-21](#) F? Are you
14 familiar with [CX-21](#) F?

15 A. Yes.

16 Q. And how are you familiar with it?

17 A. This is the FIFRA Civil Penalty Calculation
18 Worksheet for Counts 18 through 20.

19 Q. And what pesticides are represented by Counts 18
20 through 20?

21 A. These would be the liquid insecticides, the insect
22 growth regulator, the professional pest control, and the
23 termite and ant control.

24 Q. And what is the FTTS Code for Counts 18 through
25 20?

1 A. 1EF.

2 Q. And what is "1EF"?

3 A. It relates to the 12(a)(1)(E), which is sale of a
4 misbranded pesticide.

5 Q. And why is this different from the 1EE found in
6 Counts 15 through 17?

7 A. Because these products had -- didn't have any
8 official registered labeling on the packaging.

9 Q. And what was the Base Penalty for Counts 18
10 through 20?

11 A. A 1.

12 Q. Maybe you didn't hear me; what was the Base
13 Penalty --

14 A. Oh, I'm sorry.

15 Q. -- for Counts 18 through 20?

16 A. Oh, Base Penalty, sorry. That would be \$7,150.

17 Q. Now, did the Appendix B factors for Counts 18
18 through 20 change from the ones found in Counts 8 through
19 10?

20 A. They did not.

21 Q. And why do they not?

22 A. Because again, they are the same pesticide
23 products.

24 Q. And was there a reduction to the Base Penalty for
25 Counts 18 through 20?

1 A. There was a 40 percent reduction.

2 Q. And what is the Final Penalty for Counts 18
3 through 20?

4 A. With the 40 percent reduction to the Base Penalty,
5 you get a new Base Penalty of 4,290. Multiply it times the
6 three counts to get 12,870, times the 1.42324 to get
7 \$18,317.

8 Q. Would you please turn to [CX-21](#) G, which is Page
9 13. Are you familiar with [CX-21](#) G?

10 A. Yes. This is the FIFRA Civil Penalty Calculation
11 Worksheet for Count 21.

12 Q. How are you familiar with it?

13 A. This is the prepared document for Count 21 or
14 Denial of Inspection.

15 Q. Again, can you say what does Count 21 represent?

16 A. It is the denial of an inspection.

17 Q. At which facility?

18 A. At the Overland Facility.

19 Q. And what is the FTTS Code for Count 21?

20 A. That would be 2BD.

21 Q. And what is "2BD"?

22 A. It relates to the Statutory Violation
23 12(a)(2)(B)(iii), which is denial of an inspection.

24 Q. And what is the corresponding Violation Level?

25 A. Level 2.

1 Q. And what is the Base Penalty for Count 21?

2 A. Base penalty is \$4,250.

3 Q. Why are there no Appendix B factors for Count 21?

4 A. There were no pesticides and related to a denial
5 of inspection. And also, we didn't know what would have
6 been in the facility.

7 Q. And what was the Final Penalty for Count 21?

8 A. Final Penalty is that \$4,250 multiplied by the
9 Inflation Multiplier of 1.42324 to get a total of \$6,049.

10 Q. So, now that we reviewed all the individual Counts
11 and the Penalty, what is the ultimate Final Penalty in this
12 matter?

13 A. The sum of all these counts is \$149,659.

14 Q. Thank you.

15 MR. HILBERT: No further questions, Your Honor.

16 JUDGE WRIGHT: Okay. Respondent, your witness.

17 CROSS-EXAMINATION

18 BY MR. RAYMOND:

19 Q. I'm sorry, how do you pronounce your name? Last
20 name.

21 A. It's Kash Kruep. Kash Kruep.

22 Q. Krump. Spell your last name for me.

23 A. K-R-U-E-P.

24 Q. E-P?

25 A. Yeah.

1 Q. Okay.

2 A. It's pronounced like K-R-U-P-P.

3 Q. Okay. All.

4 A. Coffee Maker.

5 Q. The -- in terms of the calculations here, where
6 does the Inflation Multiplier come from? Where is that
7 derived from?

8 A. Yeah, so that's sent out by the Federal Register.

9 Q. So how current -- when was this a number -- I
10 guess, when was that published in the Register?

11 A. I'm not sure exactly when, but when I've start --
12 since I've started, for one year we've been using that
13 Inflation Multiplier.

14 Q. Okay. So is it government-wide, then? It's not
15 just applies to the EPA?

16 A. Yes. Yeah .

17 Q. Federal Government wide. And as far as the base
18 penalties, it's pretty uniform throughout. Is that
19 statutory where it's derived from? Or is that in the EPA
20 regs?

21 A. That would be the Enforcement Response Policy.

22 Q. So that's the EPA policy?

23 A. Yes.

24 Q. That's where it's derived from. Do -- did you
25 determine whether or not Wilson's Pest Control is still in

1 business since the Stop and Removal Order?

2 A. I -- I am not sure if they are still in business.
3 I don't know that.

4 Q. Would they -- would that have affected the --
5 your -- the penalties here that you've assessed?

6 A. No. Because all -- all counts have -- all the
7 violations were prior to the inspection.

8 Q. Okay. Except that would have been the last count;
9 that, obviously, was not prior --

10 A. Well, yes.

11 Q. -- to the inspection?

12 A. Yes.

13 Q. And I believe you said with respect to, I'm
14 looking at the factors here, Compliance History, I think
15 it's -- I think it's 0 for -- throughout the whole thing; is
16 that correct?

17 A. That's correct.

18 Q. And that's based on the fact that you didn't find
19 that -- any violations by Wilson's Pest Control for, you
20 said, the past five-year period?

21 A. Yes.

22 Q. And, obviously, the EPA keeps records of
23 violations?

24 A. Yes.

25 Q. Any violations would be indicated by what your

1 inspection reports or how -- what -- what is your source for
2 the data for?

3 A. Yeah, we use a -- we can -- we can request from
4 the Records Center to review previous cases if they have
5 any, like, related names to a certain business. And there's
6 also a database called ARMS that we utilize.

7 Q. And that would be, I guess, cases involving prior
8 inspections and any -- the outcomes of prior inspections --

9 A. Yes.

10 Q. Is that correct?

11 Now, as far as the values for Gravity Adjustments,
12 I believe you said that that goes -- the lower the number,
13 the greater the gravity.

14 A So --

15 Q. That value. That factor.

16 A. So for -- are we talking about the Gravity
17 Adjustments? Sorry.

18 Q. Yeah. Yeah. I believe you said, if I understood
19 you correctly, that the lower the number, the greater the
20 Gravity.

21 A. So not for the Gravity Adjustments; that would be
22 true for the Violation Level.

23 Q. The Violation Level.

24 A. Which is, like, is Line 3. Where you have the
25 Gravity Adjustments is, the greater the Gravity, the higher

1 the number, which we total --

2 Q. Okay.

3 A. -- to get the -- to the Final Gravity Adjustment.

4 Q. But it's the opposite for the Violation Level?

5 A. Yes. Yeah. They're, kind of, backwards.

6 Q. And the Violation Level, that's determined by your
7 enforcement policy -- the EPA enforcement policy?

8 A. That is correct. Appendix A has a chart in
9 there --

10 Q. Okay.

11 A. -- related to that.

12 Q. So that's not statutory, it's just based on EPA
13 policy?

14 A. Yes.

15 Q. I guess, the Penalty goes up the higher the
16 Violation Level?

17 A. Yes. That's correct.

18 Q. Okay. All right. And it looks like for Mr.
19 Wilson, the Violation Level was at 1, except for when you
20 get to Counts 15 through 17. I'm looking at Page [CX-21](#),
21 Page E, it went up to 3. Are you following me?

22 A. Yes. That's correct.

23 Q. And was that based on the product or what does
24 it -- that it went up, as compared to the prior counts.

25 A. Yes. Yeah. And in this case, the higher the

1 Violation Level, again, and the higher the Value on the
2 Violation Level, the less severe. So that's why we got a
3 smaller Base Penalty off of that. But the products here
4 were the throw packs, and because they had that Abbreviated
5 Labeling on the throw packs, they -- we assessed it at a --
6 at a different FTTS Code based off the ERP --

7 Q. Okay.

8 A. -- which was a lower Violation Level. It was a
9 higher number but a lower level.

10 Q. And that Abbreviated that you referred to, goes to
11 what was on the back of the bag?

12 A. Yes. Yeah. The Abbreviated Label that was on
13 those throw packs was -- is partially registered labeling.
14 It's not the complete labeling, but it's on those.

15 Q. Okay. All right. So it was "abbreviated," in
16 your words.

17 A. Yeah.

18 Q. All right. Does the EPA automatically assess
19 penalties if you -- if there's, let's say, a Stop Sale Order
20 rather than just a warning? So, if he gotten a warning,
21 would there have been any penalty if Wilson's had gotten a
22 warning instead of a Stop Sale Order?

23 A. No. So if -- if in this case there was only
24 issued a Warning Letter, Civil Penalty wouldn't be issued,
25 typically. In some cases, we do issue warnings out to

1 registrants of companies in relation to, but then the Civil
2 Penalty might be addressed to the person actually violating.

3 Q. So in other words, there would -- there would be a
4 Civil Penalty? Even if you issue a Warning Letter, there
5 would be some, kind of, Civil Penalty?

6 A. Yes. There could be.

7 Q. So is there any instances where you don't assess a
8 Civil Penalty if you -- from an inspection?

9 A Yes. Yes. Out of the 25 cases at EPA, I've had
10 very few that have gotten to Civil Penalty. But based on
11 the factors of the violations that we identified in the
12 case; the ERP ranks it to be above a Warning Letter.

13 Q. And that's notwithstanding any prior non-
14 compliance history?

15 A. Yes.

16 Q. And if I understand you correctly for those counts
17 where you got the 40 percent reduction, that was because
18 there was some labeling, abbreviated; is that the reason for
19 that --

20 A. Yes. Because the potential for Human,
21 Environmental Harm, the sum of the Gravity Adjustments was
22 lower.

23 Q. And let me ask you about Culpability, how the EPA
24 deal with that. Was that based on your assessment of the
25 situation, rather than a specific regulation or a statute?

1 A. Yes. Yes, that's correct. Yeah, the -- based off
2 of Mr. Wilson's and Wilson's Pest Control history in
3 pesticidal business, and with their 35 years -- or 30-plus
4 years since 1995 of being a registered establishment.

5 Q. So is that based on the assumption that the -- by
6 his experience that he, I guess, maybe should have known?
7 Or explain that a little bit.

8 A. Yeah. Yeah. So, I'm going to turn back to the
9 ERP, and it comes right from that. I think Page 34, I
10 believe.

11 Q. What exhibit is that?

12 A. 34.

13 Q. 34, okay. Does that show Enforcement Policy?

14 A. Yes.

15 Q. You have a policy statement in there about that?
16 Go ahead.

17 A Yes. Yes. So when we take the Gravity
18 Adjustments, which is Appendix B here, I mean, it -- it
19 shows right there Level 2, "Culpability unknown or violation
20 resulting from negligence."

21 Q. And those -- where is the range for that
22 Culpability?

23 A. The range could be a 0 up to a 4.

24 Q. 0 up to 4. So the higher the number the more
25 culpable you determine?

1 A. Correct.

2 Q. The person is --

3 A And 4 being you knew you were make -- you were
4 violating the statute.

5 Q. And that's notwithstanding -- does that assume --
6 does actual knowledge count? Or are just mistakes?

7 A. Well, so as far as a 4 goes, I mean, it is -- it
8 is knowing or willful violation of the statute, or knowledge
9 of general hazardous of the activity.

10 Q. So what does "2" mean then?

11 A. 2 is "Culpability unknown or violation resulting
12 from negligence."

13 Q. Okay.

14 JUDGE WRIGHT: Excuse me, Counsel; is this
15 Complainant [Exhibit 20](#) or 24?

16 THE WITNESS: [CX-20](#), Page 34.

17 JUDGE WRIGHT: Okay. Thank you.

18 BY MR. RAYMOND:

19 Q. And as far as your determination of Wilson Pest
20 Control, the Category being under a million, what was that
21 based on?

22 A. We have a in-house system that we utilize called a
23 "OneStop." I request it be generated by another co-worker,
24 and then that pulls the business information. General
25 business information.

1 Q. General business information. I think you have
2 two OneStop's in your exhibits; is that correct?

3 A. I only know of one.

4 Q. Okay, one. And so that's an internal EPA
5 document? Or you pull it from what sources?

6 A. I -- I believe the OneStop is like a computer
7 program, and where that program generates the information
8 from, I'm not 100 percent sure.

9 Q. So you don't know the source of the information
10 for that?

11 A. It's from the OneStop Program. It's what I know.

12 Q. But the data on which it's based, do you know the
13 source of the data on which the OneStop is based?

14 A. No. I don't.

15 Q. And do you do that -- is that part of the
16 procedure when you're assessing or calculating Civil
17 Penalties?

18 A. Yes.

19 Q. You do a OneStop analysis?

20 A. Yes. That is correct.

21 Q. And what are the information in terms of what's
22 included that you use to put together the OneStop -- a
23 one -- yeah, a OneStop analysis?

24 A. Again, I just request a OneStop report be
25 generated and then it gets sent over to me. So it's a full

1 report that's in here that gets generated.

2 Q. And you don't know where specifically within the
3 EPA that it comes from, the OneStop?

4 A. No. I'm not -- I'm not sure on that.

5 Q. Did you, when you were doing your calculations,
6 take into account that there was no evidence that anyone had
7 been harmed by Wilson's operations?

8 A. Yes. So in the ERP when we -- I -- it says, "For
9 potential of harm."

10 Q. Potential for harm?

11 A. Yes. Yes.

12 Q. So what was your determination about that?

13 A. That --

14 Q. As far as Wilson?

15 A. So based off of the fact that the packaging was,
16 you know, accessible to children and the volatility of the
17 pesticides in question -- specifically, I should say to the
18 rodenticide blocks for the accessibility to children in the
19 bags, and the nature of the pesticides, the potential human
20 harm that would be there, it's all potential factors.

21 Q. So potential is not actual?

22 A. Yes. If it was actual, it would be ranked higher.

23 Q. I'm sorry?

24 A. If it was an actual -- if we had actual reports of
25 human harm, it would be ranked higher on the scale and the

1 violation would potentially increase.

2 Q. All right. And as far as the value for Pesticide
3 Toxicity, what's the range on that? It goes up from 1 to
4 what?

5 A. 1 to 3.

6 Q. 1 to 3. 3 being the highest toxicity?

7 A. Yes. And that's based off of the signal word on
8 the labeling of the pesticide. Then it can either be
9 labeled without one -- or without a signal word, which would
10 mean it's the minimum risk, and also a "Caution" which would
11 be a 1, a "Warning" would be a 2, and then a "Danger" would
12 be a 3 or restricted use --

13 Q. And that comes -- is a registrant required to do
14 that when they register?

15 A. Yes. When a product is registered, and it
16 receives a label, it will have a signal word assigned to it.

17 Q. And, I guess, the EPA, they do some, kind of,
18 determination or assessment of whether or not the toxicity
19 value is, you agree with it or not?

20 A. Yes. Yes. The Pesticide Toxicity, it's based off
21 of lab reports and laboratory studies of the active
22 ingredient that's in that. I don't know the exact numbers,
23 but essentially, if it -- it's an "LD50 value," which means
24 that it -- up to what point does it kill 50 percent of the
25 test animals?

1 Q. Okay.

2 A. So that's how that number is factored. And
3 there's specific grams per body weight that that relates to.

4 Q. And is that empirical data that the registrant is
5 required to submit to the EPA?

6 A. Yes.

7 Q. As part of the registration process?

8 A. Yeah.

9 Q. As far as the registration process, and I guess it
10 varies, but how long would it take normally, let's say, for
11 some of the rodenticides used -- involved in this case?

12 A. I'm -- I'm not familiar with exactly --

13 MR. RAYMOND: Okay, I think that's all the
14 questions I have. Thank you. Oh, let me ask my --

15 JUDGE WRIGHT: Do you have any redirect?

16 MR. HILBERT: No, Your Honor.

17 JUDGE WRIGHT: Okay. I do have some questions, if
18 I may?

19 Okay, looking at [CX-21](#) A, I just have a question
20 about the FTTS Code. Does that affect the Base Penalty?

21 THE WITNESS: So in a way, yes. So, if you look
22 at Appendix A in the ERP, and you -- typically, would look
23 at the Statutory Violation, which then would show the
24 related FTTS Code, which would then give us the Violation
25 Level. And in this case, on [CX-21](#) A, is a 1, and that --

1 then you look at Appendix C - Table 1 with the Size of
2 Business Category and there's a table on there that gives
3 you a chart that delineates the Base Penalty. So Violation
4 Level, a 1, gives you a higher Base Penalty versus say a 2
5 or 3 or 4.

6 JUDGE WRIGHT: Okay. Does each FIFRA section have
7 its own associated FTTS Code?

8 THE WITNESS: Yes. So the violations that are
9 listed in the ERP will have their own unique identifier.

10 JUDGE WRIGHT: Okay. Looking at [CX-21](#) A, you
11 talked about the Gravity Adjustments. I want to direct your
12 attention to Human Harm and Environmental Harm.

13 THE WITNESS: Yes.

14 JUDGE WRIGHT: You mentioned that this one was
15 scored with a 3, and you mentioned toxicity to children and
16 no labeling.

17 THE WITNESS: Yes.

18 JUDGE WRIGHT: Is that the only thing that went
19 into that assessment?

20 THE WITNESS: Yes. No labeling, and then toxicity
21 to children, and then accessibility of the product, like, to
22 children. So being in the zip-top bags --

23 JUDGE WRIGHT: Okay.

24 THE WITNESS: -- versus standard packaging would
25 be something, like, a locking lid bucket.

1 JUDGE WRIGHT: Okay. What age children?

2 THE WITNESS: So as I, kind of, spoke to before
3 with LD50 levels, it's based on, like, body size. I mean,
4 smaller the body size the more potent the pesticide is going
5 to be, so it depends on the weight. So I don't -- I don't
6 know if it would be necessarily age dependent, but be --

7 JUDGE WRIGHT: Okay.

8 THE WITNESS: -- also body size.

9 JUDGE WRIGHT: So it could be an adult? A small
10 adult, too?

11 THE WITNESS: Correct.

12 JUDGE WRIGHT: Okay. Counts 1 through 4, those
13 were associated with the blocks?

14 THE WITNESS: That's correct.

15 JUDGE WRIGHT: How does a licensed applicator use
16 these pesticides that -- in a way that there's less harm to
17 the environment or human health when used?

18 THE WITNESS: Yeah. So these products as we have
19 mentioned before -- Ms. Bednar did -- they are to be used by
20 licensed professionals, and these products specifically in
21 the labeling require to be in a bait station. So bait
22 station, no accessibility to, say, outside birds and animals
23 and stuff like that. Now, could the animals potentially get
24 eaten by other animals when they die? That's always a
25 potential.

1 JUDGE WRIGHT: Okay. Did you review the
2 Inspection Report for this?

3 THE WITNESS: Yes. I wasn't involved in the
4 inspection, but I did --

5 JUDGE WRIGHT: Right.

6 THE WITNESS: -- look at it.

7 JUDGE WRIGHT: Is there any evidence that bait
8 stations were not made available in this location?

9 THE WITNESS: I am not sure if that was in the
10 Inspection Report or not.

11 JUDGE WRIGHT: Do you know if bait stations were
12 sold specifically with these blocks? Or not?

13 THE WITNESS: No. I do not believe they were sold
14 with these blocks, at all.

15 JUDGE WRIGHT: Okay. And we're still just on CX-
16 21 A, at the Culpability Level. Are you aware of any
17 evidence that would suggest that Mr. Wilson took steps to
18 immediately correct the violation?

19 THE WITNESS: We did not have any evidence that he
20 was doing that.

21 JUDGE WRIGHT: okay. I just want to compare real
22 quick [CX-21](#) A with CX-21 B. CX-21 B are the throw bags.

23 THE WITNESS: Correct.

24 JUDGE WRIGHT: [CX-21](#) A are the blocks in the zip-
25 top baggies.

1 THE WITNESS: Correct.

2 JUDGE WRIGHT: For CX-21 B, Counts 5 through ,7
3 the Gravity factors for Human -- Harm to Humans and the
4 environment were 1 -- were 1, respectively.

5 THE WITNESS: Yes.

6 JUDGE WRIGHT: Yes, okay. And that was because
7 there's some labeling with the throw packs -- on the throw
8 packs?

9 THE WITNESS: Yes.

10 JUDGE WRIGHT: The Abbreviated Label?

11 THE WITNESS: Very -- yeah. Correct.

12 JUDGE WRIGHT: And because they were in packages?

13 THE WITNESS: Yeah. So because they had the --
14 essentially a secondary containment, if you will, of the
15 package itself that contained that Abbreviated Labeling, and
16 then but they were still inside those Ziploc bags.

17 JUDGE WRIGHT: Oh, okay. So which package was it?
18 The one with the labels on it is the one that you discounted
19 the harm?

20 THE WITNESS: Yes.

21 JUDGE WRIGHT: Potential harm?

22 THE WITNESS: Yes. Because at least the person
23 who would be purchasing this product would have some
24 knowledge of what it was.

25 JUDGE WRIGHT: Understood. And just drawing your

1 attention to [CX-21](#) C, you mentioned -- and this is
2 associated with Counts 8 through 10, and these are liquids?

3 THE WITNESS: Yes. These are the liquid
4 insecticides.

5 JUDGE WRIGHT: How are -- if you know, how are
6 these insecticides applied and used?

7 THE WITNESS: Yeah. Yeah. So typically, they
8 would be diluted in a water solution -- and I'll back up.

9 Typically, the label will say exactly how they are
10 applied. And in this case, there wasn't any application
11 information on the labeling. But they would be diluted in
12 water, per label, and then applied to an area. So with a,
13 like a backpack sprayer and a garden sprayer.

14 JUDGE WRIGHT: Okay. You said some are
15 neurotoxins. Are all of them neurotoxins?

16 THE WITNESS: The insect growth regulator has a
17 different active ingredient. But the permethrin and the
18 bifenthrin, which I believe are 9 -- Counts 9 and 10, are
19 neurotoxins.

20 JUDGE WRIGHT: Is there a way that these could be
21 applied that would make it more dangerous to human health --
22 Human Health or Environment that's evidenced, you know, by
23 the way it's packaged here?

24 THE WITNESS: Yes. So insecticides have an
25 extreme effect on aquatic environments. They will eliminate

1 the oxygen from the water, and so that lacking the required
2 labeling, that's a very large environmental hazard section
3 in labeling.

4 But I didn't answer the question, I apologize.

5 JUDGE WRIGHT: No. I think that's fine.

6 THE WITNESS: Okay.

7 JUDGE WRIGHT: And [CX-21](#) G, if you can just go
8 there real quick. This is for Count 21, and the Violation
9 Level was 2. Can you explain why that's Level 2?

10 THE WITNESS: Yes. So this is for the denial of
11 inspection. And if we want to, we can look at Appendix A of
12 the ERP, and it'll show you, which is [CX-20](#).

13 JUDGE WRIGHT: Okay. We can look at that.

14 THE WITNESS: So Appendix A begins on [CX-20](#), Page
15 29.

16 JUDGE WRIGHT: Okay.

17 THE WITNESS: And it -- you find on there the
18 violation and the FTTS Code, which then gives you the
19 Violation Level. Give me a second to find it.

20 "2BD" is found on [CX-20](#), Page 30, at the bottom,
21 it's the second to last statute on there. And it says,
22 "Person refused to allow Entry, Inspection, Copying of
23 Records, or Sampling authorized by this Act." FIFRA. And
24 then it shows Violation Level 2.

25 JUDGE WRIGHT: You lost me there.

1 THE WITNESS: Okay.

2 JUDGE WRIGHT: What Page are you on?

3 THE WITNESS: Yeah. Yeah, [CX-20](#), Page 30 of 39.

4 JUDGE WRIGHT: Okay. I'm there, okay.

5 THE WITNESS: And it's the second one from the
6 bottom.

7 JUDGE WRIGHT: Got it.

8 (Judge examines the document.)

9 JUDGE WRIGHT: I have no further questions for
10 you.

11 Any questions --

12 MR. RAYMOND: Nothing further.

13 JUDGE WRIGHT: -- for the counsel?

14 MR. RAYMOND: No.

15 MR. HILBERT: No, Your Honor.

16 JUDGE WRIGHT: Okay. All right.

17 THE WITNESS: Thank you.

18 JUDGE WRIGHT: You may step down.

19 (Witness excused.)

20 JUDGE WRIGHT: Does EPA have any more witnesses?

21 MR. HILBERT: No, Your Honor.

22 JUDGE WRIGHT: Okay. So Respondent, you're up.

23 MR. RAYMOND: Oh, okay.

24 JUDGE WRIGHT: And, you know, I mentioned earlier
25 that you may make an opening statement, a brief one, if you

1 would like. Again, they're not necessary.

2 Before you proceed, I note that you had another
3 witness on your list. Are you only intending to call Mr.
4 Wilson?

5 MR. RAYMOND: Yes. Just Mr. Wilson, Your Honor.

6 JUDGE WRIGHT: Okay. You can proceed when you're
7 ready.

8 MR. RAYMOND: Okay. Thank you, Your Honor.

9 JUDGE WRIGHT: You know, can we take a five-minute
10 or 10-minute break?

11 MR. RAYMOND: Yes, Sir.

12 THE WITNESS: Okay. We'll go -- come back at
13 2:20. And go off the record now.

14 (Whereupon, a brief recess was taken.)

15 JUDGE WRIGHT: Back on the record.

16 All right, Mr. Raymond, your witness.

17 MR. RAYMOND: I call Tim -- Timothy Wilson.

18 JUDGE WRIGHT: Okay. If you can just remain
19 standing and raise your right hand?

20 (Whereupon,

21 TIMOTHY WILSON,

22 was called as a witness and, after having been duly sworn,
23 was examined and testified as follows:)

24 JUDGE WRIGHT: Please have a seat.

25 MR. RAYMOND: Okay, may I proceed, Your Honor?

1 JUDGE WRIGHT: Yes. Please.

2 DIRECT EXAMINATION

3 BY MR. RAYMOND:

4 Q. State your name, please.

5 A. Timothy Wilson.

6 Q. You got to talk up a little bit.

7 A. Timothy Wilson.

8 Q. Okay. Do you operate Wilson's Pest Control?

9 A. Yes. I do.

10 Q. At the time of the 2022 -- at the time of the EPA
11 inspection, were you operating Wilson's Pest Control?

12 A. Yes. I do. [sic]

13 Q. And how many locations did you have back -- I'm
14 talking about the time during the inspection in June of '22
15 and up until July of 2023. So what --

16 A. Two.

17 Q. -- locations did you have?

18 A. Two.

19 Q. Two. And what were the addresses of your stores
20 or operations?

21 A. 2616 Woodson and 2400 North Grand.

22 Q. Okay. And that's in the city of St. Louis?

23 A. Yes, sir.

24 Q. And what was the second location in Overland?

25 A. Yes, I do. [sic]

1 Q. Where was that address?

2 A. 2616 Woodson.

3 Q. Okay. And describe the -- the neighborhood where
4 your Grand location is. What kind of neighborhood is that?

5 A. It's a nice neighborhood.

6 Q. Okay.

7 A. As far as what?

8 Q. As far as, it's in North City?

9 A. Yes, sir.

10 Q. Is that a predominantly black area?

11 A. Yes, sir.

12 Q. All right. Now, tell me a little bit about your
13 business operation. Do you have any business licenses?

14 A. Yes. I have my business license to operate the
15 business.

16 Q. What license do you have --

17 A. With St. Louis City --

18 Q. -- and who issued it?

19 A. I have my pest control license. I have my
20 dealer's license. I have license to charge.

21 Q. I think you're going to have to talk a little
22 louder.

23 A. I'm sorry. I'm sorry.

24 COURT REPORTER: If you sit up and -- there you
25 go.

1 THE WITNESS: I'm sorry. Okay, is that better?

2 COURT REPORTER: Much.

3 THE WITNESS: Okay, thank you.

4 BY MR. RAYMOND:

5 Q. Okay, you were talking about your license that you
6 hold when you were operating your business in '22 and '23?

7 A. Yeah. I have -- are you speaking of the pest
8 control license or the dealer license?

9 Q. Well, whatever license you have. All of them.

10 A. Well, I have a distributor license, a wholesale
11 license where I buy chemical wholesale. I have a dealer
12 license, and I have the actual pest control license.

13 Q. Who issued the dealer's license to you?

14 A. Department of Agriculture.

15 Q. That's the Missouri Department --

16 A. Yes.

17 Q. -- of Agriculture?

18 A. Yes, sir.

19 Q. And what does that license allow you to do?

20 A. It allows you to buy chemical wholesale.

21 Q. You mean pesticides?

22 A. I'm sorry; pesticides wholesale.

23 Q. All right.

24 A. Rodenticides.

25 Q. And what about -- you say you have another

1 license?

2 A. You're going to have to speak up also, I'm sorry.

3 Q. Do you have another license, besides the dealer's
4 license?

5 A. I have a license to train technicians, also.

6 Q. Okay. What about applicator?

7 A. Yeah. I have an applicator's license, which is a
8 commercial applicator's license.

9 Q. All right. What does that allow you to do? The
10 applicator's --

11 A. It allows you to go out in the field and actually
12 sell and service.

13 Q. You do that yourself?

14 A. Yeah. Yes, I do.

15 Q. And when did you start Wilson's Pest Control?

16 A. In '87. '86 or '87, I can't recall.

17 Q. So you've been in business for nearly --

18 A. I've been close to 38 years.

19 Q. -- going on nearly 40 years?

20 A. Yeah. Yes, sir.

21 Q. All right. And back at the time of -- in '22 and
22 '23, you were -- you worked for your business yourself,
23 right?

24 A. I'm sorry?

25 Q. You worked yourself in your business?

1 A. No. I have two brothers that work also.

2 Q. Okay.

3 A. And I have --

4 Q. All right. Did -- what other people worked for
5 you back in '22 and '23?

6 A. Two -- two of my nephews and a cousin.

7 Q. What positions did they have?

8 A. They sell -- they do technicians and something.
9 They do sales, also.

10 Q. All right. So as far as technicians, were they
11 the ones that had licenses? Were they licensed, your
12 technicians?

13 A. Yeah. They were. At the time.

14 Q. We're talking -- I'm talking '22 and '23 right
15 now, so back at that time.

16 A. Yeah.

17 Q. All right. And tell me about your customers who
18 you sold to back in '22 and '23.

19 A. Well, they were mainly commercial applicators.

20 Q. Commercial applicators.

21 A. Yeah.

22 Q. Describe them for me.

23 A. That's somebody that's licensed to purchase
24 rodenticides and insecticides.

25 Q. All right. Did -- did they work for you? They

1 didn't work for you?

2 A. Well, I did some subcontracting, but for the most
3 part they worked for themselves.

4 Q. Oh, so they were, I guess, independent
5 contractors?

6 A. Yeah.

7 Q. And what about -- what percentage of your business
8 sales were to these technicians?

9 A. Probably 85 -- probably 75 to 85 percent.

10 Q. All right. And what was the rest -- your
11 customers, who was the rest of them? Describe them.

12 A. It was mainly the public. In fact, 15 to 25
13 percent. The public.

14 Q. The public. Oh, you mean --

15 A. Yeah.

16 Q. -- individual consumers?

17 A. Exactly.

18 Q. Okay. And as far as what you sold, tell me what
19 you sold and when you bought it, how it came to you back in
20 '22 and '23? So what kind of product did you sell?

21 A. We sold a lot of -- you want the name of the
22 insecticides? Or you want just the --

23 Q. Well just, you can give me a few names. Just was
24 it insecticides? Pesticides?

25 A. It was a chemical -- it was a chemical called

1 Permethrin. We -- I mainly purchases [sic] it at close
2 outs.

3 Q. All right. And name -- who did you buy your
4 products from? What were some of the suppliers?

5 A. Well, a lot of -- there was a lot of close out
6 chemicals. I went to a lot of -- actually, there's a lot of
7 seminars, and I used to buy a lot of close out chemicals.

8 Q. All right. And what quantities would you buy it
9 in?

10 A. Normally, in the 55-gallon drum.

11 Q. All right. And you sold other products besides
12 pesticides; is that correct?

13 A. Yeah. We sell rodenticides. We sell traps. We
14 sell mice traps, rat traps, squirrel traps. Pretty much
15 anything that has to do with pest -- pest control.

16 Q. Okay. And you've heard testimony about the Form
17 3540. You know what that is --

18 A. Yes, sir.

19 Q. -- EPA Form 3540?

20 A. Um-hmm.

21 Q. Do you know what that is?

22 A. I don't have it with me but I'm familiar.

23 Q. Okay.

24 MR. RAYMOND: I'll show you [Exhibit 2](#) here.

25 (Respondent's R-2 marked.)

1 MR. RAYMOND: Your Honor, I have hard copies,
2 which is three pages.

3 JUDGE WRIGHT: Okay. What is this?

4 MR. RAYMOND: Respondent's [Exhibit 2](#).

5 JUDGE WRIGHT: Did you offer a copy to EPA?

6 MR. RAYMOND: I did. Yes.

7 JUDGE WRIGHT: Okay.

8 MR. RAYMOND: And we filed it --

9 JUDGE WRIGHT: Okay, thank you.

10 BY MR. RAYMOND:

11 Q. All right, Mr. Wilson, I'm showing you Exhibit --
12 Respondent's [Exhibit 2](#) here, which is three pages. Can you
13 tell us what that is?

14 A. It's the Environmental Protection Agency form.
15 It's the form to reproduce chemicals.

16 Q. And is -- did you --

17 A. And repackage.

18 Q. All right. Did you submit that form to the EPA?

19 A. Yeah. For the last 34 years.

20 Q. So you submit it every year?

21 A. Yes.

22 Q. And is that required by the EPA?

23 A. Yes, sir.

24 Q. Okay. So that's the form -- one of the forms --

25 A. I actually want to go back --

1 Q. -- you actually file?

2 A. -- and say this form went directly to Washington
3 D.C.

4 Q. You --

5 A. I don't think it actually went to the Kansas
6 office, in which they work out of.

7 Q. Okay. All right. So you would mail it to
8 Washington?

9 A. Yes, sir.

10 Q. All right.

11 A. Mail or email.

12 Q. Okay.

13 MR. RAYMOND: All right. And let me show you
14 Respondent's [Exhibit 1](#), and have you identify that.

15 (Respondent's R-1 marked.)

16 MR. RAYMOND: It's just one page, Your Honor.

17 JUDGE WRIGHT: Okay.

18 BY MR. RAYMOND:

19 Q. Can you tell us what that is, Mr. Wilson, Exhibit
20 1?

21 A. Yeah. It was -- this is mainly the chemicals I
22 was purchasing; Demon Max and Tempo, Permethrin, Bifethrin
23 [sic].

24 Q. And is any of this listed in --

25 A. Bifenthrin, I'm sorry.

1 Q. -- [Exhibit 1](#) here, is that included somehow or
2 referenced in [Exhibit 2](#) here, your Form 3540?

3 A. I'm sorry, I missed that last part.

4 Q. Would -- is any of the stuff listed in [Exhibit 1](#),
5 would that be covered in some way by [Exhibit 2](#), your Form
6 3540?

7 A. Yeah. Yeah. These were listed every year on the
8 EPA form.

9 Q. And, as far as -- would you --

10 A. I'm sorry, what I don't see on here is the
11 rodenticides that we listed, also.

12 Q. Okay. That's listed on the 3540, the rodenticide?

13 A. Yes, sir.

14 Q. Okay. All right. And would the product that you
15 bought for sale and for technicians, would that vary any
16 from year to year?

17 A. I'm sorry, can you repeat that?

18 Q. Would you always get the -- pretty much the same
19 product from year to year?

20 A. Oh yeah, most of these are our basic products that
21 we --

22 Q. These are your basics?

23 A. Yeah. We get approved from -- every year from the
24 EPA.

25 Q. All right. Now, as far as what happens when you

1 make sales, tell us what you do as far as your procedures --

2 When you make a sale, let's say, to a homeowner or
3 an individual consumer, tell me what you do. Let's say I
4 come to your store to --

5 A. First of all, I want to point out that a lot of
6 our customers are repeated customers.

7 Q. Okay.

8 A. Okay. So --

9 Q. Are these individuals? Or the other -- the other
10 customers?

11 A. Both.

12 Q. Okay. All right. And let's say I'm an individual
13 homeowner/consumer. I come into your store, this is back in
14 '22 and '23, tell me what -- how you would handle that sale.

15 A. Okay. First of all, I'm going to ask you what's
16 going on, what are you seeing, what kind of problem are you
17 having, and then I'm going to go from there.

18 If it's a mice -- if it's a mouse problem I'm
19 going -- if it's a mouse problem, I'm going to --

20 Q. Go a little slower and a little louder.

21 A. If it's a mice problem, I'm going to point out to
22 you what you're going to need, how to apply it, how to put
23 it in tamper-proof boxes where you can't harm any non-
24 targeted pests or animals or kids. I mean that's pretty
25 much how we lay it out every single time.

1 Q. Okay. And so let's say I tell you I have a mice
2 problem, what would you tell me in terms of what I should
3 buy and what I should do? Let's say I come in your store,
4 and I'm going to -- got a mice problem, so Mr. Wilson, what
5 can I do?

6 A. Well, I'm -- I'm going to point you towards the
7 rodenticides. You know, I'm --

8 Q. Okay.

9 A. I'm probably going to ask, you know, how -- are
10 you -- how -- how bad is the problem? Are you seeing them
11 from time to time or are they, kind of, moving freely? And
12 then I listen to the customer, and then I move forward with
13 what they need to do.

14 Q. Okay. And what would you tell me to do? Let's
15 say I've got a mice problem all around the house.

16 A. Okay. I'm going -- I'm going to tell you, first
17 of all, you need to buy the tamper-proof boxes to put the --
18 to put the -- to place the rodenticide in, and I'm going to
19 tell you that you want to place it on the exterior of the
20 home, and you want to place it on the interior of the home.
21 You want to start with the basement, work your way up.

22 Q. Okay. And what exactly would you sell me for the
23 rodent problem all over the house? Inside. Let's say
24 inside and outside.

25 A. It would probably be the Maki blocks or the Maki

1 packages.

2 Q. Okay. And --

3 A. That was pointed out in one of those exhibits.

4 Q. Okay. All right. And let's say -- you said
5 you -- you sell to -- you mentioned you sell to others, not
6 just individual consumers, but other technicians, I believe,
7 you said?

8 A. Yeah. Technicians.

9 Q. Okay.

10 A. Yeah. Yes, sir.

11 Q. Tell me about those. Let's say I'm a technician,
12 I come into your store, tell you I need some supplies, let's
13 say some rodenticide.

14 A. Most of your technicians -- I'm sorry, most of
15 your technicians are going to know pretty much what to do.
16 They've been trained for this already. The ones you really
17 want to educate is the homeowners.

18 Q. Okay.

19 A. Most of your technicians, they've been tested.
20 Prove they know pretty much what to do. Every insecticide,
21 rodenticide, pesticide, they know what to do with it.

22 Q. Okay. And so what would you tell -- let's say I'm
23 a technician, I -- what would you tell me in terms of I --
24 but I have to ask you what I want, what would you tell me as
25 far as what to do?

1 A. You're speaking from a technician standpoint or
2 you're speaking from the public standpoint? Consumer?

3 Q. Both. Let's say one of those at a time.

4 A. I'll just stick you down the technician
5 standpoint. We would not have to take them through it.
6 They pretty much educated about the chemical. They've been
7 tested already, and they know what to do.

8 Q. Okay.

9 A. Now, as far as the consumer, I'm going to take
10 them down, I'm going to show them the safety data; I'm going
11 to give them a safety data sheet.

12 Q. Okay.

13 A. I'm going to give them the rodenticide, and I'm
14 going to tell them about the labeling. The labeling,
15 they -- they, kind of, pound that home, but a lot of these
16 chemicals have like a five- to 10-year shelf life. If you
17 ever seen a chemical after three or four years, there's no
18 label on it anyway. Overspill is going to kill it; a lot of
19 stuff going to eliminate that label. You're not going to be
20 able to read it anyway, so I would turn them to -- to the
21 Google. I would say, "Go on your phone, Google the
22 insecticide. Everything will come up that was on that
23 label."

24 Q. All right. Now you mentioned safety data sheets.
25 Tell me about those. How you handle those.

1 A. Well, it's a safety data sheet for the customer.
2 It pretty much, kind of, point out if -- if anybody come
3 in -- if any kid come in contact with it, how to induce
4 vomiting, how to call 1-800, how to -- just anything that
5 happen. And not just the kid; it can be the dog, how to
6 induce vomiting, how to give them milk, how to make them
7 throw up, just different things. That's what that -- the
8 safety data sheet would, kind of, cover.

9 Q. Where does that come from, the safety data sheet?

10 A. It come from the maker of the rodenticide in most
11 cases.

12 Q. Okay. And what about the insecticides?

13 A. Insecticides going to be a little different. You
14 know, I've never known insecticides to really harm. Most of
15 your insecticides is actually sprayed on vegetables and
16 fruits and stuff like that. I mean, it -- they're not there
17 to really harm. You got to be careful because the -- they
18 concentrates, also, and you want to apply them correctly.
19 But most of them are used in farm -- for farmers and stuff
20 like that, so it goes on food and everything. It's not as
21 harmful as they try to make it seem.

22 Q. As far as your sale of insecticides, do you
23 sell -- how -- what's the numbers and percentages in terms
24 of individual consumers versus the technician that you sell
25 to? Do they -- do the technicians buy a lot of mostly

1 insecticides? Like you said, most the insecticides do --

2 A. Really kind of both.

3 Q. -- technicians or --

4 A. Kind of both. And I sell to the Housing
5 Authority. I sell to -- not just the -- because they --
6 most of your apartment complexes, they have guys that's
7 licensed to service they apartment complexes, also. They
8 not licensed to go out and do it from a commercial
9 standpoint, where they can charge the customers, but they
10 can treat the apartment complexes that they work for.

11 Q. Okay. So those would be the technicians that you
12 were talking about? The ones that --

13 A. Yeah. Them -- those would be -- they wouldn't be
14 commercial technicians. They got -- them wouldn't be -- I'm
15 sorry. That wouldn't be commercial technicians, that would
16 be technicians; they actually have a name for them, I just
17 can't recall it right now, but it's like a public -- they
18 have -- carry, like, a public license where they can treat
19 apartment complexes that they work for.

20 Q. Okay. And you mentioned, some of them, you said,
21 work for government -- local government agencies, like, the
22 Housing Authority.

23 A. Um-hmm.

24 Q. Okay.

25 A. Yes. I'm sorry.

1 Q. All right. And there was some testimony about
2 restricted items versus general insecticides. Can you do
3 you -- did you sell any restricted pesticides? Products?

4 A. You actually can sell restricted use pesticides to
5 licensed -- commercial licensed applicators. You just have
6 to document what day it was sold on, what it was, and that's
7 pretty much it.

8 Q. Did you --

9 A. Long as you keep a documentation of what you sold
10 them.

11 Q. Did you make such sales of restricted --

12 A. I didn't do a lot of it, but there are some. Just
13 probably three or four a year.

14 Q. Oh, so very -- that's fairly infrequent?

15 A. Yeah.

16 Q. And I think the other category was -- was it
17 general insecticides? Or general --

18 A. Rodenticides.

19 Q. -- general pesticides?

20 A. Yeah. General rodenticides, yeah.

21 Q. Yeah. What would that include, for instance? The
22 general, as opposed to the restricted.

23 A. It just a -- normally you have some generals that
24 you can buy over the counter, and that's many. Most of
25 your -- the rodenticides have the same active ingredients.

1 You know, they are -- you have to look -- look on the
2 package, what they call professional, and what -- and -- and
3 as opposed to the over the counter rodenticides carry the
4 same active ingredients.

5 Q. Okay. Now, do you offer -- do you do, as part of
6 your operations of Wilson's Pest Control, any pest control
7 services that you actually do yourself? Or anybody working
8 for you back in '22 and '23?

9 A. Did I actually do services myself?

10 Q. Yeah. Pest control services.

11 A. No, I -- I actually was in sales. I didn't do a
12 lot of actual pest control services. I, kind of --

13 Q. Okay. All right.

14 A. -- just did sales.

15 Q. Did you have anybody that worked for you that did
16 do any -- provide any pest control services on behalf of
17 Wilson Pest Control?

18 A. Yes.

19 Q. This is -- again, I'm talking about the period '22
20 and '23.

21 A. '22 and '23, yeah.

22 Q. Okay. So how many did that for you?

23 A. I think it was -- I can't -- I can't recall. Once
24 the Stop Order came in and they shut down the business, I
25 think it was like two us before [sic]. Two --

1 Q. Okay. All right.

2 A. Two guys before that.

3 Q. Now, you've heard testimony about the inspection
4 that was conducted in June of 2022. Have you been inspected
5 by the Missouri Department of Agriculture --

6 A. Yeah. That --

7 Q. prior to June of 2022?

8 A. Yes, sir. That's pretty much where the problem
9 arrived.

10 Q. And what problem was that? Did you get annual
11 inspections from the --

12 A. Well, they -- probably every --

13 Q. Periodic? Annual?

14 A. -- three to five years. They don't come around
15 yearly. They just probably every three to five years.

16 Q. Do you remember the last time that you got
17 inspected by the Missouri Department of Agriculture before
18 the EPA inspection in June --

19 A. It was actually in '22.

20 Q. Oh. Before -- when in 2022?

21 A. I don't remember the month, but it was a month
22 before the EPA came in. I'm sorry, a month after the EPA
23 came in.

24 Q. Oh, okay, so you got --

25 A. I want to make sure -- the Department of

1 Agriculture came in, then the EPA came in a month later.

2 Q. Okay. So I think the EPA inspection was in June;
3 June 15, 2022.

4 A. Yes. That sound --

5 Q. So the --

6 A. -- like that can be right.

7 Q. The inspection by the Missouri Department of
8 Agriculture would have been maybe --

9 A. Right around the end of May.

10 Q. Okay. All right. And what happened with that
11 inspection? Did every -- well --

12 A. Well, I thought --

13 Q. What was the outcome?

14 A. I actually thought everything went fine. They
15 questioned me about some chemicals, and I told them I was
16 licensed to do what I was doing because I thought I was
17 based on the EPA form.

18 Q. That was the -- which form was that, the 3540?

19 A. Yes, sir.

20 Q. Okay. What did you think you were authorized to
21 do?

22 A. Everything I was --

23 Q. Based on the 3540 --

24 A. Everything I was doing, according to them, because
25 the repackaging, the re -- the labeling, everything was

1 pretty much covered under this form. I thought.

2 Q. Okay. Before 2022, do you remember when the last
3 time the -- you were inspected by the Missouri Department of
4 Agriculture?

5 A. Talking about -- I guess, about three years ago.
6 Before the '22 inspection, right?

7 Q. Right, before, yeah, right.

8 A. About three or four years ago.

9 Q. All right.

10 A. Been three four years after that, they came in
11 '22.

12 Q. All right. And what was the outcome of that
13 inspection? Were they --

14 A. All the inspections went fine. Again, they
15 questioned me about the chemical that we're supposed to be
16 here now for and that's pretty much it.

17 Q. All right. And did you ever refuse to allow an
18 inspection by the Missouri Department of Agriculture?

19 A. No. I -- I never refused any inspections, as long
20 as they give me a heads up because we do work, this is how
21 we eat, so they want us to shut down when they show up and I
22 don't think that's fair.

23 Q. All right. But I mean you would -- you would --

24 A. Oh, yeah, I --

25 Q. You would make arrangements --

1 A. Each time they came --

2 Q. -- for them to inspect?

3 A. -- I accommodated them. But again, we can't stop
4 working and shut down when they show up.

5 Q. Okay. All right. So as long as you get notice,
6 you can make --

7 A. Exactly.

8 Q. -- arrangements to do that. And is that what you
9 did with the EPA?

10 A. Yes, sir. That Andrew guy called me probably two
11 weeks before they came.

12 Q. Okay.

13 A. I took that day off. I had taken that day off so
14 I can be there when they come.

15 Q. Okay. And you were there for the whole time --

16 A. I was there --

17 Q. -- of the inspection?

18 A. -- for the inspection.

19 Q. Did you get any, kind of, if you remember, any,
20 kind of, notice about the inspection? Other than the call
21 and they schedule it, that's all you --

22 A. I'm sorry, repeat that.

23 Q. I said that, as far as the notice about the
24 inspection, other than them calling and arranging and
25 scheduling it, that's all that you got?

1 A. Yes.

2 Q. Okay. So when the EPA got there and this -- the
3 inspector who testified earlier, Ms. Denbar [sic], what did
4 they do when they got there? Would they give you
5 credentials? What did they do?

6 A. Well, they came in, they introduced they selves,
7 and, you know, that was my first time meeting them. And
8 they asked -- well, I asked them, what was they -- is they
9 there for any particular? And they, "No. We just want to
10 do a regular inspection." I said, "Okay, then."

11 They -- I gave them -- most of the -- most of the
12 insecticides and rodenticides they was -- and the pesticides
13 that was there, they wasn't even familiar with them.

14 I actually went in the basement -- I did this to
15 myself, and I'm -- it -- it touch me to the core every time
16 I think about it, and Ms. Candace here, she could tell you,
17 I said, "This is this. This is this. This" --

18 Q. All right. So -- so you cooperated with the
19 inspection?

20 A. Oh, too much.

21 Q. Well, you're required to. Was that the first time
22 that you had been inspected by --

23 A. Yeah. That was the first time --

24 Q. -- by the EPA?

25 A. -- I had been inspected by the EPA in 34 years.

1 Q. All right. And was that inspection pretty similar
2 to the inspection that the State of Missouri --

3 A. No. It was a little more intense. They -- they,
4 kind of, talk -- they, kind of, talked me into things that I
5 normally don't do. I show -- I took them where I mix the
6 chemical, where I -- because I didn't think I was doing
7 anything wrong. If I had have been hiding anything, there's
8 no way I would have been taking them to the room where we
9 mixed the chemical.

10 Q. All right. Okay. And what did you show them in
11 terms of the room where that happened?

12 A. Everything we -- everything we actually dealt
13 with. Everything. Just everything that they listed, and I
14 pointed out. They didn't know the name of the chemicals.
15 They didn't know anything.

16 Q. All right. So what happened after the inspection?
17 What was the next thing that you heard from the --

18 A. Well, they told me, yeah, everything was okay.
19 And I said, "All right." I said -- they said everything is
20 okay. "You'll be hearing from us." And I heard from
21 Candace, and I hate to call her by her first name because I
22 wrestle with her last name. But --

23 Q. Denbar, is -- as she testified here earlier today.

24 A. I'm sorry.

25 Q. Do you remember Ms. Denbar? She --

1 A Denbar?

2 Q. Yeah.

3 A. Okay, Denbar.

4 Q. Okay. Do you remember her being at your store and
5 doing --

6 A. Oh, yeah.

7 Q. -- the inspection?

8 A. Yeah. Her and -- and Andrew. What's Andrew's
9 last name? I'm sorry.

10 Q. Landry.

11 A. Landry.

12 Q. Landry, I believe.

13 A. Her and Mr. Landry came in. And, I mean --

14 Q. Was it just the two of them?

15 A. -- and it was just -- I'm sorry?

16 Q. Was it just the two of them?

17 A. Yeah. It was just the two of them.

18 Q. All right. So they came. And my question was,
19 what happened? The next thing that happened?

20 Now, during the inspection, did they bring up
21 about the -- anything about the way you were handling your
22 packaging of the rodenticides, for instance? Did they talk
23 to you about that?

24 A. Yes. They -- yes, they did. They said, "I'm not
25 really more familiar with it." And I said, "Well, is it

1 anything I need to do to change it?" you know. "Well," they
2 said, "you'll be hearing from us, so just sit tight." And
3 the next day, Ms. Burden -- Ms. Barton --

4 Q. Denbar --

5 A. Denbar called. And I say, "Well -- how can I help
6 you, Ms. Denbar?" She actually said, "Well, you're going to
7 be -- we're going be sending you a letter. You'll be
8 hearing from us." I'm saying, "Is it anything wrong?" I'm
9 actually saying it. The next letter I got was a Stop --
10 Stop Work Order.

11 Q. Stop Order. Okay, and that was in July of 2022, I
12 believe.

13 A. Yes.

14 Q. So, did they offer you any -- any guidance?
15 Anything about what you could do for the things they pointed
16 out may have been wrong?

17 A. Well, I, kind of, start -- I talked to the Andrew
18 guy two or three times.

19 Q. Okay.

20 A. And he told me, "Well, you'll be hearing from us.
21 We'll just pretty much show you how to put everything back
22 in order." Never did. He never did call back, never did
23 return the call, never did tell me what I was doing wrong.
24 Nothing. I said, "Well, whatever it is, I'm sure it can be
25 fixed."

1 Q. Okay.

2 A. I never heard from him again.

3 Q. All right. So you were willing to fix anything
4 that they did?

5 A. Oh, yeah, because I didn't think anything was
6 wrong.

7 Q. Okay. All right. So, the next thing that
8 happened then, after the June 22nd of 15 inspection [sic],
9 you got the Stop in -- the Stop Order -- Stop Sale Order?
10 Stop Removal --

11 A. Stop Sale Order, yeah.

12 Q. All right. Okay, and you didn't get anything else
13 in writing from the time of the inspection until you got the
14 Stop Sale Order; is that correct?

15 A. Nothing else I can recall. I started getting --
16 if I'm not mistaken, I think I received another letter from
17 them, I just can't recall what it was.

18 Q. All right.

19 A. Keeping -- we going back three years.

20 Q. All right.

21 A. I just can't recall.

22 Q. All right. Okay, so once you got the Stop Sale,
23 Use Order, did you -- at that point, did you start doing
24 anything differently, as far as the way you did business?
25 You ran your pest control business? What did you do

1 differently after the --

2 A. Wasn't much I could do because selling chemicals
3 was pretty much one of the biggest things. We had, kind of,
4 eased away from the actual service part.

5 Q. Okay.

6 A. And we -- that's mainly what we did, the sales
7 part.

8 Q. So my question was, after you got the Stop Sale,
9 Use Order, what did you do differently as far as the way you
10 operated your business?

11 A. Well, it pretty much -- it pretty much closed our
12 doors after that.

13 Q. So you -- okay. Did you cease operations then on
14 Grand?

15 A. Yes. Yes.

16 Q. And what about Woodson -- your Overland, Woodson
17 Road facility?

18 A. Same thing. I mean, we were selling the same
19 thing out of both stores. The same insecticides,
20 rodenticides, same --

21 Q. So you --

22 A. out of both stores.

23 Q. But you stopped operating your pest control
24 business?

25 A. Yeah.

1 Q. Do you do any --- since any -- since then, do you
2 do any pest control sales or anything at all?

3 A. Not to -- not to this day. I mean, we do some
4 service calls, but it's contract -- it's contract stuff, but
5 nothing for the regular public.

6 Q. Do you continue -- have you continued to sell
7 rodenticides the same way you sold it before the inspection,
8 putting it in plastic bags?

9 A. No. No.

10 Q. So do you still get it and offer it for sale to
11 customers? The rodenticide, how do you do it? What's the
12 difference about how you do it now?

13 A. I'm not doing it now.

14 Q. You don't make any sales of any --

15 A. No.

16 Q. -- rodenticide? You don't buy it in bigger
17 quantities and sell it?

18 A. No. Because -- well, after -- a lot of the
19 chemical guys, after they see your name in the paper and all
20 that stuff online, like, the EPA said -- told them we were
21 selling contaminated chemical, it was just -- they just,
22 kind of, ruined the company. Ruined the business.

23 Q. All right.

24 A. I mean, sales, kind of, just went to a halt.

25 Q. All right. When did that happen? How -- was

1 it --

2 A. In '22?

3 Q. '22. So your sales fell off?

4 A. Yeah. Tremendously.

5 Q. And so you're not operating Wilson's Pest Control
6 anymore?

7 A. That's sad to say, no.

8 Q. Okay. Did you ever -- when did you first find out
9 about repackaging agreements?

10 A. I'm sorry; you said something about repackaging.
11 That's on the --

12 Q. Repackaging; when did you find out about that?
13 Did you -- did they mention that to you as a result of the
14 inspection about repackaging agreements from the suppliers?

15 A. I didn't think that was a problem, but once they
16 mentioned it and, kind of, pointed it out, you know, where
17 certain things, where it could have been a problem, I
18 understood. But --

19 Q. Okay.

20 A. -- I don't think it should have got this far. If
21 they -- I don't think they should be out there putting --
22 trying to put people out of business and reaching for money,
23 especially the small business. If you want -- no. I don't
24 think they should do any business like that. I'm sorry.
25 Reaching for money, putting people out of business; they

1 don't have nothing set up to help the type of company.
2 Everything, money, or get out of business. I think it's
3 terrible how they run that EPA.

4 Q. So you're saying that the EPA essentially put you
5 out of business with the Stop Sale and --

6 A. Exactly.

7 Q. -- this order?

8 A. It didn't have to -- it did not have to go that
9 far. All they had to do was tell me what I was doing wrong
10 with the labeling, labely -- the labeling, sorry, could have
11 been corrected.

12 Q. Okay.

13 A They were -- I guess they were cool with
14 everything else, but the rodenticide packaging could have
15 been corrected. All this stuff could have been corrected.
16 But again, these -- they so money hungry and reaching for --
17 to trying to put the small companies out of business. This
18 stuff --

19 I'm sorry, I'm getting a little upset.

20 Q. Okay. Well, just --

21 A. If this -- rodenticides are so bad, why they
22 letting these companies make it? That's the terrible part
23 about it. Then they want to come mess with the small
24 companies about selling it. However we sell it, whether we
25 sell it in big bulk, it's still going to be a problem. I

1 don't have -- I don't have any business -- I don't have any
2 problem selling to whoever wants to buy it. But the thing
3 is, don't just mess with me; mess with the people who make
4 the stuff. If you don't like it -- if you don't like how --
5 if it's killing people and it's that toxic, stop letting the
6 people -- let's stop letting companies make it. That's all
7 I'm saying.

8 I mean, I've been in this business 34 years. No
9 one have never been hurt, harmed, no dog, no cat, no human,
10 no nothing. We take pride in that.

11 Q. All right. So you're not aware then that -- of
12 any harm being done to any of your customers who purchase --

13 A. Not since --

14 Q. -- your product?

15 A. -- I've been in the business. Because I've heard
16 of companies having problems, but that stuff is not that
17 toxic. It can barely kill what its designed to kill; the
18 rats and the mice.

19 Q. All right. Well, you would agree that the product
20 has to be used safely, don't you?

21 A. Oh, yeah. I pointed that out earlier. I mean,
22 I'm -- I'm --

23 Q. And you don't have any problem --

24 A. Safety's first. I mean, you know, but the thing
25 is, they try to make it look like everything is so toxic. I

1 was listening to this guy that was just up here, and the
2 fines are ridiculous. They -- I mean, everything is just
3 money driven. And I just think it's terrible.

4 Q. Okay. But you're not saying that you were not
5 willing to --

6 A. I'm not saying I did something wrong. Was I
7 running the company perfectly? No. I -- I be the first to
8 tell you once they pointed it out to me, but I was, kind
9 of -- I didn't -- I wasn't aware of that at first. I
10 thought the -- this EPA form covered me for everything I was
11 doing.

12 Q. All right.

13 JUDGE WRIGHT: Okay, can we take a pause? I think
14 the court reporter may be having a little difficulty if
15 you're talking before he gets the full question out.

16 THE WITNESS: Okay. I'm sorry.

17 JUDGE WRIGHT: So if you guys can coordinate, let
18 him finish before you begin answering, that would be great.

19 MR. RAYMOND: The recording will be verbatim what
20 we're doing here.

21 BY MR. RAYMOND:

22 Q. Okay, let me ask you a little bit more about your
23 Overland facility on Woodson Road. What, when it was in
24 operation, what did you do out of the Woodson Road facility?

25 A. Pretty much the same thing; retail sales.

1 Q. Was it on sale -- what about producing? Did you
2 do anything else besides just sell product to --

3 A. We did some service calls out of there also, but
4 mainly just retail sales.

5 Q. Retailers and service calls. All right, now, let
6 me go to July of 2023. Do you remember that the EPA came to
7 your Woodson facility in July of 2023?

8 A. Yes, ma'am. Yes, sir. I'm sorry.

9 Q. And how did you find out about that? Did you know
10 ahead of time or not?

11 A. The secretary called me. I was at the Grand
12 location, and she said, "The EPA is here." And I just said,
13 "Well, what are they looking for?" And she said, "They
14 want" --

15 Q. All right. And who was that, that notified you
16 about --

17 A. The secretary at the store, Stacy.

18 Q. Stacy.

19 A. Yeah.

20 Q. Okay.

21 A. She said, "The EPA is here. They was -- they
22 looking to do an inspection." I said, "An inspection?" I
23 said, "Well, just tell them to hold up. I'm on my way
24 there." And I said I can get there within 15, 20 minutes.

25 Q. All right.

1 A. So when I was there, Candace -- Ms. Burton [sic]
2 was there.

3 Q. All right.

4 A. And I asked her what was going on. She said,
5 "We're here to do an inspection." I said, "Well, why you
6 guys didn't call first?" You know, and then she say,
7 "Well" -- took me down some road where they don't need --
8 that "we don't have to call. We're just doing some type of
9 pop-up." And I said, "Candace, you can't do this because we
10 just waiting on my on my attorney. And I don't have no
11 problem doing it. But you can't pop up and want to do an
12 inspection."

13 Q. All right. So did they come into the store? How
14 many was it, Ms. Denbar and who else was it there? Was it
15 two of them?

16 A. It was her and another young lady. I can't recall
17 her name.

18 Q. All right. So did they come into -- did you let
19 them in -- come in to the store?

20 A. I'm sorry?

21 Q. Did they come into the store?

22 A. Yeah. Once I got there, I told them to come on in
23 because it was July. It was a little warm outdoors. And we
24 came in, and she looked around and started jotting -- making
25 notations of certain things. And she asked me, was we

1 selling this or this or this? And I told her, no. You
2 know, we -- after then, she left the store. Went on where
3 she was going.

4 Q. And you said she asked you about sales. Tell me
5 what you remember about that conversation.

6 A. Now, she ask me were we selling any -- any of the
7 rodenticides or insecticides out of the store? And I said,
8 no. Most of those are for the technicians. And the
9 secretary would take all the calls, you know, that was she
10 was -- she actually work that store, take all the service
11 calls.

12 Q. And you did -- tell me about -- describe the
13 rodenticides, where it was placed, and what -- what was
14 there. Where was it stored? And how was it displayed?

15 A. It was just a basic retail store. You know, we
16 have same thing, we have on Grand; those rodenticides,
17 insecticides, squirrel traps, and everything for pest --
18 everything you take to kill a pest, or trap a pest.

19 Q. But that was on display, but you weren't selling
20 it, you're saying, except to technicians?

21 A. Yeah. Exactly.

22 Q. Okay. Did you then notify the EPA inspectors that
23 that was what you were doing?

24 A. No. You did.

25 Q. Okay. That was later.

1 A. Yeah.

2 Q. But at the time of the inspection, did you --

3 Well, on your behalf, did you help me provide
4 information about what was there and what you were doing in
5 terms of sales?

6 A. Repeat that again, I'm sorry.

7 Q. I said, that you -- at -- following that, when
8 they came out in July, did you have me on your behalf
9 respond to the EPA with what product was there, pictures,
10 and what you were selling and so forth?

11 A. Yeah.

12 Q. All right. After that, did the EPA contact you
13 again about the July --

14 A. No. I didn't hear from them.

15 Q. -- 2023?

16 A. I didn't hear from them.

17 Q. You had counsel?

18 A. I did continue to call the Andrew guy, and he
19 never did call me back.

20 Q. So, did they ask for, or show for any more
21 inspections after --

22 A. No. They start --

23 Q. -- July?

24 A. -- sending people in the store, sending guys --
25 sending different people in the store, people that I really

1 wasn't familiar with. You know, I pretty much know all the
2 customers. I've been doing this 34, 35 years.

3 Q. How long been at -- how long did you operate -- or
4 when did you begin operating from the Woodson Road location
5 in Overland?

6 A. We had the -- I guess we had the store right -- I
7 want to say about eight years.

8 Q. Eight years?

9 A. Yeah.

10 Q. Okay. Eight years before 2022?

11 A. Yeah.

12 Q. Okay. So, you didn't show them around the Woodson
13 store --

14 A. Not the Woodson store.

15 Q. -- when they were there, did you?

16 A. I, kind of, learned some from the last store.

17 Q. But you said they were allowed to take pictures?

18 A. Yeah. They -- they -- I think they took pictures
19 anyway. They had taking pictures, I'm sorry.

20 Q. All right. Did they ask -- well, strike that.

21 Going back to July of 2023, did the -- once you
22 told them that you wanted your attorney present, did the EPA
23 offer to reschedule or come back to the -- your Woodson
24 store --

25 A. Well, I made a suggestion to them.

1 Q. -- for an inspection?

2 A. I said, "You guys can come back tomorrow, but I
3 have the attorney here and I'm not just going to let you
4 guys walk through my store and let y'all do what y'all did
5 to me on Grand."

6 Q. Okay. And what was the response from the EPA
7 representative?

8 A. She said she would be calling, and I never did
9 hear from her again.

10 Q. Okay. So, if they had arranged another inspection
11 and arranged for counsel to be there, would you have allowed
12 it then?

13 A. I would be more than happy to let them in. I let
14 them in the first time.

15 Q. Did you know that you had the right to ask that
16 counsel be present for the inspection? Did you know you had
17 that -- think you had that right to do that?

18 A. Yeah. Um-hmm.

19 Q. Okay. So, to be clear, let me ask again, since
20 the -- you received the Stop and Desist Order, you have not
21 repackaged any rodenticides or repackaged any insecticides;
22 is that correct?

23 A. No. No.

24 Q. All right. So, you pretty much -- you've fully
25 complied with the Stop Sale Order and Use and so on?

1 A. Yes, sir.

2 Q. All right.

3 MR. RAYMOND: That's all the questions I have,
4 Judge.

5 JUDGE WRIGHT: EPA, your witness.

6 MS. KACSUR: Your Honor, I would like to request a
7 10-minute recess before we resume.

8 JUDGE WRIGHT: Okay. That's fine. We will return
9 at 3:15.

10 MS. KACSUR: Thank you.

11 JUDGE WRIGHT: Okay. Go off the record.

12 (Whereupon, a brief recess was taken.)

13 JUDGE WRIGHT: On the record.

14 Okay, I just want to remind everyone, just, you
15 know, question then answer so we can have a clean record.

16 You may proceed.

17 MS. KACSUR: Thank you.

18 CROSS-EXAMINATION

19 BY MS. KACSUR:

20 Q. Mr. Wilson, in your testimony, you said that the
21 rodenticides that you sell are on your Form 3540-16;
22 correct?

23 A. Yes. I did. But I don't see them on there. I
24 don't see the page. This is -- it's a page missing from
25 here.

1 Q. I believe what you're holding is RX-1. I am
2 looking at RX-2. Do you have a copy --

3 A. Would it be listed on RX-2?

4 Q. I'm sorry?

5 A. Is it listed on RX-2?

6 Q. I was going to ask you to show us on RX-2 where --

7 A. I don't have RX-2. I don't see it. But when I
8 looked at this this morning; I didn't see the rodenticides
9 on here.

10 Q. So, to be clear, you do not see the rodenticides
11 on there?

12 A. I don't see the rodenticides on the form. This is
13 the form it should have been on, and this is attachment to
14 this one, and I don't see the rodenticides on here. I see
15 everything but the rodenticides.

16 Q. So, by 2023, you, to be clear, were just selling
17 pesticides to your technicians; correct?

18 A. I don't sell pesticides to the technicians. We
19 give the pesticides to the technicians when they go out to
20 service.

21 Q. Okay. Why were there prices next to the
22 pesticides in 2023?

23 A. Well, we never did take the prices down from when
24 we got the Stop Sale Order.

25 Q. You've also testified about a lot of safety

1 information that you provided to -- and directions that you
2 provided to customers. How did you ensure that all of your
3 employees across two stores were providing this information
4 to all of the customers?

5 A. Because we have training classes probably twice a
6 year.

7 MS. KACSUR: No further questions.

8 MR. RAYMOND: I have nothing further, Your Honor.

9 JUDGE WRIGHT: Would you like to move RX-1 --

10 MR. RAYMOND: Oh, yes. Yes. It's covered by our
11 stipulation, but I move for the admission of Exhibits --
12 Respondents Exhibits 1 and 2.

13 JUDGE WRIGHT: Any objection?

14 MS. KACSUR: No, Your Honor.

15 JUDGE WRIGHT: Okay. RX-1 and RX-2 are admitted.

16 (Respondent's RX-1 and RX-2 received.)

17 JUDGE WRIGHT: Let's see, I have just a couple of
18 questions, Mr. Wilson.

19 At the Overland facility, is that the facility
20 that there was -- that was an inspection, or they wanted to
21 inspect that --

22 THE WITNESS: That's the one --

23 JUDGE WRIGHT: -- in 2023?

24 THE WITNESS: -- they wanted to inspect, yeah.

25 JUDGE WRIGHT: And at that time, you were not

1 selling any --

2 THE WITNESS: No.

3 JUDGE WRIGHT: -- product?

4 THE WITNESS: No.

5 JUDGE WRIGHT: Okay. Is there product other than
6 the chemicals that were subject to the Stop Sale --

7 THE WITNESS: Yeah.

8 JUDGE WRIGHT: -- Order that you --

9 THE WITNESS: Yeah. Yes, we --

10 JUDGE WRIGHT: -- do sell?

11 THE WITNESS: Yes. We do.

12 JUDGE WRIGHT: Out of the location in --

13 THE WITNESS: Out of both --

14 JUDGE WRIGHT: -- Overland?

15 THE WITNESS: Really, out of both locations, but
16 the profit just wasn't there, so we really couldn't deal
17 with those.

18 JUDGE WRIGHT: So as of now, you're no longer --

19 THE WITNESS: I mean, they --

20 JUDGE WRIGHT: -- selling --

21 THE WITNESS: -- actually shut us down. I mean --

22 JUDGE WRIGHT: So as of now, you're -- those shops
23 are just closed?

24 THE WITNESS: Closed. Exactly. After 35 years.

25 JUDGE WRIGHT: Okay. Is there anything that

1 wasn't covered that you would like for me to know?

2 THE WITNESS: I don't want this to get personal,
3 but I just think -- I think they need to handle that EPA a
4 little better than what they doing. You know, they -- they
5 come at you. They think -- you know, they don't -- it's
6 like you've been working all your life, and they don't
7 see -- just, where you get this from? How you get that?
8 You know, after 35 years, you still have to hear this type
9 of stuff. You know, and I'm thinking, they -- I actually
10 thought they were there -- if something were wrong, they
11 would help me straighten it out. As opposed to going -- I
12 mean, you lock the doors, get out of here, don't do this,
13 don't do that, don't do this. You know, are you still
14 selling that? They wasn't happy until they seen those doors
15 closed.

16 JUDGE WRIGHT: All right. I have no further
17 questions. Thank you, you can step down.
18 (Witness excused.)

19 JUDGE WRIGHT: Does Respondent rest?

20 MR. RAYMOND: We have no further evidence, Your
21 Honor.

22 JUDGE WRIGHT: Okay. And EPA rest their case
23 already, so --

24 MR. RAYMOND: We rest.

25 JUDGE WRIGHT: All right. It looks like we are at

1 the conclusion of this hearing.

2 MR. RAYMOND: Very efficient, Judge.

3 JUDGE WRIGHT: I just want to recap the exhibits
4 that we have in. We have RX-1, RX-2. There's a Joint
5 [Exhibit 1](#), and that's the joint stipulations. And then we
6 have Complainant Exhibits 1 through 14 -- CX-1 through CX-
7 14, and then [CX-17](#) through [CX-32](#).

8 And EPA does not wish to introduce CX-15 and CX-
9 16?

10 MS. KACSUR: No, Your Honor.

11 JUDGE WRIGHT: Okay. So, the record at the
12 conclusion of this hearing will be closed for evidence.
13 Everything is in that will go into the decision.

14 We will be receiving a transcript from the court
15 reporter in due time. And once we do get that, we will
16 provide an electronic copy to the EPA and Respondent.
17 You'll have an opportunity to look that over and suggest any
18 corrections. And then I will issue an Order outlining the
19 post-hearing brief schedule.

20 And that's basically what you -- what, kind of,
21 takes place in place of the closing arguments you normally
22 do. So, if you have any questions that come up about the
23 transcript, you can just call the office, and they can deal
24 with that.

25 MR. RAYMOND: You mean the OALJ office, Judge?

1 JUDGE WRIGHT: Yeah. Yeah.

2 MR. RAYMOND: All right.

3 JUDGE WRIGHT: That's it. We'll go off the
4 record.

5 (Whereupon, at 3:23 p.m., CST, the hearing in the above-
6 entitled matter was closed.)

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REPORTER'S CERTIFICATE

DOCKET NUMBER: FIFRA-07-2023-0135

CASE TITLE: Timothy Wilson, d/b/a Wilson's Pest Control

HEARING DATE: Tuesday, February 25, 2025

LOCATION: St. Louis, Missouri

I hereby certify that the proceedings and evidence herein are contained fully and accurately on the tapes and notes reported by me at the hearing in the above case before the Environmental Protection Agency, and that this is a true and correct transcript of the case.

Date: February 25, 2025



Elaine M. LaRosee, CDLR

\$	above (1) 141:12	91:5;141:2;159:11; 162:6;163:25;164:1, 5;170:15;171:16; 172:4;173:7,9,11; 174:19;175:14; 178:14;179:12; 181:6,9;191:10; 198:21;199:9	137:4 affects (1) 128:9 affixed (1) 43:21 afternoon (1) 67:24 again (35) 24:24;36:2;57:8; 66:8;67:9;94:18; 96:3;108:5;109:14; 111:2,6,17;112:19; 113:3;117:6;122:23; 124:2;126:10; 127:23;128:9;132:1; 133:22;134:15; 140:1;144:24;155:1; 173:19;176:14; 177:3;182:2;186:16; 192:6,13;194:9,19	14;72:12 ALJ (1) 4:6 All- (3) 36:11;38:15;43:11 allege (1) 95:10 allow (9) 9:3;53:13;65:17; 78:24;87:25;153:22; 158:19;159:9;176:17 allowed (7) 6:21;20:7;76:21, 23:98:11;193:17; 194:11 allows (2) 158:20;159:11 All-Weather (4) 36:19;37:7;38:23; 39:11 Almase (1) 4:9 almost (3) 72:16;75:1;83:9 along (5) 25:20;30:16;60:16; 62:25;119:13 Alternate (3) 36:24;37:8,13 alternative (1) 35:25 always (3) 92:7;149:24; 165:18 Amelia (1) 46:21 amended (2) 25:18,20 Amendment (6) 25:11,13;28:16; 36:11;40:22;44:7 among (1) 95:14 amount (10) 14:10,11,12;56:25; 114:22;115:6;124:5, 11;128:14;130:16 amounts (3) 13:3;14:11;83:22 analysis (2) 144:19,23 and/or (1) 8:1 Andrew (10) 18:13,16,17;21:25; 22:18;62:24;177:10; 180:8;181:17;192:18 Andrew's (1) 180:8 animal (7) 42:17;83:25;84:11, 14;89:2;119:12,12 animals (10)
\$1 (2) 110:9;117:7	above- (1) 201:5	Adam (1) 4:19		
\$10 (1) 110:12	abrasive (1) 53:9	Add (1) 37:1		
\$12,870 (2) 125:3;129:4	Absolutely (1) 16:14	added (4) 25:19;42:10;114:3; 115:20		
\$149,659 (1) 135:13	accept (1) 101:10	additional (6) 23:24;30:3;123:10, 12,25;124:1		
\$18,317 (3) 125:4;129:5;134:7	Accepted (11) 26:1;28:20;36:18; 37:7;38:15,22;39:11; 41:3;44:13;79:11; 99:24	Additionally (1) 9:2		
\$2,830 (1) 131:21	access (6) 21:10,16;24:18; 73:1;80:2;107:5	address (4) 5:20;41:20;46:6; 157:1	age (2) 149:1,6	
\$2,860 (1) 124:21	accessibility (3) 145:18;148:21; 149:22	addressed (1) 141:2	agencies (2) 88:1;171:21	
\$28,600 (2) 121:8;130:19	accessible (4) 49:24;64:22; 118:18;145:16	addresses (2) 110:7;156:19	Agency (15) 4:12;8:23;11:8,11; 12:25;14:13;17:15; 25:15;52:22;54:10, 24:96:5;101:21; 103:5;163:14	
\$4,250 (2) 135:2,8	accidental (3) 34:25;43:4;81:20	adjust (1) 115:20	Agency's (1) 5:17	
\$4,290 (3) 125:1;128:25; 129:3	accommodated (1) 177:3	adjusted (1) 125:1	aggregation (1) 32:19	
\$5,094 (1) 132:9	according (2) 107:1;175:24	Adjustment (8) 114:16,18,25; 115:1,2,4;121:3; 139:3	ago (2) 176:5,8	
\$6,049 (1) 135:9	account (4) 110:18;113:10,19; 145:6	Adjustments (8) 114:24;138:11,17, 21,25;141:21; 142:18;148:11	agree (3) 22:3;146:19; 187:19	
\$7,150 (6) 117:17;121:6; 124:21;127:12; 130:2;133:16	acronym (1) 98:22	Administrative (1) 4:8	agreed (1) 35:23	
\$7,250 (1) 132:12	acronyms (2) 5:22,22	admissibility (1) 6:12	agreement (13) 15:8,13,17;16:3, 17;17:19;76:15; 77:12,13,25;78:1,9; 82:23	
[across (6) 108:10;117:9,13; 120:12,17;197:3	admission (1) 197:11	agreements (10) 17:18;70:15,17,22, 23,24;71:3,9;185:9, 14	
[individual (1) 41:6	Act (6) 9:5;10:25,25;11:2; 90:1;153:23	admitted (3) 6:18;8:2;197:15	Agriculture (15) 17:9;52:22;94:8; 104:10,12,17;107:2; 158:14,17;174:5,17; 175:1,8;176:4,18	
[Master (1) 41:6	action (1) 113:16	admitting (1) 7:2	Agriculture's (1) 59:23	
[sic] (11) 8:5;24:4;56:16; 156:12,25;162:1; 164:23;173:25; 178:3;182:8;190:1	actions (3) 113:13,14;119:19	adult (3) 118:25;149:9,10	ahead (9) 47:1,4,7;48:14; 63:13;95:1,16; 142:16;189:10	
A	active (10) 13:13;21:14;38:7; 43:16;112:10; 123:11;146:21; 152:17;172:25;173:4	advice (1) 76:1	aid (5) 23:22;35:12;42:10,	
abbreviated (16) 27:4,9;29:17,21; 98:7,15;109:3;123:9; 131:12;140:4,10,12, 15;141:18;151:10,15	activity (1) 143:9	advising (2) 69:1;72:18		
ability (1) 24:13	actual (12) 112:21,24;113:4,7; 143:6;145:21,22,24, 24;158:12;173:12; 183:4	affect (2) 127:25;147:20		
able (19) 11:16;15:11,16; 20:3;34:23;47:19; 50:9,17,19,21;53:11; 64:17;88:4;90:18; 93:2,4;98:24;123:19; 169:20	actually (32) 8:3;14:23;48:15; 51:11;56:20;62:14; 65:6,10;67:11;70:19;	affected (1)		

80:21;81:21;84:9; 119:14;128:9; 146:25;149:22,23,24; 166:24 annual (9) 17:14,21;19:3; 55:2;56:23;83:3,4; 174:10,13 annually (4) 14:8;53:21,22;83:5 anonymous (1) 87:18 Ant (5) 125:15;126:19,23, 23;132:23 anticipated (2) 112:21;113:4 anticoagulant (1) 118:14 anti-coagulants (1) 42:15 anticoagulation (1) 123:12 anymore (1) 185:6 apartment (5) 87:6;171:6,7,10,19 apologize (2) 36:10;153:4 appear (4) 17:17;19:7;49:22; 76:8 appeared (4) 19:6;64:20;65:5; 69:10 Appendix (19) 108:25;109:11; 110:15;111:17; 114:24;120:24; 124:14;128:17; 130:3,10;131:22; 133:17;135:3;139:8; 142:18;147:22; 148:1;153:11,14 appliance (1) 73:1 application (1) 152:10 applications (2) 107:12;109:23 applicator (15) 54:15;55:1,4; 59:17;85:5;105:6; 106:22;107:7,13; 109:17,20,22;117:2; 149:15;159:6 applicators (9) 89:25;90:9;94:14; 104:20;106:24; 107:9;160:19,20; 172:5 applicator's (3) 159:7,8,10	applied (10) 13:15;42:21;58:19; 61:9;81:24;87:4; 152:6,10,12,21 applies (3) 57:9,10;136:15 apply (13) 12:17;13:23;20:15; 58:11;74:24;79:25; 87:11;90:4;91:3,9; 92:25;166:22;170:18 applying (3) 61:14;76:17;81:12 approve (2) 14:14,16 approved (13) 26:5;29:4;31:14, 25;34:21;36:14,18; 38:18;40:24;42:22; 44:9;87:9;165:23 aquatic (1) 152:25 arduous (1) 12:24 area (6) 23:3;43:9;61:6; 68:23;152:12;157:10 areas (2) 51:6;113:9 arguments (1) 200:21 ARMS (1) 138:6 around (7) 56:7,12;167:15; 174:14;175:9; 190:24;193:12 arrange (1) 94:13 arranged (2) 194:10,11 arrangements (2) 176:25;177:8 arranging (1) 177:24 arrive (2) 66:2;123:15 arrived (7) 18:22;46:20;62:2; 66:7,10;69:5;174:9 arrives (1) 107:22 assess (6) 106:7,11;111:4,15; 140:18;141:7 assessed (15) 117:5,10,25; 118:10,11;119:6,15, 21;122:25;123:5,21; 124:13;131:13; 137:5;140:5 assesses (1) 108:7	assessing (6) 108:6,13;116:9; 122:8;127:1;144:16 assessment (3) 141:24;146:18; 148:19 assign (1) 12:5 assigned (9) 68:3;105:18;106:2, 5;108:10;109:5; 111:18;118:5;146:16 assigns (1) 112:15 assistance (10) 50:20;53:2;59:11; 74:5;92:3,5,7,9,10,14 associated (6) 110:7;112:4;114:5; 148:7;149:13;152:2 associations (1) 59:16 assume (1) 143:5 assumption (1) 142:5 Assurance (1) 9:14 ate (1) 89:11 attached (5) 34:10;42:1;45:17, 21;98:12 attachment (2) 97:18;196:13 attempted (9) 46:17;47:18;48:1, 5,8;49:4;50:7;94:7,8 attempting (1) 50:10 attempts (1) 46:18 attendance (1) 12:13 attention (3) 94:18;148:12; 152:1 Attorney (12) 4:9,10;5:23;47:3; 65:23,24;68:2,4; 101:15;190:10; 193:22;194:3 attract (2) 21:15;81:23 attractant (2) 21:14;81:22 attraction (1) 84:5 authority (3) 92:25;171:5,22 authorized (3) 4:7;153:23;175:20 automatically (2)	14:18;140:18 available (8) 64:24;79:25;82:1, 10;93:13,16,20;150:8 average (2) 80:25;110:6 avoid (1) 50:20 awaited (1) 66:1 aware (20) 46:2,10;52:15; 59:6,8,17;60:7,8; 62:15;68:7,9;70:19; 71:19,22;75:2,6; 94:16;150:16; 187:11;188:9 away (2) 42:9;183:4	21:2;36:2;74:25; 76:7;150:25 bags (30) 23:2,19,20,23,24; 24:6;34:7,11,15,18; 35:12,25;38:5;41:24; 42:2;45:9,18,22; 49:11;118:10,17,19, 21;119:10;123:8; 145:19;148:22; 150:22;151:16;184:8 bait (42) 21:4,13;31:22; 32:5,8,24;33:2;35:4, 5;37:3,4,25,25;38:6, 8,11;40:6,10,15,18; 41:13,17,21;42:23, 24;43:12,24;44:2,19, 21,25;46:14;49:15; 72:25;74:2;76:6; 80:1;81:25;149:21, 21;150:7,11 barely (1) 187:17 Barton (1) 181:3 base (45) 61:8;110:17,18,22; 114:17,22;115:4,8, 12,17,21;117:15,21; 121:1,6;122:15; 124:17,19,20,21; 125:1;127:10; 128:20,24;129:25; 130:14,18;131:17,20; 132:3,7,8;133:9,12, 16,24;134:4,5;135:1, 2;136:17;140:3; 147:20;148:3,4 Based (32) 28:7;31:13;33:25; 47:9;95:19;99:13; 109:14;112:10; 116:21;117:19; 118:1;120:16; 127:17;130:11; 131:19;137:18; 139:12,23;140:6; 141:10,24;142:1,5; 143:21;144:12,13; 145:15;146:7,20; 149:3;175:17,23 basement (2) 167:21;178:14 basic (2) 165:20;191:15 basically (1) 200:20 basics (1) 165:22 baskets (1) 21:1 Bayer (1)
B				
Bachelor's (1) 103:25 back (56) 8:9,13;14:20; 19:10;20:6,7,21; 22:9;23:3,8;29:2; 30:6,12,25;33:7; 35:6;40:8;41:11; 43:9,20;44:22;52:16; 57:21,24;66:7;67:24; 72:1,10;91:19;93:23; 96:8;98:5;102:6; 120:3;126:24; 140:11;142:8;152:8; 155:12,15;156:13; 159:21;160:5,15,18; 161:19;163:25; 166:13;173:8; 181:21,22;182:19; 192:19;193:21,23; 194:2 backing (1) 112:12 backpack (1) 152:13 backside (3) 27:22;28:4;33:14 backwards (1) 139:5 bad (2) 167:10;186:21 bag (22) 25:5;28:1;30:9,16, 18;33:10,13,18; 34:24;35:15,17;38:1, 4;40:11,17;41:14,18, 19;44:24;45:3;86:25; 140:11 bagged (1) 49:25 baggies (5)				

93:5 became (2) 51:15;60:15 become (4) 84:10;89:7;92:19; 105:20 becomes (1) 13:5 Bednar (18) 9:13,15;10:3,7,14; 23:9;27:13;35:19,21; 36:1,49:4;51:3;58:2; 6;83:15;86:13;99:20; 149:19 B-E-D-N-A-R (1) 10:16 began (1) 19:3 begin (5) 5:11,20;8:21; 188:18;193:4 beginning (5) 48:12;97:8;100:14, 15,16 begins (2) 35:19;153:14 behalf (4) 71:20;173:16; 192:3,8 behind (11) 19:1,15;25:2; 46:22;49:21;52:13; 72:25,25;93:22; 101:12,12 Bell (3) 25:22;70:16;71:21 Bell's (1) 78:23 Bell-type (1) 71:8 bench (1) 20:13 benefit (1) 15:15 benefits (1) 71:15 besides (4) 68:25;159:3; 162:11;189:2 best (1) 73:12 better (3) 36:1,158:1;199:4 bifenthrin (2) 152:18;164:25 Bifethrin (1) 164:22 big (5) 61:1;76:13;93:5; 98:10;186:25 big-box (1) 56:21 bigger (1)	184:16 biggest (1) 183:3 billfold (1) 63:20 bins (3) 25:2;49:11;64:24 Biology (1) 103:25 bird (1) 89:13 birds (1) 149:22 bit (17) 12:15;14:21;23:14; 53:9;56:15;58:20; 67:23;88:24;94:21; 95:2,16;100:9; 112:12;142:7;156:6; 157:12;188:22 Bitrex (3) 31:23;32:5,24 black (1) 157:10 blank (1) 20:14 bleeding (3) 42:20;118:15; 123:13 block (19) 21:4,15;35:10; 36:8;37:12,13,13; 38:11;40:19;44:2; 116:3,4,5,6,7;121:14, 14,15,16 blocks (58) 21:13,13;35:4,5, 16;36:14,23,24; 37:12,21,22,25;38:6, 8,18;40:6,10,15; 41:13,17,21,24;42:2, 6,23,24;43:12,25; 44:7,9,13,17,25;45:4, 8,10,14,18,22;46:14; 49:15;72:25;73:9; 74:2;76:6;89:12; 117:9;118:3,9,12; 121:12;129:14; 145:18;149:13; 150:12,14,24;167:25 blocks/ (2) 36:23,24 blood (1) 83:20 Blox (7) 36:12,19;37:7,8; 38:16,23;39:12 blue (6) 37:22;38:4;116:5; 121:12,13,14 board (1) 117:13 body (4)	147:3;149:3,4,8 booklet (2) 98:12,14 both (17) 21:3;67:3;79:2; 92:15;97:2,3;101:2, 11;116:11;166:11; 169:3;171:2,4; 183:19,22;198:13,15 bottom (3) 97:5;153:20;154:6 bought (3) 65:9;161:19; 165:15 Boulevard (3) 9:9,16;18:2 box (6) 32:8,14,19;61:1; 78:16;80:2 boxes (2) 166:23;167:17 Branch (2) 9:13;10:18 brand (3) 19:8;37:8;78:17 branding (2) 78:18,18 break (5) 57:18;89:16;90:18; 102:4;155:10 breaking (1) 90:5 brief (7) 5:13,14;57:23; 154:25;155:14; 195:12;200:19 briefly (1) 20:7 bring (1) 180:20 broad (2) 14:24;107:21 broader (1) 58:20 broken (1) 89:17 brothers (1) 160:1 brown (2) 35:15;116:6 bucket (2) 123:18;148:25 buckets (2) 88:24;89:16 building (3) 22:22;70:11;102:5 bulk (2) 89:16;186:25 bunch (1) 49:8 burden (3) 60:2,10;181:3 burning (1)	95:11 Burton (1) 190:1 business (72) 4:4;9:17;18:24; 27:19;46:21;47:8; 52:2,5;56:1,1;70:18, 25;72:17;75:2;88:23; 90:8,10;91:4;92:4, 20;93:18;105:5,9; 106:20,22;108:11; 109:12,18,25;110:3, 6,7,10,19,22;117:2, 14,20;131:20;137:1, 2;138:5;142:3; 143:24,25;144:1; 148:2;157:13,13,14, 15;158:6;159:17,22, 25;161:7;173:24; 182:24,25;183:10,24; 184:22;185:22,23,24, 25;186:2,5,17;187:1, 8,15 businesses (3) 70:18;88:10,18 busy (2) 20:7;46:23 buy (14) 60:21;80:25;81:16; 158:11,20;162:3,7,8; 167:3,17;170:25; 172:24;184:16;187:2	177:10;181:5;189:11 calling (2) 177:24;194:8 calls (8) 19:16;63:14;103:7; 184:4;189:3,5;191:9, 11 came (18) 61:25;65:9;75:18; 161:19;173:24; 174:22,23;175:1,1; 176:10;177:1,11; 178:6;180:13,18; 189:6;190:24;192:8 can (224) 5:11,12;7:2;9:25; 10:13,15;12:15,20; 13:3,5;14:21;15:20, 24;16:2,10,12,16; 17:6,18;18:20;19:11; 21:6,12,21;22:14,19; 23:11,11;24:1,24; 25:10;26:7,12,18,21; 27:2,6,15,20,23;28:2, 15,22;29:6,10,15,16, 19,23;30:1,7,10,14, 19,23;31:1,8,21;32:2, 2,6,15,21,21,25;33:8, 11,15,19;35:6,14,18; 36:16,16,20;37:5,5,9, 16,16,18,23;38:2,2, 13,20,20,24;39:3,6,9, 10,13,18,22;40:1,1,5, 8,13,13,21;41:1,4,12, 15;42:9,9,13;43:7,7, 12,14,18;44:6,11,11, 14,22;45:1,5;46:8,18; 47:10,17,24;48:11, 14,18,22,25;49:4; 50:2;52:6;57:19,22; 58:2,14,16;59:15; 60:20;67:18;68:23; 69:3;71:11;73:12,12, 14,16;76:9,10,24,24; 79:15;81:9,12;82:13; 83:10;84:1,15,24; 85:1;87:17;89:7; 90:11;91:16;92:21; 93:4,7,9;97:25; 98:25;100:9;102:6; 103:5,9;107:6; 113:13;114:11,13,15; 115:8;119:13;120:3; 121:17;126:10; 134:15;138:3,3; 146:8;153:7,9,11,13; 155:6,9,18;161:23; 163:12;164:19; 165:17;167:5;170:5; 171:9,10,18;172:2,4, 24;175:6;177:6,14; 181:5,24;182:15; 187:17;188:13,17;
C				
cafeteria (1) 102:5 calculated (2) 9:24;115:15 calculating (3) 108:23;128:23; 144:16 Calculation (9) 108:19;114:6,23; 121:23;125:9; 129:10;131:1; 132:17;134:10 calculations (2) 136:5;145:5 call (25) 9:12,22;10:2; 18:23;19:12;21:4; 47:4,7;60:25;61:2; 94:17;103:5;155:3, 17;170:4;173:2; 177:20;179:21; 181:22,23;190:6,8; 192:18,19;200:23 called (14) 6:22;10:8;14:8; 47:1;103:13;106:11; 107:5;138:6;143:22; 155:22;161:25;				

189:24;194:2; 195:15;199:17; 200:23,23 Candace (8) 9:12;10:3,7,14; 178:16;179:21; 190:1,9 C-A-N-D-A-C-E (1) 10:16 candy (1) 118:17 careful (1) 170:17 Carpenter (1) 126:19 carry (4) 81:18;82:11; 171:18;173:3 case (34) 5:14;9:22;11:8; 12:6;17:3;51:14; 68:3;74:8;75:16,17; 87:1;95:18;106:2,3,4, 5,8,15,16;108:10; 111:3;117:7,10; 125:23;126:6,11,21; 139:25;140:23; 141:12;147:11,25; 152:10;199:22 case-in-chief (1) 5:17 cases (11) 12:3,5;19:18;47:7; 105:18,25;138:4,7; 140:25;141:9;170:11 casework (1) 12:6 cash (1) 19:16 cat (2) 89:14;187:9 category (27) 85:8;109:12,15,16, 25;110:3,10,12,12, 20;111:20,22,23,25; 112:1,6,7;116:23,24; 117:1,4,8,20;131:20; 143:20;148:2;172:16 caught (1) 83:11 cause (5) 83:25;100:24; 101:1,2;123:12 causes (2) 84:18;118:15 Caution (5) 118:2,4;122:24; 127:18;146:10 Caution' (1) 111:20 cease (1) 183:13 Center (1)	138:4 Center/Front (1) 44:16 Central (1) 103:23 certain (5) 79:20;84:9;138:5; 185:17;190:25 certified (2) 90:20;107:13 chain (1) 84:13 change (14) 34:14;42:9;117:9, 12;120:12,15,17; 128:11,14;130:4,9; 131:22;133:18;181:1 changed (4) 25:18;63:19;124:5, 11 changes (2) 130:14;132:3 characteristics (1) 112:3 characterized (1) 53:7 charge (3) 54:25;157:20; 171:9 chart (7) 110:20;112:20; 113:2;117:19; 122:19;139:8;148:3 check (2) 86:8;105:6 checked (1) 104:19 checking (2) 25:16,16 Chemical (13) 9:13;10:18;158:11, 20;161:25,25;169:6, 17;176:15;179:6,9; 184:19,21 chemicals (9) 162:6,7;163:15; 164:21;169:16; 175:15;179:14; 183:2;198:6 chew (1) 21:15 Chief (4) 4:8;9:13;10:18; 104:15 child (1) 118:24 children (12) 14:3;42:16;43:5; 81:22;118:14,18; 145:16,18;148:15,21, 22;149:1 choose (2) 5:15,18	chooses (1) 91:4 chosen (1) 119:23 chronic (1) 112:4 citizen (1) 80:25 city (3) 156:22;157:8,17 civil (19) 9:24;106:12; 108:19;110:16; 113:18;114:6; 121:23;125:9; 129:10;131:1; 132:17;134:10; 140:24;141:1,4,5,8, 10;144:16 clarify (1) 115:6 classes (1) 197:5 clean (1) 195:15 clear (15) 23:2;28:1;30:8; 33:10;34:23;38:1; 40:11;41:14;44:24; 85:11;99:23;100:22; 194:19;196:10,16 client (3) 57:12;83:11,12 close (5) 5:17;159:18;162:1, 5,7 closed (6) 183:11;198:23,24; 199:15;200:12;201:6 closing (2) 43:4;200:21 club (3) 32:11;33:5;41:9 co-counsel (1) 4:16 code (17) 109:1,2,3;116:12; 122:11;127:5; 129:16,23;131:7,10; 132:24;134:19; 140:6;147:20,24; 148:7;153:18 Coffee (1) 136:4 collect (1) 68:22 collects (1) 110:5 college (2) 11:24;103:22 color (1) 40:6 colors (1)	49:14 Combined (1) 132:11 coming (5) 52:16;62:15;89:13; 104:8;111:17 commercial (9) 109:17;117:2; 159:8;160:19,20; 171:8,14,15;172:5 commit (1) 74:2 common (4) 5:22;74:8;87:16,22 community (1) 9:21 companies (18) 15:9,13;60:6; 70:15,16,22;71:4,5,8, 9;88:1;93:5;141:1; 186:17,22,24;187:6, 16 company (10) 12:22;15:11;26:18; 71:12;74:21;76:19; 91:3;184:22;186:1; 188:7 company's (1) 15:11 compare (1) 150:21 compared (2) 131:11;139:24 Complainant (2) 143:15;200:6 Complainants (1) 4:15 Complainant's (4) 6:7,8,17,19 complaint (2) 46:1;96:4 complaints (2) 12:7;95:9 complete (21) 15:18;16:4;24:9, 19;26:10,24;28:24; 29:12;39:1,16;43:6, 21;45:13,15;53:17; 72:7;77:14;88:4; 98:9,13;140:14 completely (2) 53:14;90:2 completing (1) 17:10 complexes (4) 171:6,7,10,19 Compliance (30) 9:14;46:12;47:9; 50:16,20;74:4;75:16; 76:4;79:10;89:19; 92:3,5,7,9,10,14,17; 93:9;95:22;111:13; 113:11,12;119:15;	120:11,15;124:5; 128:11;130:12; 137:14;141:14 complicated (1) 95:16 complied (2) 79:7;194:25 comply (9) 73:22;75:19;76:2; 77:10,20;79:12; 88:11,18;90:8 complying (4) 75:7,8,13,22 computer (1) 144:6 concentrate (3) 125:14;126:9,12 concentrated (1) 84:18 concentrates (1) 170:18 concerned (1) 58:13 concerns (2) 22:24;88:7 conclusion (2) 200:1,12 conclusions (1) 64:17 conduct (3) 17:24;105:17; 106:17 conducted (5) 9:15;55:21;104:18, 25;174:4 confers (1) 83:12 consent (3) 97:9;100:16; 101:14 consented (1) 19:2 Conservation (1) 103:25 consider (1) 74:4 considered (5) 43:10;67:17;69:2; 85:7;98:6 considers (1) 58:11 consist (1) 109:7 consistency (2) 108:6,9 consolidating (1) 91:20 consumer (12) 15:1;24:15;32:10; 33:3;41:8;72:5; 80:13,15;82:19; 166:3;169:2,9 consumers (27)
---	---	---	---	--

35:3;42:12;61:11; 69:12;72:19,21,22; 73:3,8,13;79:16;80:9, 15,23;81:4,6,11,15; 82:2,5,15,22;88:19; 90:14;161:16;168:6; 170:24 contact (7) 24:14;53:7;74:23; 87:2,14;170:3; 192:12 contacted (4) 47:3;52:21;53:1; 65:23 contain (2) 7:20;21:13 contained (1) 151:15 container (42) 15:6,7;20:9,9,10, 16,18,19;21:8;24:17, 18;26:10,20,24;27:9, 18,22;28:24;29:8,12, 21;30:12;31:3;34:24; 35:24;37:19;39:1,16; 42:25;43:3,11,13,22; 58:17,18;77:16;78:4, 4;81:9;98:10,12,14 containers (24) 15:18;16:4;20:14, 14,22;21:2,26:11; 27:1;29:1,14;39:8, 24;44:17,20;49:8; 74:3,3;76:12,13; 86:23;89:16,18; 91:21;128:3 containing (6) 34:8,11;37:2; 40:16;41:24;45:10 containment (1) 151:14 contains (1) 98:13 contaminated (1) 184:21 Content (1) 37:12 Contents (4) 36:23;45:22;77:15; 89:17 continuation (2) 39:5,20 continue (4) 68:21;109:21; 184:6;192:18 continued (2) 58:4;184:6 continues (1) 7:21 Contrac (24) 23:18,19;24:3; 25:7,11,25;26:5,14; 27:5,17;28:8,8;36:11,	14,18;37:7;38:5,9; 41:21;43:11;116:3; 121:13;122:4;129:14 contract (3) 16:17;184:4,4 contractor (1) 90:22 contractors (3) 90:10,12;161:5 Control (86) 4:4,23;5:3;10:25; 11:1;17:4,7,11; 18:15;21:23;26:9,23; 27:8,19;36:22;37:1, 11;38:25;39:15; 46:12;48:1;50:5; 51:17;52:9,20;53:25; 55:21,25;57:11;59:5; 61:13,18,20;71:5; 74:6;77:9,19;78:6; 80:6,11;82:14;83:2, 20;85:16;89:18; 90:21;91:1;98:21; 99:9,22;106:18,21, 25;107:7;113:25; 119:20;123:15; 125:14,15;126:8,12, 19,23;132:22,23; 136:25;137:19; 142:2;143:20;156:8, 11;157:19;158:8,12; 159:15;162:15; 173:6,6,10,12,16,17; 182:25;183:23; 184:2;185:5 conversation (6) 66:5;72:15;73:14; 76:4;94:16;191:5 conveyed (1) 69:18 cool (1) 186:13 cooperated (1) 178:18 cooperative (1) 56:9 coordinate (1) 188:17 coordinator (1) 17:13 copies (2) 5:24;163:1 copy (10) 38:22;45:11;96:18, 21,22,23;99:24; 163:5;196:2;200:16 Copying (1) 153:22 core (1) 178:15 corner (1) 100:9 corrected (4)	74:22;186:11,15, 15 corrections (1) 200:18 correctly (10) 28:9;31:15;34:12; 50:18;74:12;77:22; 90:3;138:19;141:16; 170:18 corresponding (4) 122:13;129:22; 131:17;134:24 Counsel (12) 48:18;57:12;67:15, 21;68:7;83:12;103:2; 143:14;154:13; 192:17;194:11,16 Count (23) 46:1;116:3,4,5,6; 122:4,5,6;124:22; 125:13,14,15;126:22; 134:11,13,15,19; 135:1,3,7;137:8; 143:6;153:8 counter (12) 19:1,14;25:3; 27:18;46:22;49:20; 52:13;93:22;101:12, 13;172:24;173:3 Countermeasures (1) 11:2 counts (91) 115:16,18,22; 116:2,12,17,24; 117:16,23;118:8; 119:7,16;120:7,24; 121:4,7,10,11,24; 122:2,3,11,15,19,19, 22;123:1,4,14,22; 124:6,11,15,24; 125:3,10,11;127:5,7, 10,14,20;128:5,11, 14,18;129:1,4,11,12, 15,16,25;130:3,4,7, 17,19;131:2,3,6,7,10, 11,18,22,23;132:2,5, 9,18,19,24;133:6,9, 15,17,18,25;134:2,6; 135:10,13;137:6; 139:20,24;141:16; 149:12;151:2;152:2, 18 couple (8) 56:7;96:12;99:17; 101:7;104:14; 107:19;127:24; 197:17 course (2) 61:23;106:17 COURT (4) 157:24;158:2; 188:14;200:14 Court's (1)	9:6 cousin (1) 160:6 cover (3) 78:1;86:1;170:8 covered (5) 165:5;176:1; 188:10;197:10;199:1 co-worker (1) 143:23 create (1) 60:14 created (2) 84:9;124:20 creating (2) 14:24;58:16 credential (1) 63:21 credentialed (6) 11:7,10;18:17; 105:16,20,23 credentials (16) 11:12,17;19:1; 46:25;47:12;62:3,7; 63:6,15,17,18;67:9, 10;100:18,20;178:5 criteria (1) 111:25 crops (1) 113:8 CROSS-EXAMINATION (4) 51:1;58:4;135:17; 195:18 CST (1) 201:5 Culpability (16) 111:14;113:20,21, 24;119:21;120:4,5,8, 17;124:11;128:14; 141:23;142:19,22; 143:11;150:16 culpable (1) 142:25 current (3) 10:17;104:2;136:9 currently (1) 23:16 customer (5) 19:25;61:8;75:3; 167:12;170:1 customers (20) 9:20;13:7;35:10; 49:25;61:4;64:23; 69:21,24;93:21; 160:17;161:11; 166:6,6,10;171:9; 184:11;187:12; 193:2;197:2,4 CX- (6) 27:15;29:2;98:17; 150:15;200:6,8 CX-1 (8) 6:8,19;21:17;23:8,	10,11;35:6;200:6 CX-12 (1) 29:23 CX-14 (2) 6:8,19 CX-15 (1) 200:8 CX-17 (4) 6:8,19;47:21;200:7 CX-2 (19) 22:11;27:12,13,14, 20,23;28:2;30:6; 33:7;37:23;38:2; 40:8,13;41:11;43:7; 44:22,23;45:13; 97:20 CX-20 (8) 107:23;111:8; 120:3;143:16; 153:12,14,20;154:3 CX-21 (27) 108:15;114:8; 121:17,18,20;125:5, 8;126:24;129:6,7; 130:22,23;132:13,14; 134:8,9;139:20; 147:19,25;148:10; 150:22,22,22,24; 151:2;152:1;153:7 CX-29 (7) 50:2,3;90:24; 94:18;96:11;99:20; 101:9 CX-3 (5) 25:8,23;26:12; 27:2;28:8 CX-30 (4) 36:9,16;37:5,16 CX-31 (6) 38:13,20;39:3,10, 18;40:1 CX-32 (7) 6:8,19;40:19,19; 41:1,2;200:7 CX-4 (8) 28:13,13,18,19; 29:6,15,24;31:13 CX-5 (4) 44:3,4,11;98:17 CX-6 (4) 31:19;32:2,21;34:1 CX-7 (3) 125:16,17,19 CX-8 (2) 125:25;126:3 CX-9 (2) 126:13,14
D				
d/b/a (1) 4:23 danger (2)				

118:13;146:11 Danger' (1) 112:2 dangerous (3) 42:16;81:24; 152:21 data (14) 13:13;73:2,6;87:8; 138:2;144:12,13; 147:4;169:10,11,24; 170:1,8,9 database (1) 138:6 date (6) 7:17,20;26:2; 47:17;48:5;97:6 dated (3) 7:24;8:5,6 day (10) 23:6;66:11;67:14, 24;93:23;172:6; 177:13,13;181:3; 184:3 days (9) 22:8;48:10;62:19; 63:4;93:6,7,7;96:12; 107:19 DC (1) 164:3 dead (4) 89:5,6,7,11 deal (3) 141:24;198:16; 200:23 dealer (5) 104:19;106:23; 117:2;158:8,11 dealer's (3) 157:20;158:13; 159:3 dealing (2) 19:22;60:7 dealt (1) 179:12 death (2) 83:25;84:18 decided (4) 17:11,22;46:11; 114:5 decision (1) 200:13 declare (1) 76:21 definitely (1) 75:19 definition (2) 14:24;58:20 definitions (1) 57:9 definitive (2) 64:17;65:8 degree (3) 11:24,25;103:24	delineates (1) 148:3 Demon (1) 164:22 demonstrate (1) 9:7 demonstrative (1) 6:23 Denbar (9) 178:3;179:23,25; 180:1,3;181:4,5,6; 190:14 denial (7) 67:17;69:1;134:14, 16,23;135:4;153:10 deny (1) 68:21 denying (1) 50:14 Department (17) 11:20;17:8;52:21; 59:22;94:8;104:9,12, 17;107:1;158:14,15; 174:5,17,25;175:7; 176:3,18 depend (1) 60:9 dependent (1) 149:6 depending (1) 54:1 depends (1) 149:5 derived (3) 136:7,19,24 describe (40) 12:15,20;19:11; 21:6,12,21;22:14,19; 24:24;25:10;27:15, 24;28:15;29:16;30:7, 10,14,19,23;31:2,21; 32:22;33:11,15; 37:24;38:3;40:5,9, 14;43:14,18;44:23; 45:1,5;46:8;106:1; 157:3;160:22; 161:11;191:12 described (3) 20:17;36:6;41:21 describing (4) 13:18;20:24;43:25; 50:7 designation (1) 4:8 designed (1) 187:17 Desist (1) 194:20 determination (4) 77:4;143:19; 145:12;146:18 determine (10) 47:8;50:15;64:10;	65:4;75:12,18; 112:17,25;136:25; 142:25 determined (17) 80:20;90:9;109:15; 110:1;115:23; 117:15,18,22;118:7; 122:18,21;123:3; 127:13,16,19;128:4; 139:6 determines (1) 112:7 determining (2) 113:11,20 devices (1) 19:13 die (2) 84:6;149:24 difference (2) 83:15;184:12 different (28) 15:7;20:18;23:16; 26:19,20;28:12; 58:18;68:8;71:9,14; 78:15;81:16,23; 83:22,22;85:9;90:5; 91:7,21;93:6;108:11; 131:10;133:5;140:6; 152:17;170:7,13; 192:25 differently (3) 182:24;183:1,9 difficult (3) 42:5,7;88:2 difficulty (4) 17:10;52:24;53:6; 188:14 diluted (2) 152:8,11 DIRECT (6) 10:11,20;77:1; 103:16;148:11;156:2 directed (2) 77:3,5 directing (1) 77:2 directions (5) 16:11;23:22;35:13; 87:10;197:1 directly (2) 123:19;164:2 discounted (1) 151:18 discuss (7) 9:24;12:7;23:7; 44:2;62:16;67:20; 92:18 discussed (3) 5:23;42:25;80:18 discussing (3) 25:17;68:14,15 discussions (1) 68:3	display (2) 19:18;191:19 displayed (2) 21:18;191:14 dispose (1) 13:15 distributed (4) 14:11;34:22;42:23; 57:1 distribution (10) 12:18;24:25;28:9; 31:15;32:10;33:3; 34:2;41:7;69:11; 79:20 distributor (1) 158:10 Division (1) 9:14 Docket (1) 4:5 document (16) 7:18;18:9;25:8; 31:19;36:10;38:14; 49:1;106:10;108:1, 22;115:17;122:1; 134:13;144:5;154:8; 172:6 documentation (1) 172:9 document's (1) 48:19 dog (3) 87:20;170:5;187:9 dollar (1) 115:4 done (14) 12:9,11;13:4;15:8; 22:8;47:25;51:20; 71:10;73:24;77:5,6; 83:9;88:24;187:12 door (2) 48:12;94:6 doors (3) 183:12;199:12,14 down (13) 85:4;96:2;101:17; 154:18;169:4,10; 173:24;176:21; 177:4;190:7;196:23; 198:21;199:17 Downtown (6) 49:10,19;54:21; 62:9;91:9,17 dozen (1) 12:12 draft (1) 22:8 drafted (1) 50:4 drawing (1) 151:25 drift (1) 104:21	driven (1) 188:3 drug (3) 32:11;33:4;41:9 drum (1) 162:10 due (1) 200:15 duly (3) 10:8;103:13; 155:22 dumping (1) 95:11 during (16) 12:13;19:25;38:5; 52:11;56:9;61:3,22; 64:12;66:19;74:1; 75:14,25;76:5;94:12; 156:14;180:20 duties (1) 104:16
E				
earlier (5) 35:5;154:24;178:3; 179:23;187:21				
early (1) 68:13				
eased (1) 183:4				
easily (1) 118:18				
eat (7) 21:10,15;84:13,15; 89:3,13;176:21				
eaten (4) 83:24;119:12; 124:3;149:24				
ECAD (2) 9:14,23				
edits (1) 22:9				
educate (1) 168:17				
educated (1) 169:6				
effect (3) 124:2,4;152:25				
effectively (1) 13:6				
effects (2) 112:4;119:14				
efficacy (2) 13:1;25:16				
efficient (2) 5:14;200:2				
efficiently (1) 48:24				
efforts (1) 75:19				
eg (1) 113:8				

egregious (1) 74:23	201:6	equitable (1) 108:14	154:8	exterior (3) 48:12;123:10; 167:19
eight (3) 193:7,8,10	entry (2) 48:12;153:22	ERP (17) 106:11;107:20,21; 110:21;111:7,17; 112:19;116:22; 117:19;120:2;140:6; 141:12;142:9;145:8; 147:22;148:9;153:12	example (4) 89:6,20;108:11; 115:3	extreme (1) 152:25
either (5) 42:16;100:23; 101:1;120:9;146:8	environment (7) 89:12;113:3,5,8; 149:17;151:4;152:22	especially (2) 118:14;185:23	Except (3) 137:8;139:19; 191:20	extremely (1) 118:15
electronic (4) 7:20;8:4,16;200:16	Environmental (20) 8:23;11:8,11; 12:25;14:13;17:15; 25:15;54:10,23;95:1; 111:13;113:1,6; 119:6;123:21;128:4; 141:21;148:12; 153:2;163:14	Essentially (11) 45:15;69:3;71:9; 80:14;106:6;108:5; 110:21;113:21; 146:23;151:14;186:4	excerpt (2) 35:14,19	eyes (1) 127:25
elements (1) 9:7	environments (1) 152:25	established (1) 61:6	Excuse (7) 7:15;39:9;57:12; 83:18;95:21;109:10; 143:14	F
eliminate (2) 152:25;169:19	E-P (1) 135:24	establishment (14) 51:18;52:2,9,23; 56:18;58:24,25;59:5; 7:60;3;91:12,13; 114:1;142:4	excused (3) 101:19;154:19; 199:18	facilities (4) 46:2;50:22;51:22; 56:23
ELMO (1) 6:22	EPA (140) 4:14,19;7:19,24; 8:9;9:3,7,13,23,24; 10:18;11:19;14:14; 15:22;16:1,10;17:1; 18:18;34:10,19,21; 35:22;36:4;42:1,22; 43:24;45:21;46:13; 21:47;12:15;50:14; 15:53;1:54;8,18; 55:21;56:18;58:11, 11,12;59:1,10,20; 60:1;62:23;72:7; 75:12,13;77:10,17, 17;78:5,7,10,20,20; 79:2,7,11,13;83:1; 86:6,22;87:9;91:1,11, 14;92:3,6;103:7; 104:3,4,6,8,22;105:1, 14,15;107:22; 109:13;111:4,10,15; 112:10,14,16,17,25; 113:10,19;118:6; 136:15,19,22;137:22; 139:7,12;140:18; 141:9,23;144:4; 145:3;146:17;147:5; 154:20;156:10; 162:19;163:5,18,22; 165:8,24;174:18,22, 22;175:1,2,17;177:9; 178:2,24,25;184:20; 186:3,4;188:10; 189:6,12,21;191:22; 192:9,12;193:22; 194:6;195:5;199:3, 22;200:8,16	establishments (3) 51:16;53:25; 104:19	exhibit (27) 7:3,17;8:2;18:7; 21:17,19;22:12; 47:22;55:19;79:5,5; 90:23;99:20;114:10; 142:11;143:15; 162:24;163:4,11,12; 164:14,19;165:1,2,4, 5;200:5	facility (33) 52:24;54:3,4,19; 55:10;56:12;60:15; 61:15;64:5;66:2; 69:21;70:9;77:17; 78:6,7,19,20;90:25; 91:2,5,14;94:23; 96:22;97:14;134:17, 18;135:6;183:17; 188:23,24;189:7; 197:19,19
else (11) 6:9;34:14;56:23; 73:21;76:9;92:21; 182:12,15;186:14; 189:2;190:14	EPA (140) 4:14,19;7:19,24; 8:9;9:3,7,13,23,24; 10:18;11:19;14:14; 15:22;16:1,10;17:1; 18:18;34:10,19,21; 35:22;36:4;42:1,22; 43:24;45:21;46:13; 21:47;12:15;50:14; 15:53;1:54;8,18; 55:21;56:18;58:11, 11,12;59:1,10,20; 60:1;62:23;72:7; 75:12,13;77:10,17, 17;78:5,7,10,20,20; 79:2,7,11,13;83:1; 86:6,22;87:9;91:1,11, 14;92:3,6;103:7; 104:3,4,6,8,22;105:1, 14,15;107:22; 109:13;111:4,10,15; 112:10,14,16,17,25; 113:10,19;118:6; 136:15,19,22;137:22; 139:7,12;140:18; 141:9,23;144:4; 145:3;146:17;147:5; 154:20;156:10; 162:19;163:5,18,22; 165:8,24;174:18,22, 22;175:1,2,17;177:9; 178:2,24,25;184:20; 186:3,4;188:10; 189:6,12,21;191:22; 192:9,12;193:22; 194:6;195:5;199:3, 22;200:8,16	estimate (1) 102:1	exhibits (16) 6:5,6,7,12,17,23, 23;8:1;56:16;100:4; 144:2;168:3;197:11, 12;200:3,6	fact (4) 60:24;137:18; 145:15;161:12
email (1) 164:11	EPA (140) 4:14,19;7:19,24; 8:9;9:3,7,13,23,24; 10:18;11:19;14:14; 15:22;16:1,10;17:1; 18:18;34:10,19,21; 35:22;36:4;42:1,22; 43:24;45:21;46:13; 21:47;12:15;50:14; 15:53;1:54;8,18; 55:21;56:18;58:11, 11,12;59:1,10,20; 60:1;62:23;72:7; 75:12,13;77:10,17, 17;78:5,7,10,20,20; 79:2,7,11,13;83:1; 86:6,22;87:9;91:1,11, 14;92:3,6;103:7; 104:3,4,6,8,22;105:1, 14,15;107:22; 109:13;111:4,10,15; 112:10,14,16,17,25; 113:10,19;118:6; 136:15,19,22;137:22; 139:7,12;140:18; 141:9,23;144:4; 145:3;146:17;147:5; 154:20;156:10; 162:19;163:5,18,22; 165:8,24;174:18,22, 22;175:1,2,17;177:9; 178:2,24,25;184:20; 186:3,4;188:10; 189:6,12,21;191:22; 192:9,12;193:22; 194:6;195:5;199:3, 22;200:8,16	evaluate (1) 109:13	existed (1) 46:10	factor (4) 113:14;121:9; 129:5;138:15
emails (1) 63:13	EPA (140) 4:14,19;7:19,24; 8:9;9:3,7,13,23,24; 10:18;11:19;14:14; 15:22;16:1,10;17:1; 18:18;34:10,19,21; 35:22;36:4;42:1,22; 43:24;45:21;46:13; 21:47;12:15;50:14; 15:53;1:54;8,18; 55:21;56:18;58:11, 11,12;59:1,10,20; 60:1;62:23;72:7; 75:12,13;77:10,17, 17;78:5,7,10,20,20; 79:2,7,11,13;83:1; 86:6,22;87:9;91:1,11, 14;92:3,6;103:7; 104:3,4,6,8,22;105:1, 14,15;107:22; 109:13;111:4,10,15; 112:10,14,16,17,25; 113:10,19;118:6; 136:15,19,22;137:22; 139:7,12;140:18; 141:9,23;144:4; 145:3;146:17;147:5; 154:20;156:10; 162:19;163:5,18,22; 165:8,24;174:18,22, 22;175:1,2,17;177:9; 178:2,24,25;184:20; 186:3,4;188:10; 189:6,12,21;191:22; 192:9,12;193:22; 194:6;195:5;199:3, 22;200:8,16	evaluated (1) 50:19	expanding (1) 92:21	factored (3) 110:19;113:12; 147:2
emergency (1) 119:2	EPA (140) 4:14,19;7:19,24; 8:9;9:3,7,13,23,24; 10:18;11:19;14:14; 15:22;16:1,10;17:1; 18:18;34:10,19,21; 35:22;36:4;42:1,22; 43:24;45:21;46:13; 21:47;12:15;50:14; 15:53;1:54;8,18; 55:21;56:18;58:11, 11,12;59:1,10,20; 60:1;62:23;72:7; 75:12,13;77:10,17, 17;78:5,7,10,20,20; 79:2,7,11,13;83:1; 86:6,22;87:9;91:1,11, 14;92:3,6;103:7; 104:3,4,6,8,22;105:1, 14,15;107:22; 109:13;111:4,10,15; 112:10,14,16,17,25; 113:10,19;118:6; 136:15,19,22;137:22; 139:7,12;140:18; 141:9,23;144:4; 145:3;146:17;147:5; 154:20;156:10; 162:19;163:5,18,22; 165:8,24;174:18,22, 22;175:1,2,17;177:9; 178:2,24,25;184:20; 186:3,4;188:10; 189:6,12,21;191:22; 192:9,12;193:22; 194:6;195:5;199:3, 22;200:8,16	even (15) 13:3;14:12;42:8; 58:19;71:12;72:6,10; 74:9;78:3;89:9,9; 98:13;100:9;141:4; 178:13	expected (2) 95:21;111:25	factors (17) 108:7;109:14; 111:6,10;114:4; 120:24;124:15; 128:18;130:3,10; 131:22;133:17; 135:3;137:14; 141:11;145:20;151:3
empirical (1) 147:4	EPA (140) 4:14,19;7:19,24; 8:9;9:3,7,13,23,24; 10:18;11:19;14:14; 15:22;16:1,10;17:1; 18:18;34:10,19,21; 35:22;36:4;42:1,22; 43:24;45:21;46:13; 21:47;12:15;50:14; 15:53;1:54;8,18; 55:21;56:18;58:11, 11,12;59:1,10,20; 60:1;62:23;72:7; 75:12,13;77:10,17, 17;78:5,7,10,20,20; 79:2,7,11,13;83:1; 86:6,22;87:9;91:1,11, 14;92:3,6;103:7; 104:3,4,6,8,22;105:1, 14,15;107:22; 109:13;111:4,10,15; 112:10,14,16,17,25; 113:10,19;118:6; 136:15,19,22;137:22; 139:7,12;140:18; 141:9,23;144:4; 145:3;146:17;147:5; 154:20;156:10; 162:19;163:5,18,22; 165:8,24;174:18,22, 22;175:1,2,17;177:9; 178:2,24,25;184:20; 186:3,4;188:10; 189:6,12,21;191:22; 192:9,12;193:22; 194:6;195:5;199:3, 22;200:8,16	everyone (4) 85:3,3;100:2; 195:14	expecting (1) 64:1	facts (1) 8:1
employed (3) 18:18;47:14; 106:24	EPA (140) 4:14,19;7:19,24; 8:9;9:3,7,13,23,24; 10:18;11:19;14:14; 15:22;16:1,10;17:1; 18:18;34:10,19,21; 35:22;36:4;42:1,22; 43:24;45:21;46:13; 21:47;12:15;50:14; 15:53;1:54;8,18; 55:21;56:18;58:11, 11,12;59:1,10,20; 60:1;62:23;72:7; 75:12,13;77:10,17, 17;78:5,7,10,20,20; 79:2,7,11,13;83:1; 86:6,22;87:9;91:1,11, 14;92:3,6;103:7; 104:3,4,6,8,22;105:1, 14,15;107:22; 109:13;111:4,10,15; 112:10,14,16,17,25; 113:10,19;118:6; 136:15,19,22;137:22; 139:7,12;140:18; 141:9,23;144:4; 145:3;146:17;147:5; 154:20;156:10; 162:19;163:5,18,22; 165:8,24;174:18,22, 22;175:1,2,17;177:9; 178:2,24,25;184:20; 186:3,4;188:10; 189:6,12,21;191:22; 192:9,12;193:22; 194:6;195:5;199:3, 22;200:8,16	evidence (10) 6:5;48:20;75:22; 83:6;145:6;150:7,17, 19;199:20;200:12	experience (7) 51:5,6,17;93:19; 113:24;119:25;142:6	failures (1) 9:4
employees (4) 90:11,18;110:8; 197:3	EPA (140) 4:14,19;7:19,24; 8:9;9:3,7,13,23,24; 10:18;11:19;14:14; 15:22;16:1,10;17:1; 18:18;34:10,19,21; 35:22;36:4;42:1,22; 43:24;45:21;46:13; 21:47;12:15;50:14; 15:53;1:54;8,18; 55:21;56:18;58:11, 11,12;59:1,10,20; 60:1;62:23;72:7; 75:12,13;77:10,17, 17;78:5,7,10,20,20; 79:2,7,11,13;83:1; 86:6,22;87:9;91:1,11, 14;92:3,6;103:7; 104:3,4,6,8,22;105:1, 14,15;107:22; 109:13;111:4,10,15; 112:10,14,16,17,25; 113:10,19;118:6; 136:15,19,22;137:22; 139:7,12;140:18; 141:9,23;144:4; 145:3;146:17;147:5; 154:20;156:10; 162:19;163:5,18,22; 165:8,24;174:18,22, 22;175:1,2,17;177:9; 178:2,24,25;184:20; 186:3,4;188:10; 189:6,12,21;191:22; 192:9,12;193:22; 194:6;195:5;199:3, 22;200:8,16	evidenced (1) 152:22	experienced (2) 11:15;113:23	fair (2) 108:13;176:22
employer (1) 104:2	EPA (140) 4:14,19;7:19,24; 8:9;9:3,7,13,23,24; 10:18;11:19;14:14; 15:22;16:1,10;17:1; 18:18;34:10,19,21; 35:22;36:4;42:1,22; 43:24;45:21;46:13; 21:47;12:15;50:14; 15:53;1:54;8,18; 55:21;56:18;58:11, 11,12;59:1,10,20; 60:1;62:23;72:7; 75:12,13;77:10,17, 17;78:5,7,10,20,20; 79:2,7,11,13;83:1; 86:6,22;87:9;91:1,11, 14;92:3,6;103:7; 104:3,4,6,8,22;105:1, 14,15;107:22; 109:13;111:4,10,15; 112:10,14,16,17,25; 113:10,19;118:6; 136:15,19,22;137:22; 139:7,12;140:18; 141:9,23;144:4; 145:3;146:17;147:5; 154:20;156:10; 162:19;163:5,18,22; 165:8,24;174:18,22, 22;175:1,2,17;177:9; 178:2,24,25;184:20; 186:3,4;188:10; 189:6,12,21;191:22; 192:9,12;193:22; 194:6;195:5;199:3, 22;200:8,16	exact (1) 146:22	Explain (7) 57:10;84:24;85:11; 97:25;114:15;142:7; 153:9	fairly (3) 87:22,22;172:14
encompass (1) 122:3	EPA (140) 4:14,19;7:19,24; 8:9;9:3,7,13,23,24; 10:18;11:19;14:14; 15:22;16:1,10;17:1; 18:18;34:10,19,21; 35:22;36:4;42:1,22; 43:24;45:21;46:13; 21:47;12:15;50:14; 15:53;1:54;8,18; 55:21;56:18;58:11, 11,12;59:1,10,20; 60:1;62:23;72:7; 75:12,13;77:10,17, 17;78:5,7,10,20,20; 79:2,7,11,13;83:1; 86:6,22;87:9;91:1,11, 14;92:3,6;103:7; 104:3,4,6,8,22;105:1, 14,15;107:22; 109:13;111:4,10,15; 112:10,14,16,17,25; 113:10,19;118:6; 136:15,19,22;137:22; 139:7,12;140:18; 141:9,23;144:4; 145:3;146:17;147:5; 154:20;156:10; 162:19;163:5,18,22; 165:8,24;174:18,22, 22;175:1,2,17;177:9; 178:2,24,25;184:20; 186:3,4;188:10; 189:6,12,21;191:22; 192:9,12;193:22; 194:6;195:5;199:3, 22;200:8,16	exactly (14) 14:16;47:19;56:17; 73:11;119:5;136:11; 147:12;152:9; 161:17;167:22; 177:7;186:6;191:21; 198:24	explains (1) 73:15	familiar (23) 17:4,6;19:8;55:8; 60:17;83:19;92:10; 94:22;121:20;125:8; 129:7,9;130:23,25; 132:14,16;134:9,12; 147:12;162:22; 178:13;180:25;193:1
encounter (1) 87:20	EPA (140) 4:14,19;7:19,24; 8:9;9:3,7,13,23,24; 10:18;11:19;14:14; 15:22;16:1,10;17:1; 18:18;34:10,19,21; 35:22;36:4;42:1,22; 43:24;45:21;46:13; 21:47;12:15;50:14; 15:53;1:54;8,18; 55:21;56:18;58:11, 11,12;59:1,10,20; 60:1;62:23;72:7; 75:12,13;77:10,17, 17;78:5,7,10,20,20; 79:2,7,11,13;83:1; 86:6,22;87:9;91:1,11, 14;92:3,6;103:7; 104:3,4,6,8,22;105:1, 14,15;107:22; 109:13;111:4,10,15; 112:10,14,16,17,25; 113:10,19;118:6; 136:15,19,22;137:22; 139:7,12;140:18; 141:9,23;144:4; 145:3;146:17;147:5; 154:20;156:10; 162:19;163:5,18,22; 165:8,24;174:18,22, 22;175:1,2,17;177:9; 178:2,24,25;184:20; 186:3,4;188:10; 189:6,12,21;191:22; 192:9,12;193:22; 194:6;195:5;199:3, 22;200:8,16	examined (4) 10:9;18:9;103:14; 155:23	explosive (1) 112:3	familiarity (4) 23:10;27:14;46:8; 114:9
end (3) 57:3;100:13;175:9	EPA (140) 4:14,19;7:19,24; 8:9;9:3,7,13,23,24; 10:18;11:19;14:14; 15:22;16:1,10;17:1; 18:18;34:10,19,21; 35:22;36:4;42:1,22; 43:24;45:21;46:13; 21:47;12:15;50:14; 15:53;1:54;8,18; 55:21;56:18;58:11, 11,12;59:1,10,20; 60:1;62:23;72:7; 75:12,13;77:10,17, 17;78:5,7,10,20,20; 79:2,7,11,13;83:1; 86:6,22;87:9;91:1,11, 14;92:3,6;103:7; 104:3,4,6,8,22;105:1, 14,15;107:22; 109:13;111:4,10,15; 112:10,14,16,17,25; 113:10,19;118:6; 136:15,19,22;137:22; 139:7,12;140:18; 141:9,23;144:4; 145:3;146:17;147:5; 154:20;156:10; 162:19;163:5,18,22; 165:8,24;174:18,22, 22;175:1,2,17;177:9; 178:2,24,25;184:20; 186:3,4;188:10; 189:6,12,21;191:22; 192:9,12;193:22; 194:6;195:5;199:3, 22;200:8,16	examines (1)	exposed (2) 80:21;81:20	far (46)
ended (1) 56:8	EPA (140) 4:14,19;7:19,24; 8:9;9:3,7,13,23,24; 10:18;11:19;14:14; 15:22;16:1,10;17:1; 18:18;34:10,19,21; 35:22;36:4;42:1			

51:5;56:2;58:11, 12:12;59:1,13;62:7; 63:5,15,16;64:16; 71:2;72:2,17,18; 73:12;75:13,23,24; 80:9;81:14;83:4,16; 136:17;138:11; 143:7,19;145:14; 146:2;147:9;157:7,8; 160:10;161:18; 165:9,25;166:1; 168:25;169:9; 170:22;177:23; 182:24;183:9; 185:20;186:9	106:3;164:1 filed (3) 7:10,14;163:8 filing (1) 83:5 fill (3) 95:12,15;108:22 filled (2) 95:9;96:11 filling (2) 54:11;94:19 final (47) 6:20;23:17,18; 24:3;28:16,20;29:4,8, 17;30:8,13,22,25; 31:4,6,14,14;38:15, 18,22;39:5,11,21; 40:7,11,16;41:21; 97:24;115:14,21,21; 116:4;121:4,6,14; 122:5;124:24; 128:24;129:1,15; 130:16;132:5;134:2; 135:7,8,11;139:3 financially (2) 71:17,18 find (17) 31:8;42:5;61:22; 74:17;75:7,7,11; 94:18;96:7;106:9,10; 137:18;153:17,19; 185:8,12;189:9 finding (1) 87:13 fine (8) 6:25;7:6,8;8:17; 153:5;175:14; 176:14;195:8 finer (1) 188:2 finish (1) 188:18 first (37) 9:8,12;10:3;17:13; 21:17;22:8;23:22; 24:14;35:12;36:8; 42:10,13;55:20;56:2; 72:12;83:15,18,18, 23;84:10;89:9;97:11; 108:24,25;166:5,15; 167:16;178:7,21,23; 179:21;185:8; 187:24;188:7,9; 190:6;194:14 Fisheries (1) 11:25 Five (6) 104:24;113:13; 120:16;124:10; 174:14,15 five- (1) 169:16 five-minute (1)	155:9 five-year (1) 137:20 fix (1) 182:3 fixed (1) 181:25 flag (1) 14:18 flammable (1) 112:3 floor (2) 49:16,24 focus (1) 25:7 follow (2) 60:10;88:17 followed (1) 13:25 following (6) 37:2;73:18;105:7, 23;139:21;192:7 follows (3) 10:9;103:14; 155:23 food (1) 170:20 Foods (1) 49:12 footprint (1) 64:22 For-Cause (2) 94:24;96:1 force (1) 67:18 forego (1) 48:25 form (38) 14:8;34:21;35:10; 38:11;42:22;43:24; 54:12;56:15,17,19, 22;57:6,6,7;82:25; 83:2,3,4;96:19;97:5; 110:9;162:16,19; 163:14,15,18,24; 164:2;165:2,5,8; 175:17,18;176:1; 188:10;195:21; 196:12,13 formal (3) 113:13,15;119:19 forms (5) 14:14,16;81:24; 90:7;163:24 forth (2) 22:9;192:10 forward (1) 167:12 found (17) 23:8;36:3;59:16; 64:12,19;68:13,19; 73:23,23;74:16;75:8, 13;76:18;87:6;133:5,	18;153:20 four (12) 35:5;39:3;121:7, 10,11,12,13;130:19; 169:17;172:13; 176:8,10 four-state (1) 10:21 freely (1) 167:11 frequently (1) 107:16 front (1) 98:5 fruits (1) 170:16 FTTS (16) 109:1,2;116:12; 122:11;127:5; 129:16,23;131:7,10; 132:24;134:19; 140:6;147:20,24; 148:7;153:18 full (9) 21:2;22:1;34:10; 42:1;43:6,6;123:9; 144:25;188:15 fully (3) 88:11,18;194:24 Fungicide (2) 9:5;10:25 funnels (1) 20:15 further (15) 50:23;66:5;68:20, 24,24;88:15;99:11; 101:16;135:15; 154:9,12;197:7,8; 199:16,20 future (1) 50:21	172:2,17,17,19,20,22 generally (2) 22:19;86:5 generals (1) 172:23 generate (1) 110:2 generated (6) 110:4,4;117:7; 143:23;144:25;145:1 generates (1) 144:7 generation (12) 24:12;79:14;80:19; 83:16,16,18,23;84:8, 10;88:20;89:2,7 generations (1) 89:10 generic (1) 71:15 geographic (1) 91:9 gets (6) 77:3;112:8;115:20; 144:25;145:1;188:15 given (4) 28:5;54:2;82:20; 118:3 gives (3) 148:2,4;153:18 giving (1) 34:16 glad (1) 66:16 goes (8) 25:15;60:16; 138:12;139:15; 140:10;143:7;146:3; 170:20 good (10) 4:3,13,18,20,21,24, 25;5:2,4,5 Google (3) 73:16;169:21,21 Government (3) 136:17;171:21,21 government-wide (1) 136:14 gram (4) 36:23,24;37:13; 44:17 grams (1) 147:3 Grand (11) 9:9,16;18:2,2; 55:10;156:21;157:4; 183:14;189:11; 191:16;194:5 granular (1) 21:8 graphic (2) 40:4,5 graphics (2)
Farm (1) 170:19 farmers (1) 170:19 February (2) 7:14,25 Federal (8) 9:4;10:24;46:25; 63:18,21;115:24; 136:8,17 feed (1) 84:3 feel (1) 88:7 fell (1) 185:3 felt (2) 119:25;120:9 few (11) 5:21,24;16:15; 34:4;41:20;57:19; 63:4;74:16;86:16; 141:10;161:23 field (2) 60:6;159:11 FIFRA (53) 9:5;10:24;12:3,3,6, 9,11,16,17;13:8;14:6; 15:12;18:13,17; 24:19;47:25;50:17; 51:5,12,17;60:7,11; 62:16;63:18;64:10; 74:10;88:12;92:6,17; 93:10;94:21;95:2; 96:8;98:8,9,10;104:5, 23;105:15,20; 107:20;108:2,19; 110:15;113:23; 121:23;125:9; 129:10;131:1; 132:17;134:10; 148:6;153:23 FIFRA-07-2023-0135 (1) 4:5 Figure (4) 23:20;35:10,16; 95:3 file (2)			G	
			gallon (1) 76:13 gamut (1) 71:7 garden (1) 152:13 Gas (1) 93:8 gather (1) 110:8 gave (4) 33:25;73:2,6; 178:11 gears (1) 45:25 general (16) 24:15;84:25;85:8, 11,12;94:4;110:6; 143:9,24;144:1;	

37:18,20 Gravity (16) 111:4,6,10;114:16; 138:11,13,16,20,21, 25,25;139:3;141:21; 142:17;148:11;151:3 great (2) 103:6;188:18 Greater (7) 26:11;28:25;39:2; 109:6;138:13,19,25 green (1) 116:3 grocery (6) 32:11;33:4;41:8; 49:12;60:20,25 grouped (3) 116:8;122:7; 126:25 growth (4) 125:13,24;132:22; 152:16 guess (29) 60:2,19;63:23; 66:6;70:2,15;74:13; 76:1;77:21;78:8,24; 79:6,9,21;81:3; 83:16;84:17;85:8,15; 136:10;138:7; 139:15;142:6; 146:17;147:9;161:4; 176:5;186:13;193:6 guidance (3) 59:2;105:24; 181:14 guideline (1) 108:12 guy (4) 177:10;181:18; 188:1;192:18 guys (8) 171:6;174:2; 184:19;188:17; 190:6;192:24;194:2, 4	70:19;78:25;170:5; 184:25 happened (9) 63:5;66:6;73:19; 175:10;179:11,16; 180:19,19;182:8 happens (3) 16:6;106:9;165:25 happy (4) 5:25;7:21;194:13; 199:14 hard (2) 80:2;163:1 hardened (1) 21:13 hardware (5) 32:11;33:4;41:9; 79:17,21 harm (37) 50:13;111:13,13; 112:18,20,22,23,24; 113:1,3,5,6,7;118:7, 23;119:6;123:3,21; 127:19;128:4,8; 130:12;141:21; 145:9,10,20,25; 148:12,12;149:16; 151:3,19,21;166:23; 170:14,17;187:12 harmed (4) 13:24;75:3;145:7; 187:9 harmful (1) 170:21 harms (1) 9:25 hate (1) 179:21 hazard (2) 16:11;153:2 hazardous (3) 10:23;11:22;143:9 head (1) 46:7 headquarters (2) 13:4;112:11 heads (1) 176:20 health (10) 87:25;112:4,21,22, 23,24;113:6;149:17; 152:21,22 healthcare (1) 119:1 hear (5) 133:12;192:14,16; 194:9;199:8 heard (6) 162:16;174:3; 179:17,20;182:2; 187:15 hearing (7) 179:20;181:2,8,20;	200:1,12;201:5 heavy (1) 71:10 held (3) 19:24;24:25;25:5 help (7) 17:11;52:25;92:22; 181:5;186:1;192:3; 199:11 HG (1) 126:4 hiding (1) 179:7 higher (14) 110:21,22,24; 111:1;114:19; 138:25;139:15,25; 140:1,9;142:24; 145:22,25;148:4 highest (1) 146:6 highlighted (23) 23:12;26:7,21; 27:6;28:22;29:10,19; 30:1;32:6,25;35:7,14, 18;36:20;37:9;38:24; 39:6,13,22;41:4; 44:14;48:11,14 highlighting (1) 6:24 HILBERT (8) 4:18,19;103:7,17; 135:15;147:16; 154:15,21 himself (2) 4:16;66:9 HIPAA (1) 87:24 History (12) 111:13;113:11,12; 119:16;120:12,15; 124:5;128:11; 130:12;137:14; 141:14;142:2 hold (3) 79:2;158:6;189:23 holding (4) 37:4;44:19,20; 196:1 home (3) 167:20,20;169:15 homeowner (1) 166:2 homeowner/consumer (1) 166:13 homeowners (1) 168:17 Honor (35) 4:13,18,21;5:2,8, 22;6:4,13;7:4;8:20, 22;18:6;48:21,25; 50:23;58:1;86:13,17; 99:15;101:22;103:4;	135:15;147:16; 154:15,21;155:5,8, 25;163:1;164:16; 195:6;197:8,14; 199:21;200:10 hot (1) 66:11 hour (4) 102:1,1,3,3 hours (3) 55:11,12;56:7 house (3) 110:5;167:15,23 housing (4) 61:9,10;171:4,22 HUD (1) 61:9 Human (20) 111:13;112:17,20, 22,23,24;118:7,22; 123:3;127:19;128:8; 141:20;145:19,25; 148:12;149:17; 151:3;152:21,22; 187:9 Humans (1) 151:3 Humphrey (2) 69:8,14 hundreds (1) 12:5 hungry (1) 186:16 hurdles (1) 87:13 hurt (1) 187:9	121:1;124:17,19; 128:20 important (5) 13:11,17;42:10,12; 87:12 imprints (1) 96:20 improperly (3) 9:1;13:21;95:24 in- (1) 110:4 incidents (1) 14:1 include (2) 82:3;172:21 included (5) 23:21;97:17; 104:19;144:22;165:1 includes (4) 11:13;12:25;13:12; 14:9 including (4) 32:10;33:4;35:12; 41:8 increase (3) 114:13,20;146:1 independent (4) 90:10,12,22;161:4 indicate (2) 63:21;112:5 indicated (8) 46:23;49:13;61:5; 76:18,20;88:6;94:9; 137:25 indication (3) 93:12,12,15 individual (36) 25:4;26:25;27:9, 10,25;29:14,21;30:5, 17,21;32:9;33:2; 37:15;39:25;44:20; 61:11;69:12;79:8,19; 80:9,12;81:4,6,15; 82:5,15,21;86:23; 90:14;98:15;135:10; 161:16;166:3,12; 168:6;170:24 individually (2) 79:17;86:21 individuals (1) 166:9 induce (2) 170:3,6 industry (4) 21:7;23:17;43:3; 71:3 in-field (1) 105:22 Inflation (11) 115:19,20,23; 121:8;125:4;129:5; 130:20;132:10; 135:9;136:6,13
H			I	
half (2) 102:2,3 Hall (1) 4:10 halt (1) 184:24 hand (3) 10:5;103:10; 155:19 handle (3) 166:14;169:25; 199:3 handling (1) 180:21 happen (4)			identified (10) 7:18;23:9;27:14; 40:16;43:23;44:25; 47:10;53:8;91:6; 141:11 identifier (1) 148:9 identify (2) 4:11;164:14 II (2) 110:12;111:23 III (5) 110:10;111:20; 117:8,20;131:20 illegal (2) 37:3;44:19 imagine (2) 90:11;93:22 immediately (3) 24:14;42:18; 150:18 impact (6) 114:11;118:22;	

<p>info (1) 87:8</p> <p>information (51) 13:1,7,11;14:5,9; 30:4;35:13;36:3; 42:11,14;59:2,3,4,10, 11,15;68:9,23;69:18; 72:1,6,8,12,14,23; 73:17;74:1;75:17; 85:5;87:25;92:6; 93:25;94:1;98:8; 106:4,7;107:18; 110:2,5;119:1; 130:13;143:24,25; 144:1,7,9,21;152:11; 192:4;197:1,3</p> <p>informing (1) 73:13</p> <p>infrequent (1) 172:14</p> <p>ingest (2) 84:2;118:24</p> <p>ingested (5) 42:16;84:11;89:6; 119:5,12</p> <p>ingestion (4) 24:15;84:15,20; 118:14</p> <p>ingestions (1) 84:22</p> <p>ingredient (5) 21:14;112:5,10; 146:22;152:17</p> <p>ingredients (13) 13:1,13;16:5;38:7; 43:17;58:15,15;72:3; 78:3;111:21;123:11; 172:25;173:4</p> <p>inherent (2) 13:20;118:13</p> <p>inherently (1) 118:12</p> <p>in-house (1) 143:22</p> <p>initial (1) 88:5</p> <p>initially (1) 25:14</p> <p>Inner (10) 26:23;27:4,8;29:8; 12,21;37:11;39:15; 41:7;44:18</p> <p>insect (4) 125:13,24;132:21; 152:16</p> <p>Insecticide (7) 9:5;10:24;76:11; 78:16;126:15; 168:20;169:22</p> <p>insecticides (31) 19:21;65:1,1; 68:18;69:9;82:12,13, 21;127:2,23;132:21;</p>	<p>152:4,6,24;160:24; 161:22,24;170:12,13, 14,15,22;171:1,1; 172:2,17;178:12; 183:19;191:7,17; 194:21</p> <p>inside (7) 22:22;65:10;67:2; 70:6;151:16;167:23, 24</p> <p>inspect (17) 9:3;20:3;46:16,17, 19;50:10,21;54:3; 91:23;93:3,4,5,7; 95:20;177:2;197:21, 24</p> <p>inspected (9) 51:16;52:5;54:4; 95:21;174:4,17; 176:3;178:22,25</p> <p>inspecting (1) 63:22</p> <p>inspection (174) 9:15,19;11:14; 17:10,23,24;18:1,4,5, 12,20;19:2,3,25; 21:22;22:6,15;26:4; 29:3;31:24;36:13; 38:5,17;40:23;44:8; 46:11,25;47:1,2,4,17, 18;48:1,6,8;49:5; 50:4,7,12,14;51:21; 52:11,19,24;53:5,10, 10,11,13,16,17;54:6; 55:9,14,21;56:6; 60:25;61:3,23;62:2,9, 20;63:7;64:4,9,13,19; 65:11,18;67:10,14, 18,19,21;68:9,13,19, 21,25;69:2;73:18; 74:1,5,19;75:6,9,11, 14,22,25;76:5,21; 88:7;90:24;92:8,12, 25;94:7,12,13,16,20, 24;96:2,3,13,14;97:8, 9,13,17,19;99:21; 100:3,4,5,6,7,8,12,17, 21,23;101:1,10,14; 105:4;134:14,16,23; 135:5;137:7,11; 138:1;141:8;150:2,4, 10;153:11,22;156:11, 14;174:3,18;175:2,7, 11;176:6,13,18; 177:17,18,20,24; 178:10,19;179:1,2, 16;180:7,20;182:8, 13;184:7;185:14; 189:22,22;190:5,12; 192:2;194:1,10,16; 197:20</p> <p>inspections (31) 10:20;11:15,16,23;</p>	<p>12:9,11,13,14;47:8; 50:18;51:18,25; 52:23;53:23,24;61:1; 88:5;92:7;93:6; 94:25;101:2;104:18, 25;105:17,24;138:8, 8;174:11;176:14,19; 192:21</p> <p>inspector (20) 11:7,10,12,15,17; 18:13,17;46:21; 47:12;51:14,23; 63:18;97:6;105:15, 16,17,21,23;107:5; 178:3</p> <p>inspector/enforcement (1) 104:5</p> <p>inspectors (5) 53:7,8;54:1;62:25; 191:22</p> <p>inspects (1) 53:20</p> <p>instance (10) 56:20;72:24;73:21; 80:6,11;81:7;85:16; 93:8;172:21;180:22</p> <p>instances (1) 141:7</p> <p>instead (1) 140:22</p> <p>instruct (1) 76:23</p> <p>instruction (1) 76:12</p> <p>intending (1) 155:3</p> <p>intense (1) 179:3</p> <p>interaction (2) 34:25;43:4</p> <p>interested (1) 76:14</p> <p>interestingly (1) 52:4</p> <p>interior (1) 167:20</p> <p>internal (1) 144:4</p> <p>Internet (4) 42:6;59:3;60:2; 92:6</p> <p>into (33) 6:5;15:7;20:9,19, 21;23:23;24:6;25:2; 34:15;35:11;57:4; 58:17;60:6;66:7; 87:5;90:16;91:21; 96:20;107:21; 113:10,19;118:10; 124:3;127:3;145:6; 148:19;166:13; 168:12;179:4; 190:13,18,21;200:13</p>	<p>introduce (2) 4:16;200:8</p> <p>introduced (2) 46:22;178:6</p> <p>inventory (1) 56:18</p> <p>investigate (1) 71:20</p> <p>investigations (2) 104:18,20</p> <p>Investigator (2) 104:14,15</p> <p>invoking (1) 5:7</p> <p>involved (3) 113:14;147:11; 150:3</p> <p>involving (2) 79:6;138:7</p> <p>issuance (1) 73:19</p> <p>issue (8) 7:21;35:5;71:20; 74:20;86:5;140:25; 141:4;200:18</p> <p>issued (8) 46:13;73:24;74:7; 115:24;140:24,24; 157:18;158:13</p> <p>issues (2) 19:4;62:16</p> <p>it's (1) 144:12</p> <p>items (5) 20:1;68:12;69:9; 74:11;172:2</p> <p>IV (1) 111:20</p>	<p>15,25;94:11,17; 95:18;96:10,14,17, 23;97:1,4,10,12,16, 20,22,25;98:4,17,20, 25;99:6,8,11,16; 101:5,7,9,16,20,24; 102:3;103:1,5,9,15; 135:16;143:14,17; 147:15,17;148:6,10, 14,18,23;149:1,7,9, 12,15;150:1,5,7,11, 15,21,24;151:2,6,10, 12,17,21,25;152:5, 14,20;153:5,7,13,16, 25;154:2,4,7,8,9,13, 16,18,20,22,24; 155:6,9,15,18,24; 156:1;163:3,5,7,9; 164:17;188:13,17; 195:4,5,8,11,13; 197:9,13,15,17,23, 25;198:3,5,8,10,12, 14,18,20,22,25; 199:16,19,22,25; 200:2,3,11,25;201:1, 3</p> <p>jugs (1) 127:4</p> <p>July (19) 48:7;64:5;65:7,10, 10;66:13;68:12; 96:15;99:22;100:24; 156:15;181:11; 189:6,7;190:23; 192:8,13,23;193:21</p> <p>June (22) 18:5,10;22:15; 52:11;55:10;62:9; 64:4,13,19;73:18; 75:9,12,23;100:3,23; 156:14;174:4,7,18; 175:2,3;182:8</p> <p>JX-1 (1) 8:18</p>
				K
				<p>KACSUR (33) 4:13,14;5:8,21;6:4, 10,20;7:4,13,19;8:20, 22;10:12;18:6,11; 23:13;48:21,25;49:3; 50:23;86:16,20; 88:15;99:15;101:22; 102:1;195:6,10,17, 19;197:7,14;200:10</p> <p>Kansas (1) 164:5</p> <p>Kash (6) 9:22;103:7,12,19; 135:21,21</p> <p>K-A-S-H (1) 103:21</p>

Katherine (2) 4:14;8:22	136:2	25:22	151:22	71:10
Keep (6) 5:13,14;48:23; 96:21;114:13;172:9	L	laboratory (2) 50:19;146:21	leave (1) 68:5	likely (1) 120:10
keeping (2) 15:25;182:19	lab (1) 146:21	lacking (1) 153:1	led (2) 19:23;24:5	limitation (1) 81:13
keeps (1) 137:22	label (122) 13:8,11,21;15:7, 19;16:4,10;20:10; 24:9,19;25:11,13,14, 17,20;26:1,1,5,9,10, 15,19,23,24;27:4,8,9; 28:16,20,24;29:4,12, 17,21,25;30:3;31:14, 22,25;32:4,23;33:18; 34:7,10;36:11,14,18, 22,22;37:1,8,11,11; 38:15,18,22,25;39:1, 5,11,15,16,20;40:22, 24;41:3;42:1,8;43:6, 6,21;44:7,9,13,16,18; 45:7,9,11,13,13,15, 17,21;58:19;72:2; 73:9;74:10;76:14,16, 18;77:9,15,18;78:9, 15,24;79:7,9;87:9; 98:7,8,9,13,15,18; 119:3;125:20,22; 126:5,16,20,21; 131:13;140:12; 146:16;151:10; 152:9,12;169:18,19, 23	ladies (1) 107:17	left (5) 19:14;49:8;58:8; 68:2;191:2	limited (1) 79:21
kept (1) 85:3		lady (6) 46:22;68:15;69:7, 13;101:12;190:16	less (14) 22:10;37:2,4;41:7; 44:19,20;55:7;60:10; 74:17;81:7;110:9,11; 140:2;149:16	line (4) 87:18;114:11,23; 138:24
kid (2) 170:3,5		laid (2) 74:6;78:2	letter (9) 74:20;106:13; 113:17;140:24; 141:4,12;181:7,9; 182:16	liquid (8) 20:24;43:10;46:14; 49:17;64:12;127:2; 132:21;152:3
kids (1) 166:24		Landry (12) 18:13,16,17;21:25; 22:18;62:6,24;63:23; 180:10,11,12,13	letting (3) 186:22;187:5,6	liquids (1) 152:2
kill (9) 49:14;89:8,12; 127:24;146:24; 169:18;187:17,17; 191:18		Landy (1) 66:20	level (39) 59:25;109:4,5; 110:20,21,24;116:17, 23;117:19,20;120:2; 122:13;123:5;127:7, 9;129:22;131:14,15, 19;134:24,25;138:22, 23;139:4,6,16,19; 140:1,2,8,9;142:19; 147:25;148:4; 150:16;153:9,9,19,24	list (2) 5:22;155:3
killed (1) 89:3		large (9) 19:14;20:17;32:19; 71:4,8;72:25;80:24; 89:16;153:2	letters (1) 106:4	listed (9) 148:9;164:24; 165:4,7,11,12; 179:13;196:3,5
killling (1) 187:5		larger (8) 24:17;35:2;42:24; 43:1;78:4;88:24; 98:14;110:22	liability (1) 79:3	listen (1) 167:12
kilograms (2) 37:1,14		last (20) 12:8;31:18;35:18; 44:2;88:10,17; 103:21;119:20; 124:9;135:19,22; 137:8;153:21; 163:19;165:3; 174:16;176:2; 179:22;180:9;193:16	license (31) 61:20;85:6,19,21, 22,24;86:1,2,3; 157:14,16,19,20,20; 158:5,8,9,10,11,12, 12,13,19;159:1,3,4,5, 7,8;171:18	listening (1) 188:1
kind (45) 17:20;21:2,7;59:2, 12;60:3;62:18;63:6, 8;72:20;73:14,21; 74:4,17;84:8;89:8; 92:3,22;106:20; 139:5;141:5;146:17; 149:2;157:4;161:20; 166:16;167:11; 169:15;170:2,8; 171:2,4;173:12; 177:19,20;179:4,4; 181:17;183:3; 184:22,24;185:16; 188:8;193:16;200:20	Label] (1) 41:6	lastly (2) 31:1;33:19	licensed (20) 54:14;55:5;61:24; 69:11;85:2,15,16,17; 94:14;107:7,13; 149:15,20;160:11,23; 171:7,8;172:5,5; 175:16	literally (1) 98:10
knew (2) 67:11;143:3	labeled (10) 28:9;31:15;34:1; 42:3;45:19;50:1,18; 90:2;98:1;146:9	later (4) 66:9;67:24;175:1; 191:25	licenses (7) 86:6;104:20;105:6, 9;107:15;157:13; 160:11	little (30) 12:15;14:21;25:2; 53:9;56:8,15;67:3, 23;83:10,10;86:25; 88:24;90:16;93:7; 95:16;100:9;112:12; 142:7;156:6;157:12, 21;166:20,20; 170:13;179:3; 186:19;188:14,22; 190:23;199:4
knowing (5) 60:16;74:24;95:4; 119:5;143:8	labeling (50) 9:2;14:25;19:7; 23:21,25;35:12;36:3, 4;41:23;59:10,13; 60:4;71:25;72:7; 77:11,20,22;79:13; 80:7;86:22,24;91:22; 95:7;112:5;118:19, 20;119:11;123:9,9; 124:2;128:2;133:8; 140:5,13,14;141:18; 146:8;148:16,20; 149:21;151:7,15; 152:11;153:2,3; 169:14,14;175:25; 186:10,10	laundry (1) 21:1	lid (5) 35:1;43:4,13; 123:20;148:25	livestock (1) 113:8
knowingness (2) 113:21;120:1	labels (12) 20:14;26:16,19; 28:8;42:6,25;79:10, 11;118:1;122:24; 127:17;151:18	Law (13) 4:8;13:9;26:25; 27:10;29:14;30:5; 32:9;33:3;37:15; 39:25;41:7;79:8; 90:17	life (2) 169:16;199:6	local (3) 61:8,9;171:21
knowledge (7) 55:23;59:11;79:25; 95:12;143:6,8; 151:24	labely (1) 186:10	lay (1) 166:25	lifting (1)	located (2) 45:11;67:9
known (4) 75:15;125:21; 142:6;170:14	Laboratories (1)	layout (1) 19:11		location (41) 9:9,11,16;18:22; 20:19,20,21;46:4,6,9, 10,11,16,17,19; 49:10,19,23;53:8; 54:20,21;62:10; 77:18;91:4,6,7,9,11, 17,24;92:2,25;94:2,9; 96:18;150:8;156:24; 157:4;189:12;193:4; 198:12
Kruep (7) 9:22;103:7,12,19; 114:9;135:21,21		LD50 (2) 146:23;149:3		locations (3) 156:13,17;198:15
K-R-U-E-P (2) 103:21;135:23		lead (2) 11:1;51:22		lock (1) 199:12
Krump (1) 135:22		leading (2) 11:16;105:24		locking (1) 148:25
K-R-U-P-P (1)		learned (1) 193:16		long (20)

11:3;16:2;22:6; 25:16;48:8;55:9; 56:1;61:6;62:17; 69:4;101:24;104:6; 22;113:25;147:10; 172:9;176:19;177:5; 193:3,3 longer (2) 24:20;198:18 look (25) 18:5,6;22:11; 34:22;37:21;42:23; 55:14;62:20;93:9; 95:23;97:22;105:10; 11;111:12;118:16; 147:21,22;148:1; 150:6;153:11,13; 173:1,1;187:25; 200:17 looked (5) 17:20;49:9;122:23; 190:24;196:8 looking (14) 54:2;55:20;88:9; 92:16;95:5,13;98:17; 137:14;139:20; 147:19;148:10; 189:13,22;196:2 looks (4) 56:7;111:10; 139:18;199:25 lost (1) 153:25 lot (24) 15:14;32:15;53:23; 57:3;59:4;71:24; 72:7;81:23;87:24; 98:8;161:21;162:5,5, 6,6,7;166:5;169:15; 18;170:25;172:12; 173:12;184:18; 196:25 Lots (2) 19:21;105:22 louder (2) 157:22;166:20 Louis (8) 9:20;18:3;20:20; 49:10;19:54;21; 156:22;157:17 lower (10) 109:7;111:2,21; 114:18;131:13; 138:12,19;140:8,9; 141:22 lunch (3) 56:8;102:4,4 luncheon (1) 102:7	57:22;189:8 mail (2) 164:7,11 main (1) 56:19 mainly (8) 21:3;54:9;160:19; 161:12;162:1; 164:21;183:6;189:4 maintain (1) 86:3 Maker (2) 136:4;170:10 makes (1) 84:12 Maki (16) 44:7,9,13,25;45:3; 7,10,14,18,22;73:9; 116:6;121:15; 129:15;167:25,25 making (6) 59:7;70:21;75:19; 107:12;109:23; 190:24 mammal (1) 49:13 mammals (2) 21:5,15 Management (1) 12:1 manager (1) 106:3 manner (2) 127:3;128:10 manufacture (1) 60:14 manufactured (1) 23:4 manufacturer (1) 96:8 manufacturers (1) 79:6 manufactures (1) 19:10 many (17) 12:3,11,14;14:1; 23:2;51:20,25;54:1; 55:12,12;88:9; 104:25;106:24; 156:13;172:24; 173:22;190:14 mark (1) 94:24 marked (5) 6:8;8:18;90:2; 162:25;164:15 market (2) 71:14,14 marketing (1) 40:3 marketplace (5) 54:5;61:1;88:23; 105:10;106:23	Master (10) 32:4,23;36:4;42:6, 8;125:20,22;126:5, 16;127:17 Masterpail (1) 32:8 match (1) 43:24 Matrix (1) 110:16 matter (6) 4:3,15;6:20;8:24; 135:12;201:6 matters (3) 5:19,21;12:3 Matthew (1) 4:10 Max (1) 164:22 may (19) 5:13,16;8:19; 10:10;18:6;71:3; 92:19;93:1;98:14; 99:4;101:17;147:18; 154:18,25;155:25; 175:9;181:16; 188:14;195:16 maybe (12) 17:20;25:19;49:11; 67:21;71:14,14; 90:13;95:24;98:22; 133:12;142:6;175:8 MDA (4) 104:22;105:1,4,5 mean (35) 11:10;15:2;16:4; 32:16;71:17;107:19; 108:8;109:1,4; 110:25;111:1; 113:15;116:20; 142:18;143:7,10; 146:10;149:3; 158:21;161:14; 166:24;170:16; 176:23;180:13; 183:18;184:3,24; 187:8,21,24;188:2; 198:19,21;199:12; 200:25 means (11) 14:22;54:17;78:5; 79:19,20,22;84:25; 98:23;116:21;117:1; 146:23 meant (1) 127:24 mechanism (1) 92:13 media (1) 95:1 medical (1) 11:13 medicine (1)	83:20 meet (2) 16:25;111:25 meeting (1) 178:7 Melvin (2) 4:22;51:3 Memo (2) 47:25;48:3 memory (2) 18:7;47:20 Menace (2) 126:15,17 mention (3) 73:2;94:11;185:13 mentioned (22) 12:2;14:20;21:11; 35:5;51:6;55:3;62:1; 73:5;75:25;79:4; 90:25;105:15; 107:20;148:14,15; 149:19;152:1; 154:24;168:5; 169:24;171:20; 185:16 mess (3) 186:23;187:3,3 met (3) 13:18;16:3,7 mice (7) 162:14;166:18,21; 167:1,4,15;187:18 Michael (1) 4:6 middle (1) 46:23 might (7) 5:24;32:16;47:19; 63:13;85:16;113:14; 141:2 milk (1) 170:6 million (6) 110:9,11,11,12; 117:7;143:20 mind (1) 23:13 Mini (23) 31:23;32:5,12,13, 20,24;33:6,21;44:7,9, 13,25,25;45:4,7,10, 14,18,22;73:9;116:6; 121:15;129:15 minimal (1) 128:2 minimum (2) 111:21;146:10 minor (6) 22:9;74:19;112:21; 113:4;123:8;128:2 minute (1) 57:14 minutes (4)	57:20;66:18;69:6; 189:24 misbranded (4) 10:1;74:9;129:21; 133:4 misbranding (1) 95:7 missed (1) 165:3 missing (4) 9:2;45:16;87:10; 195:24 Missouri (29) 11:20;17:8;18:3; 46:5;48:2;50:5; 52:21,22;54:15,25; 59:22;61:15;88:4,6; 91:11;94:8;103:23; 104:9,11,17;107:1, 10;158:15;174:5,17; 175:7;176:3,18; 179:2 Missouri-Columbia (1) 12:1 mistaken (1) 182:16 mistakes (1) 143:6 Mister (1) 48:1 mix (1) 179:5 mixed (1) 179:9 mixing (1) 58:14 modified (3) 16:10;115:10,11 modify (1) 115:9 modifying (2) 114:21,22 moment (3) 36:10;76:10;99:1 money (9) 15:14;70:20,23; 115:7;185:22,25; 186:2,16;188:3 monitoring (1) 11:13 Monterey (2) 126:18,18 month (5) 22:10;174:21,21, 22;175:1 MOPlants (1) 107:5 more (33) 12:14;14:5;16:15; 19:13,17;21:12; 29:25;42:13;49:17; 51:25;55:12;72:16; 73:16;84:17;87:16;
M				
ma'am (2)				

101:7,22;109:8; 110:10,22;113:22; 120:10;123:13; 128:2;142:24;149:4; 152:21;154:20; 179:3;180:25; 188:22;192:20; 194:13 morning (11) 4:3,13,18,20,21,24, 25;5:2,4,5;196:8 most (24) 26:4;29:3;31:24; 36:13;38:17;40:23; 44:8;47:7;74:13; 111:2;161:2;165:20; 168:14,14,19;170:10, 14,19;171:1,6; 172:24;178:11,11; 191:8 mostly (1) 170:25 mouse (2) 166:18,19 move (4) 6:5;167:12;197:9, 11 moved (3) 87:5,6,6 moving (3) 48:24;115:25; 167:11 much (27) 24:19;42:24;60:10; 65:3;66:9;87:11; 158:2;162:14; 165:18;166:25; 168:15,20;169:6; 170:2;172:7;174:8; 176:1,16;178:20; 181:21;183:2,3,11, 11;188:25;193:1; 194:24 multiple (7) 26:16;83:24;84:1, 3,6,22;115:16 multiplied (4) 115:17;130:19,20; 135:8 Multiplier (8) 115:19,23;125:4; 130:20;132:10; 135:9;136:6,13 multiply (9) 121:7,8;125:2,3; 129:3,4;132:9,10; 134:5 multi-unit (1) 61:14 must (4) 9:7;12:23;14:8; 107:13 myself (6)	18:15;46:20;68:7; 75:15;173:9;178:15 N name (29) 4:18;8:22;10:13; 13:12;14:9;37:8; 42:8;56:25;69:15; 71:15;78:15;97:5; 103:18,21;126:10,18; 135:19,20,22;156:4; 161:21;162:3; 171:16;179:14,21,22; 180:9;184:19;190:17 names (4) 19:8;126:17;138:5; 161:23 Natural (2) 11:20;113:9 nature (1) 145:19 near (1) 43:9 nearly (2) 159:17,19 necessarily (3) 16:20;93:2;149:6 necessary (2) 119:1;155:1 necessitate (1) 130:9 need (14) 42:17;56:21;57:17; 77:12,13;78:10,20; 166:22;167:13,17; 168:12;181:1;190:7; 199:3 needed (1) 36:3 needs (2) 42:21;80:4 negligence (5) 120:6,10,22; 142:20;143:12 Negligible (2) 112:20;113:3 neighborhood (3) 157:3,4,5 nephews (1) 160:6 nerves (2) 128:1,9 net (27) 23:19,20;26:11,25; 27:10;28:5,6,7,25; 29:13;30:4;31:5,13; 32:14;33:6,23,25; 36:23,25;37:12,13; 39:8,24;44:16;45:16, 22;77:15 neurotoxin (1) 128:9	neurotoxins (4) 127:25;152:15,15, 19 new (9) 7:20;17:1;58:16; 125:1;128:22,24,24; 132:8;134:5 next (23) 35:14;38:4;40:11, 16,18;41:18,20;57:4; 67:24;73:19,20; 103:6;109:9;110:14, 15;115:13,14; 179:17;180:19; 181:3,9;182:7; 196:21 nice (2) 6:1;157:5 niche (1) 71:14 non- (3) 43:4;141:13; 166:23 None (2) 80:17,18 non-target (5) 24:13;42:17;79:15; 81:21;124:3 Noon (1) 101:20 normally (6) 47:9;147:10; 162:10;172:23; 179:5;200:21 North (5) 9:8,16;18:2; 156:21;157:8 Norway (1) 84:9 notations (1) 190:25 note (1) 155:2 Notice (19) 19:2;46:25;50:4; 62:18;63:7;64:6; 66:3;67:10;74:20; 90:24;94:20;99:21; 100:4,7,20;101:9; 177:5,20,23 noticed (2) 19:5;64:2 notices (1) 97:13 notified (1) 189:15 notify (1) 191:22 notwithstanding (2) 141:13;143:5 number (21) 14:10;23:22;31:9; 56:25;78:10,11,12;	107:22;109:7;110:8; 111:2,23;115:18; 128:22;136:9; 138:12,19;139:1; 140:9;142:24;147:2 numbers (6) 17:17;32:15,16; 57:2;146:22;170:23 O OALJ (1) 200:25 oath (1) 58:3 objection (3) 6:14;7:2;197:13 obliged (1) 65:22 observations (1) 9:17 observe (3) 20:7;25:6;94:7 observed (2) 49:10;65:2 observing (1) 88:19 obtained (1) 76:14 obviously (3) 16:5;137:9,22 occasion (1) 96:10 occupation (1) 10:17 occur (2) 67:14;71:3 occurred (3) 51:21;63:14;88:3 occurring (1) 95:4 occurs (1) 96:9 off (30) 20:15;46:7;57:22; 58:8;64:23;70:23; 97:4;98:11;102:6; 109:14;112:10; 114:23;116:21; 120:16;127:17; 130:11;131:19; 132:7;140:3,6;142:1; 145:15;146:7,20; 155:13;177:13,13; 185:3;195:11;201:3 offer (10) 5:13,16;60:1; 67:20;92:4;163:5; 173:5;181:14; 184:10;193:23 offered (15) 19:18,19;35:9; 49:15;59:20;64:13,	14,16,21;65:5;66:8; 93:3,20;94:3;101:11 offering (1) 56:19 offers (1) 23:16 office (4) 107:17;164:6; 200:23,25 officer (8) 9:23;11:8;51:14; 75:16;104:5;105:16, 18;106:16 officers (1) 12:6 Official (2) 98:22;133:8 offsite (1) 20:18 often (5) 5:23;50:18;53:24; 83:1;95:8 omit (1) 90:18 once (16) 14:14;48:13;53:8; 68:20;89:3;112:9; 114:5,16;122:23; 173:23;182:22; 185:15;188:8; 190:22;193:21; 200:15 One (62) 6:20;7:1,20;9:3; 15:10;17:16;20:8,16; 25:7;26:16;33:17; 37:20;48:20;51:6; 55:10,25;56:2,16; 61:18;62:13,14,25; 64:8;65:8;66:22; 82:25;83:6,6;84:11, 15,18,20;89:11;91:6; 94:15;97:12;98:25; 99:22;100:23; 101:22;104:7;107:1, 7;119:13;136:12; 144:3,4,23;146:9; 148:14;151:18,18; 154:5,25;163:24; 164:16;168:3;169:3; 183:3;187:9;196:14; 197:22 ones (12) 48:20;79:9;80:18, 19;82:6;84:8,10; 97:24;133:18; 160:11;168:16; 171:12 OneStop (11) 110:3;117:6; 143:23;144:6,11,13, 19,22,23,24;145:3 OneStop's (1)
---	--	---	--	--

144:2 ongoing (1) 59:2 online (4) 46:24;59:16; 105:22;184:20 only (18) 17:18;32:9,13,14; 43:1;52:12,13;85:1, 13;89:2;91:8,16; 107:1,6;140:23; 144:3;148:18;155:3 on-site (1) 19:10 opaque (1) 123:18 open (5) 18:24;93:21;94:6; 118:18;123:20 opened (1) 124:3 opening (4) 5:13,16;8:21; 154:25 operate (4) 6:22;156:8;157:14; 193:3 operated (2) 46:3;183:10 operating (5) 156:11;158:6; 183:23;185:5;193:4 operation (2) 157:13;188:24 operations (4) 145:7;156:20; 173:6;183:13 Operator (10) 26:9,23;27:8; 36:22;37:1,11;38:25; 39:15;78:24;99:9 operators (3) 35:3;89:18;93:17 opinion (2) 49:22;64:20 opportunity (2) 70:2;200:17 opposed (4) 84:25;172:22; 173:3;199:11 opposite (1) 139:4 optional (5) 37:18,20;40:3,4,5 Order (32) 9:6;46:13;64:11; 73:20,24;74:11,17; 75:20;77:3,19;79:12; 90:8;95:22;137:1; 140:19,22;173:24; 181:10,11,22;182:9, 9,11,14,23;183:9; 186:7;194:20,25;	196:24;198:8;200:18 ordinary (2) 35:2;80:15 original (6) 15:6,6,21,25; 17:19;58:17 others (2) 71:22;168:5 ounce (3) 23:19,20;98:12 ounces (11) 27:11;28:6;30:4; 31:7;32:12,13,18,18; 33:5,24;81:5 ourselves (2) 46:22;63:21 out (68) 17:9,22;27:25; 30:17;33:17;42:20; 52:16;54:11;55:18; 60:2;61:22;63:6; 66:6;74:6;76:24; 78:2;87:13;89:12; 94:18,19;95:3,9,12, 15;96:11;105:17; 106:5;108:22;136:8; 140:25;141:9; 159:11;162:5,7; 164:6;166:5,21,25; 168:3;170:2;171:8; 179:14;181:16; 183:19,22;185:8,12, 16,21,22,25;186:2,5, 17;187:21;188:8,15, 24;189:3,9;191:7; 192:8;196:19; 198:12,13,15;199:11, 12 outcome (2) 175:13;176:12 outcomes (1) 138:8 outdoors (2) 80:1;190:23 Outer (5) 26:9;28:24;30:3; 36:22;38:25 outlining (1) 200:18 outs (1) 162:2 outside (17) 18:23;22:22;24:9; 47:2;65:22,23;66:22, 24,25;67:2;70:10,12; 80:3;86:23;124:1; 149:22;167:24 over (14) 4:6,7;5:12;33:14; 55:24;62:21;105:2,2; 110:12;144:25; 167:23;172:24; 173:3;200:17	Overland (14) 46:5;48:2;50:5; 91:10,13,24;94:2; 134:18;156:24; 183:16;188:23; 193:5;197:19;198:14 oversight (1) 90:19 Overspill (1) 169:18 overview (1) 107:21 own (13) 20:10;49:5;77:21, 23;78:10;89:24;90:4, 9,9;109:23,23;148:7, 9 owned (1) 46:2 owner (2) 18:14;92:20 oxygen (1) 153:1 P Pac (4) 26:15;27:5,9,25 pack (25) 21:6,7;23:20,23; 28:4,12;30:17,22,25; 31:3,18,23;32:5,24; 33:2,22;72:10;86:25; 87:2;98:5,16;122:4,5, 6,23 Package (9) 26:10,24;28:24; 29:12;39:1;123:13; 151:15,17;173:2 packaged (6) 9:1;44:17;58:19; 90:2;95:24;152:23 packages (6) 37:2,3;44:19; 123:17;151:12;168:1 packaging (19) 21:10;24:8,10; 30:3;35:23,25;39:16; 41:7;78:9;82:21; 123:10,16;124:1; 128:1;133:8;145:15; 148:24;180:22; 186:14 packets (1) 72:1 packs (51) 21:4;23:19;24:2, 21,25;25:4;26:5; 28:5,8;29:4;30:8,13, 16;31:5,14,25;32:8, 20;33:9,13,17,23; 34:1,5,8,11,15,19; 35:9;38:6,9,12;40:12,	17;41:18;46:15; 49:15;72:3,10,11; 74:2;76:7;86:21; 97:23,23;131:5; 140:4,5,13;151:7,8 packs' (1) 23:17 Pacs (8) 25:12;26:1;27:17; 28:17,21;29:9,18,22 Page (147) 23:11;25:23,24; 26:2,8,12,13,22;27:2, 3,7,12,15,20,21,23, 24;28:2,3,18,18,23; 29:6,7,11,15,16,20, 23,24,24;30:2,6,7,10, 11,14,15,19,20,23,24; 31:1,2,8,12;32:2,3,7, 21,22;33:1,7,8,11,12, 15,16,19,20;35:6,7; 36:6,16,17,21;37:5,6, 10,16,17,23,24,25; 38:2,20,21,24;39:3,4, 7,9,9,10,14,18,19,23; 40:1,2,8,9,13,14; 41:1,2,5,11,12,15,16; 43:7,14,15,18,19,23; 44:11,12,15,22,23; 45:1,2,5,6,13,17; 98:1,4,18;111:8; 115:16;120:3; 121:17;125:6,17,19; 126:1,3,13,14,25; 129:7;130:22;134:8; 139:20,21;142:9; 143:16;153:14,20; 154:2,3;164:16; 195:24,24 Pages (4) 72:6;97:22;163:2, 12 pail (6) 32:9,13,18;43:20, 23;81:2 pails (1) 32:9 paired (2) 40:11;41:18 Panel (1) 44:16 paper (2) 45:11;184:19 paperwork (3) 17:21,21;19:17 paralegal (1) 6:21 paraphrased (1) 16:12 pardon (1) 37:12 part (24) 62:1;67:12,13;	70:20;90:17;92:12, 13;95:9,15;108:24, 25;109:9;110:14,15; 115:13,14;144:15; 147:7;161:3;165:3; 173:5;183:4,7; 186:22 partial (1) 23:21 partially (1) 140:13 participated (1) 51:25 particular (3) 85:21;127:25; 178:9 particularly (1) 74:22 parties (4) 4:11;5:20;61:13; 99:13 parts (1) 20:3 party (1) 5:6 passed (1) 119:13 past (1) 137:20 Patterson (5) 46:21;47:10,14; 66:20;67:6 Patterston (1) 47:14 Pause (6) 6:2;57:14,16;58:1; 99:3;188:13 PCO (4) 44:16;98:18,20; 99:7 PDF (1) 8:12 pellet (1) 32:14 Pellets (6) 31:23;32:5,13,24; 33:6;124:1 penalties (8) 108:6,13,23; 117:10;136:18; 137:5;140:19;144:17 penalty (94) 9:24;74:14;106:12, 13;107:22;108:19, 24;109:9,10;110:14, 16,17,18,18,23; 113:18;114:6,11,17, 22;115:5,9,11,12,13, 14,17,21,25;116:9; 117:15,21;120:12,18; 121:1,4,6,6,23;122:8, 15;124:17,19,20,21, 24;125:1,9;127:1,10;
--	---	---	--	--

128:20,23,24;129:1, 10,25;130:14,16,18; 131:1,17,20;132:3,5, 8,8,11,17;133:9,13, 16,24;134:2,4,5,10; 135:1,2,7,8,11,11; 139:15;140:3,21,24; 141:2,4,5,8,10; 147:20;148:3,4	person's (1) 85:5 Pest (77) 4:4,23;5:3;17:4,7, 10;18:14;21:22;26:9, 23;27:8,19;36:22; 37:1,11;46:12;48:1; 50:5;51:17;52:8,20; 53:25;55:21,25; 57:11;59:5;61:13,20; 71:5;74:6;77:9,19; 78:6;80:6,11;82:14; 83:1;85:16;89:18; 91:1;99:22;106:18, 20,25;107:7;113:25; 119:20;123:15; 125:14;126:8,12; 132:22;136:25; 137:19;142:2; 143:19;156:8,11; 157:19;158:7,12; 159:15;162:15,15; 173:6,6,10,12,16,17; 182:25;183:23; 184:2;185:5;191:17, 18,18	14:7,21;19:5,7,18,19, 24;20:8,8,18,23,24; 21:2;22:23;23:4; 24:1;34:19;36:5; 43:11;46:14;49:9,18, 22;50:14,15,22;52:5; 56:24;58:19;59:9,18; 60:7,20;61:9,14; 64:12;76:15;85:7,12, 14,20;87:12;88:3,11, 19,20,20;90:14; 91:10,16,17;92:16; 93:1,6,8,11,20;94:3, 9;95:6,8,11,11; 104:23;108:12; 112:1,2,2,3;113:23; 116:1,8;122:3,7; 125:11;126:25; 129:12;130:7;131:3; 132:19;135:4; 145:17,19;149:16; 158:21,22;161:24; 162:12;172:3,4,19; 178:12;196:17,18,19, 22	21:9;25:12,25;26:14; 27:5,9,17,25;28:17, 21;29:9,18,22;50:13; 94:2;97:23;98:5; 123:15;167:18,19,20; 200:21,21 placed (7) 15:17;38:1,4; 41:14;64:11,24; 191:13 places (1) 21:9 plastic (19) 21:1,2;23:24;24:6; 34:7,15;35:24,25; 36:2;41:23;45:9; 74:3,3,25;76:7; 118:10;119:10; 127:3;184:8 Please (37) 5:14;10:5,13,15; 22:19;26:7;28:18,22; 30:10;32:6;36:16; 37:23;41:15;46:8,18; 48:11;99:8;103:18; 106:1;107:23; 108:15;109:21; 111:8;114:8;121:17; 125:5,16,25;126:13, 24;129:6;130:22; 132:13;134:8; 155:24;156:1,4	position (2) 10:19;104:4 positions (1) 160:7 possible (1) 77:11 post-hearing (1) 200:19 potent (1) 149:4 potential (24) 9:25;74:7,23; 76:22,24;81:17;95:3, 5;96:1;112:17,21,22, 25;113:4,5;118:22; 141:20;145:9,10,19, 20,21;149:25;151:21 potentially (3) 92:19;146:1; 149:23 Pound (13) 26:11;27:1;28:25; 29:13;39:8,16,17,24, 24;43:1,1,11;169:15 Pounds (28) 26:10,11,24,25; 27:1;28:25,25;29:13, 13,13;32:12,13,18, 18;36:25,25;37:2,4, 14;39:1,8;43:1; 44:17,18,19,21;81:5, 7
people (25) 13:18;14:2;34:25; 43:5;58:21;74:24; 76:23;85:13,15; 87:17,24;90:4,5,9; 93:23;107:14;160:4; 185:22,25;187:3,5,6; 192:24,25,25 per (4) 115:16,16;147:3; 152:12 percent (14) 115:3;121:3; 124:20;126:15; 128:21;132:4,7; 134:1,4;141:17; 144:8;146:24;161:9, 13 Percentage (4) 114:25;115:1,2; 161:7 percentages (1) 170:23 perfectly (1) 188:7 perform (2) 9:18;107:11 performed (1) 18:21 performing (1) 11:14 perhaps (2) 87:5,21 period (3) 56:3;137:20; 173:19 Periodic (1) 174:13 permethrin (3) 152:17;162:1; 164:22 person (25) 16:16,21,21,24; 34:10,15,18;42:1,16; 45:17,21;52:12,13; 58:25;62:6;69:1; 96:18;101:11; 118:25;119:14; 128:10;141:2;143:2; 151:22;153:22 personal (2) 13:13;199:2 persons (1) 85:17	pesticidal (1) 142:3 pesticide (136) 12:22,24;13:2,4,12, 14,21,23;14:2,4,9,10, 22,23,24,25,25;15:1, 3,5,6,11,15,17,19,19, 20,21,24;16:8,16,18, 20,22,24;17:1,15,16, 21;19:4,13;20:5; 21:8,10,16,22;22:24, 25;24:16,21;25:19; 35:3,12;38:7,25; 39:15,20;43:2;49:7; 52:15,23;54:4,11,14, 17,20;55:1,56:25; 57:1;58:14,17,18; 59:16,20;60:6,14; 61:15;70:21;74:9,10; 77:14,25;78:12,13; 79:23,24;83:16;84:2; 85:1,4,5,6,25;87:5,9, 11,15,16,20;88:2; 89:24;91:22;92:4; 93:16;94:13;98:21; 99:9;104:13,15,19, 21;105:3,10;106:22; 107:12,15;111:12,18, 20;112:4,8;114:1; 116:16,23;117:22; 121:13;122:21; 127:13;129:21; 133:4,22;146:2,8,20; 149:4;168:21 pesticides (104) 9:1,8,10;10:1; 12:18,21;13:19,20;	Pesticide's (3) 111:15,24;130:11 pests (3) 19:14,22;166:24 pet (1) 42:17 pets (4) 14:3;34:25;43:5; 81:21 phone (4) 19:15;63:14;73:16; 169:21 phones (1) 52:14 photo (5) 37:20;38:3,9,10; 43:8 photograph (3) 23:5;41:13;70:10 photographs (12) 18:23,23;22:15,20, 21,22;23:3;31:10; 68:22;70:1,4;100:8 photos (2) 22:17,25 physical (1) 77:18 physician (1) 42:18 pick (2) 93:18,23 picture (2) 40:6;63:20 pictures (6) 23:1;68:8;192:9; 193:17,18,19 place (26) 15:13;16:3;20:10;	pm (2) 102:7;201:5 point (15) 61:23;68:2;69:3,8; 72:17,21;74:5;76:24; 77:7;146:24;166:5, 21;167:6;170:2; 182:23 pointed (7) 20:1;168:3;179:14; 181:15;185:16; 187:21;188:8 poison (5) 24:13;84:11;89:3; 118:12,13 poisoned (1) 84:14 poisoning (1) 14:2 poisonings (1) 87:16 Policy (12) 106:11;108:3,4,12; 109:10;136:21,22; 139:7,7,13;142:13,15 pop (1) 190:11 pop-up (1) 190:9 poses (1) 9:20	pounds] (1) 41:7 pour (4) 20:9,19,21;23:4 pouring (2) 78:3;91:21 pour-up (4) 20:6;43:10;91:20; 95:25 practice (4) 20:12,17;53:21; 72:18 practices (1) 9:17 precautionary (3) 16:11;30:4;87:1 predominantly (1) 157:10 preliminary (3) 5:19,21;6:20 prepared (2) 122:1;134:13 preponderance (1) 9:7 presence (1) 101:14 present (9) 18:12;19:1;63:16; 67:21;100:20;103:3; 120:1;193:22;194:16 presented (3)

46:25;62:3;67:10 presenting (1) 62:7 preside (1) 4:7 presiding (1) 4:6 pressure (1) 83:20 pretty (26) 12:24;14:23;52:6; 59:8;74:8;87:11; 136:18;162:14; 165:18;166:24; 168:15;20;169:6; 170:2;172:7;174:8; 176:1,16;179:1; 181:21;183:3,11,11; 188:25;193:1;194:24 prevent (4) 42:19;43:4;49:14; 73:1 prevented (2) 34:25;53:15 Prevention (1) 11:1 prevents (1) 80:2 previous (5) 28:7;113:13; 120:16;132:2;138:4 previously (2) 64:2;104:9 priced (3) 49:13;25;64:24 prices (2) 196:21,23 pride (1) 187:10 primarily (1) 92:11 primary (1) 105:13 print (1) 76:19 printed (4) 20:15;43:21;76:16, 17 printing (1) 76:19 Prior (10) 11:7;51:21;68:19; 137:7,9;138:7,8; 139:24;141:13;174:7 private (3) 109:18,20,22 Pro (1) 125:21 Probably (19) 12:5,12;51:12,22; 59:18;66:18;69:6; 75:17;76:20;90:16; 161:9,9;167:9,25;	172:13;174:12,15; 177:10;197:5 problem (27) 8:11;53:5;64:19; 68:13,19;73:23; 84:15;92:19,19;95:8; 166:16,18,19,21; 167:2,4,10,15,23; 174:8,10;185:15,17; 186:25;187:2,23; 190:11 problematic (2) 79:15;80:20 problems (3) 50:20;75:13; 187:16 procedure (5) 62:1;67:12,13; 94:19;144:16 procedures (1) 166:1 proceed (7) 8:19;17:12;103:3; 155:2,6,25;195:16 proceeding (2) 4:7,7 process (10) 11:12;12:24;13:4; 25:16;71:11;106:1,6; 115:13;147:7,9 produce (5) 14:22;56:24,24; 57:2;91:10 produced (5) 14:7,10;56:22; 57:1;92:17 producer (9) 14:7;54:11,17; 57:10;58:10,12,18; 59:6;77:8 producers (3) 17:15;83:1;92:4 produces (2) 50:14;54:20 producing (10) 14:21,23;15:5; 17:20;54:19;58:14; 91:16,17,25;189:1 product (44) 16:13;25:21;26:17; 34:12;35:16;37:3; 42:2,8,12;44:20; 45:18,23;58:16; 61:24;71:13;72:19, 23;73:13;77:9,21; 85:25;96:7;112:9,12; 119:11;122:10; 125:22;126:6,11,20; 128:8;139:23; 146:15;148:21; 151:23;161:20; 165:14,19;187:14,19; 189:2;192:9;198:3,5	production (1) 91:22 products (33) 23:8,16,18;25:7; 34:22;35:9,11,22; 36:3;49:7;75:3; 83:23;94:14;105:11; 116:11;118:1,16; 123:7,11,14;127:18, 23;131:12;132:1; 133:7,23;140:3; 149:18,20;162:4,11; 165:20;172:3 professional (15) 55:5,5;61:24; 69:11;79:24;80:4,6, 11;82:1;87:4,5; 125:13;126:8; 132:22;173:2 professionals (6) 24:17;43:2;61:12; 79:24;80:8;149:20 profit (1) 198:16 program (4) 92:14;144:7,7,11 programs (1) 94:22 prohibited (14) 26:25;27:10;29:14; 30:5;32:9,12;33:3,5; 37:15;39:25;41:6,10; 79:8,20 projector (2) 6:22;21:18 promoted (1) 104:14 promotes (2) 108:6,8 prompted (2) 52:19;64:8 pronounce (1) 135:19 pronounced (1) 136:2 proof (1) 65:8 proper (4) 13:23;15:17;82:20; 105:8 properly (7) 13:15;34:1;42:3; 45:19,23;81:24;98:1 property (1) 109:23 protect (1) 13:13 Protection (10) 8:23;11:8,11; 12:25;14:13;17:15; 25:15;54:10,24; 163:14 protective (1)	13:14 protects (1) 87:18 Prove (1) 168:20 provide (22) 50:11,20;59:2,10; 61:20,24;69:15; 73:20;76:1,16;81:4; 89:25;90:18;96:17, 22,23,25;100:2,18; 173:16;192:3;200:16 provided (14) 19:1;61:12;68:8; 72:22;74:1,4;94:13; 97:12;99:21,24; 100:4,11;197:1,2 provider (1) 119:2 provides (2) 13:21,22 providing (5) 12:25;14:5;94:19, 20;197:3 public (23) 13:22;24:16;25:3; 50:22;64:24;68:23, 24;70:13;74:24; 82:10,10;93:13;94:4; 95:10;96:4;107:5; 161:12,13,14;169:2; 171:17,18;184:5 published (1) 136:10 pull (2) 7:15;144:5 pulled (1) 116:22 pulling (1) 112:19 pulls (1) 143:24 purchase (5) 20:1;85:13;90:15; 160:23;187:12 purchases (1) 162:1 purchasing (2) 151:23;164:22 purpose (3) 56:17,19;108:4 purposes (4) 116:9;122:8;127:1; 128:22 pursuant (3) 4:8;9:6;86:22 put (11) 15:6,7;34:15; 144:22;166:22; 167:17,18;181:21; 185:22;186:4,17 putting (6) 60:9,18,21;184:8;	185:21,25 <hr/> Q <hr/> QT (1) 93:8 qualify (1) 11:16 quantities (4) 80:24;81:7;162:8; 184:17 quick (4) 66:12,16;150:22; 153:8 quicker (2) 84:14,15 quickly (1) 42:21 quite (1) 14:19 <hr/> R <hr/> R-1 (1) 164:15 R-2 (1) 162:25 raise (3) 10:5;103:9;155:19 ran (1) 182:25 range (3) 142:21,23;146:3 ranked (2) 145:22,25 ranks (1) 141:12 Rat (4) 84:9;89:11;118:13; 162:14 rates (1) 116:22 rather (3) 66:12;140:20; 141:25 Ratrac (1) 37:8 rats (1) 187:18 RAYMOND (60) 4:21,22;5:10;6:13, 16;7:5,8;8:3,7,9,12, 15;50:25;51:2,4; 57:14,19,25;58:5; 83:9,13,14;86:12; 99:17,19;101:4; 103:4;135:18; 143:18;147:13; 154:12,14,23;155:5, 8,11,16,17,25;156:3; 158:4;162:24;163:1, 4,6,8,10;164:13,16, 18;188:19,21;195:3;
--	---	---	---	---

197:8,10;199:20,24; 200:2,25;201:2 re (1) 175:25 reach (1) 17:22 reached (1) 17:9 reaching (3) 185:22,25;186:16 reaction (2) 87:14;88:3 read (30) 23:12;26:7,21; 27:6;28:22;29:10,19; 30:1;32:6,25;35:7,14; 18:36;20:37;9:38;24; 39:6,13,22;41:4; 44:14;48:11,13,14; 19:22;98:18;113:2; 120:3;169:20 reading (1) 49:1 Ready (8) 25:12,25;26:14; 27:5,17;95:17;103:3; 155:7 Ready-To-Use (4) 28:17,21;29:9,18 real (4) 71:5;81:20;150:21; 153:8 really (14) 48:23;71:4;73:25; 78:25;90:21;123:19; 168:16;170:14,17; 171:2;180:25; 192:25;198:15,16 re-ask (1) 75:10 reason (4) 94:23;119:10; 123:25;141:18 reasoning (1) 120:21 reasons (1) 128:8 recall (9) 73:12;96:11; 159:16;171:17; 173:23;182:15,17,21; 190:16 recalled (1) 99:5 recap (1) 200:3 receipt (1) 23:5 receive (7) 11:12;14:17;60:23; 94:1,1;95:9;97:9 received (7) 6:19;8:18;14:15;	77:10;182:16; 194:20;197:16 receives (1) 146:16 receiving (2) 17:12;200:14 recently (7) 26:5;29:3;31:25; 36:14;38:18;40:24; 44:9 receptive (2) 73:25;76:2 recess (5) 57:23;102:7; 155:14;195:7,12 recognize (13) 21:19;22:11;25:8; 28:13;31:19;36:9; 38:14;40:19;44:3; 47:21;50:3;108:1,21 record (16) 4:2,5;13;23:9; 27:13;57:22,24; 102:6;103:1;114:9; 155:13,15;195:11,13, 15;200:11;201:4 recording (1) 188:19 record-keeping (1) 105:8 records (6) 55:23;85:2;88:9; 137:22;138:4;153:23 RECROSS-EXAMINATION (1) 99:18 red (3) 40:6;116:4;121:14 REDIRECT (2) 86:19;147:15 reduce (2) 79:16;114:13 reduction (11) 114:19;115:3; 124:20,21;128:21; 132:4,7;133:24; 134:1,4;141:17 reductions (1) 125:2 re-examination (1) 86:15 referenced (1) 165:2 referral (1) 17:12 referred (1) 140:10 referring (2) 85:17;98:1 refers (1) 23:17 refilling (1) 76:12 reflect (2)	23:9;27:13 reflects (1) 115:4 refresh (1) 18:7 refresher-type (1) 86:4 refuse (1) 176:17 refused (7) 9:3;53:5,12;65:17; 101:10;153:22; 176:19 regard (1) 59:12 regarding (5) 29:2;59:8,9,9; 77:11 Region (10) 9:13,23;10:18,21; 11:9;18:14,18;47:13, 15;62:23 register (13) 12:24;16:25;19:16; 26:18;34:18;52:14; 77:24;91:6;107:9; 115:24;136:8,10; 146:14 registered (34) 13:5;14:4;16:10; 20:8;25:14;34:10; 42:1,22;43:24;45:21; 54:3,7,7,10;55:1; 59:5;60:15;70:21; 77:17;78:6,7,20;91:2, 5,5,12,14;112:9,13; 114:1;133:8;140:13; 142:4;146:15 registering (2) 13:18;15:15 registers (1) 26:18 registrant (15) 16:18;17:19;24:8, 11;25:21;70:21; 71:10;76:16;77:14; 78:1;79:3;82:24; 109:17;146:13;147:4 registrants (2) 15:14;141:1 registrant's (1) 78:10 registration (28) 12:18,20;13:3; 14:10;15:21,25; 17:17;23:22;25:16; 36:4;54:16;56:25; 59:1,9,14;60:4; 70:14;71:11,25; 77:21,24;78:11;80:7; 91:3,7,8;147:7,9 regs (1) 136:20	regular (2) 178:10;184:5 regularly (2) 90:13;107:17 regulate (1) 88:1 regulated (1) 60:24 regulation (3) 35:22;59:8;141:25 regulations (15) 10:21,22;11:14,22; 12:17;55:8;60:8,11, 16;77:11,20;79:7,13; 89:19;105:8 regulator (5) 125:14,20,24; 132:22;152:16 relabel (1) 15:2 relabeling (1) 14:25 relate (3) 119:1;125:22; 126:6 related (7) 104:20;110:5; 127:17;135:4;138:5; 139:11;147:24 relates (8) 109:2;116:15; 126:11,20;129:20; 133:3;134:22;147:3 relation (1) 141:1 relayed (1) 13:7 remain (3) 10:4;103:9;155:18 remedy (2) 42:19,20 remember (18) 18:4;47:19;66:11; 68:14,15,17;73:14; 76:3,9,10;174:16,21; 176:2;177:19; 179:25;180:4;189:6; 191:5 remind (1) 195:14 Removal (9) 46:13;64:11;73:20; 74:11;75:20;77:3; 95:22;137:1;182:10 remove (1) 77:6 removed (2) 25:19;42:9 repack (1) 77:25 repackage (6) 15:2,11,16;71:13; 78:24;163:17	repackaged (13) 9:9;15:20,24; 16:16;24:6;35:11,17; 116:10;118:9;122:9; 127:3;194:21,21 repackager (4) 16:17,20;71:13; 79:3 repackages (2) 16:24;23:23 repackaging (32) 14:25;15:4,8,13; 16:3,13,25;17:18,19; 58:16;59:1,9;60:4; 70:14,17,22,23,24; 71:3,8,20;76:15; 77:13;78:5,19;82:23; 95:8;175:25;185:9, 10,12,14 repacker (1) 76:16 repeat (7) 15:23;24:1;84:1; 115:8;165:17; 177:22;192:6 repeated (1) 166:6 rephrase (1) 15:24 report (20) 14:8,13;18:5; 21:24;22:1,4,6; 55:15;56:24;62:20; 74:5;87:21;97:17,19; 110:3;117:6;144:24; 145:1;150:2,10 reported (3) 87:17,18,19 REPORTER (4) 157:24;158:2; 188:14;200:15 reporting (5) 14:5,17;17:14; 19:4;56:23 reports (5) 11:14;87:18;138:1; 145:24;146:21 represent (3) 8:23;51:3;134:15 representation (1) 75:18 representative (1) 194:7 represented (5) 116:1;125:11; 129:12;131:3;132:19 representing (3) 4:14,19,22 reproduce (1) 163:15 request (6) 6:21;110:4;138:3; 143:23;144:24;195:6
---	---	--	--	--

requested (1) 53:1	82:16;83:17;84:24; 85:1,4,7,9,13,13,20; 112:2;146:12;172:2, 3,4,11,22	15;122:2;125:18; 139:18;140:15,18; 142:9,19;146:2; 150:5;154:16; 155:16,19;157:12; 158:23;159:9,21,23; 160:4,10,14,17,25; 161:10;162:3,8,11; 163:11,18;164:7,10, 13;165:14,25; 166:12;168:4; 169:24;171:17; 172:1;173:13;174:1; 175:6,9,10;176:6,7,7, 9,12,17,23;177:5; 178:18;179:1,10,16, 19;180:18;182:3,7, 12,18,20,22;184:23, 25;187:11,19; 188:12;189:5,15,25; 190:3,13,18;192:12; 193:6,20;194:15,17, 24;195:2;199:16,25; 201:2	178:12;180:22; 183:20;184:7; 186:21;191:7,13,16; 194:21;195:21; 196:8,10,12,14,15	75:20;77:2;79:8,19; 88:23;93:3,4,13,20, 21,21;94:3,10;95:22, 23;105:11;116:16, 22;121:12;129:21; 133:3;140:19,22; 165:15;166:2,14; 170:22;182:9,11,14, 22;183:8;184:10; 186:5;189:1;194:25; 196:24;198:6
require (3) 34:24;83:1;149:21	restrictions (1) 87:24	rodents (1) 21:9	rodents (1) 21:9	sales (28) 27:10;33:3;41:8; 69:22;72:21;80:5; 81:4,14;88:18;110:7, 9,13;117:7;160:9; 161:8;166:1;172:11; 173:11,14;183:6; 184:2,14,24;185:3; 188:25;189:4;191:4; 192:5
required (17) 14:13,17;15:12; 44:18;67:11;71:25; 79:12;86:22;90:15; 98:8,9;107:9;146:13; 147:5;153:1;163:22; 178:21	result (2) 9:25;185:13	role (5) 11:3,6,18;12:13; 106:14	role (5) 11:3,6,18;12:13; 106:14	same (64) 16:5,21;27:22; 30:25;31:3;35:9; 38:6,7,9;52:1;55:4; 63:23;78:13,14;80:7, 8,12,13;82:12;87:8; 98:5;113:2,2;114:14; 116:10,11;117:13,14; 119:10,14;120:21; 122:10,10,18,19,24, 25;123:8,11,25; 124:2,4,9,13;127:3; 128:8,10;129:14; 130:7,13;131:6; 132:1;133:22; 165:18;172:25; 173:4;183:18,18,19, 20;184:7;188:25; 191:16
requirement (1) 72:7	resulted (1) 120:22	roles (1) 104:11	roles (1) 104:11	samples (1) 50:18
requirements (13) 13:17,25;14:5; 15:10;16:2,7,25; 35:22;59:18;60:12; 80:5,7;88:11	resulting (4) 120:6,10;142:20; 143:11	rolls (1) 57:4	rolls (1) 57:4	Sampling (1) 153:23
requires (1) 55:1	resume (2) 58:6;195:7	room (5) 91:20;93:23;119:2; 179:8,11	room (5) 91:20;93:23;119:2; 179:8,11	Sarah (1) 23:13
requiring (1) 89:2	retail (3) 188:25;189:4; 191:15	ruined (2) 184:22,22	ruined (2) 184:22,22	saw (5) 19:20;49:5;52:12; 73:9;89:16
reschedule (1) 193:23	retailer (2) 56:21;117:3	Rule (1) 5:7	Rule (1) 5:7	saying (10) 59:13;65:18;106:5; 181:8,9;186:4;187:7; 188:4,6;191:20
rescheduling (1) 67:20	Retailers (1) 189:5	run (1) 186:3	run (1) 186:3	scale (1) 145:25
resealable (4) 23:24;24:6;35:11, 17	retain (1) 55:23	running (1) 188:7	running (1) 188:7	schedule (3) 47:4;177:21; 200:19
research (1) 106:18	retained (1) 97:2	runs (1) 71:7	runs (1) 71:7	scheduled (4) 62:14,16,17,21
resistant (1) 84:10	retake (1) 58:2	RX-1 (5) 196:1;197:9,15,16; 200:4	RX-1 (5) 196:1;197:9,15,16; 200:4	scheduling (1) 177:25
Resources (1) 11:21	return (2) 181:23;195:8	RX-2 (8) 196:2,3,5,6,7; 197:15,16;200:4	RX-2 (8) 196:2,3,5,6,7; 197:15,16;200:4	school (1)
respect (2) 80:7;137:13	revenue (3) 110:6,7,9	S	S	
respectively (1) 151:4	reverse (2) 33:21;45:3			
respond (2) 68:8;192:9	review (13) 11:8,13;12:6;28:7; 31:13;34:1;51:14; 105:19,25;106:3,16; 138:4;150:1	sad (1) 185:7	sad (1) 185:7	
Respondent (9) 4:22;5:16;6:15; 7:5;8:25;135:16; 154:22;199:19; 200:16	reviewed (6) 12:5;17:16,16; 22:1;75:17;135:10	safe (2) 13:2,23	safe (2) 13:2,23	
Respondents (1) 197:12	reviewing (1) 106:6	safely (2) 13:5;187:20	safely (2) 13:5;187:20	
Respondent's (10) 50:24;103:2; 113:11,20;162:25; 163:4,12;164:14,15; 197:16	reviews (1) 35:22	safety (18) 13:13;25:17;72:2, 8,13,19;73:2,6,13; 87:8;88:6;169:10,11, 24;170:1,8,9;196:25	safety (18) 13:13;25:17;72:2, 8,13,19;73:2,6,13; 87:8;88:6;169:10,11, 24;170:1,8,9;196:25	
response (7) 34:14;67:16; 106:11;108:2,4; 136:21;194:6	revised (3) 7:10,11,22	Safety's (1) 187:24	Safety's (1) 187:24	
responsibilities (2) 10:19;105:13	ridiculous (1) 188:2	sale (90) 9:10;12:17;19:6, 18,20,24;20:22,23; 22:23;23:1,16;24:25; 25:5;26:25;28:9; 29:14;30:5;31:15; 32:9,10;33:2;34:2; 35:9;37:15;39:25; 41:6;49:7,15,23; 56:19;60:18;64:11, 13,14,15,16,21;65:6; 69:10,12;71:13; 72:18,21;73:3,20,24; 74:7,8,11,13,15,17;	sale (90) 9:10;12:17;19:6, 18,20,24;20:22,23; 22:23;23:1,16;24:25; 25:5;26:25;28:9; 29:14;30:5;31:15; 32:9,10;33:2;34:2; 35:9;37:15;39:25; 41:6;49:7,15,23; 56:19;60:18;64:11, 13,14,15,16,21;65:6; 69:10,12;71:13; 72:18,21;73:3,20,24; 74:7,8,11,13,15,17;	
rest (5) 161:10,11;199:19, 22,24	right (128) 7:16;8:17,19,20; 10:5;14:19;16:4; 17:17;19:17;40:18; 44:2;45:25;49:17; 51:24;55:9;56:5; 62:14;63:4,15;65:8, 21;66:15;68:5,24; 70:13;72:14;73:15; 78:14;79:4;81:1,1; 83:4,8;84:17;86:9, 11;89:21,21;100:1, 10,10;101:3;103:10,	rodenticides (51) 21:3;23:1,21; 24:12;49:9;64:14,20, 25;65:2;68:18;69:9; 79:14;80:14,20;81:8, 14;82:3,9,17;83:19, 24;89:2;90:15;94:3; 116:11;122:6; 147:11;158:24; 160:24;162:13; 165:11;167:7; 172:18,20,25;173:3;	rodenticides (51) 21:3;23:1,21; 24:12;49:9;64:14,20, 25;65:2;68:18;69:9; 79:14;80:14,20;81:8, 14;82:3,9,17;83:19, 24;89:2;90:15;94:3; 116:11;122:6; 147:11;158:24; 160:24;162:13; 165:11;167:7; 172:18,20,25;173:3;	
restricted (17)				

60:3 scored (1) 148:15 screen (2) 6:22;23:12 seat (1) 155:24 seated (1) 10:10 second (18) 7:12,13;9:9;24:12; 46:4,10,11;79:14; 80:19;83:16;84:8; 88:20;89:2,6;153:19, 21;154:5;156:24 secondary (2) 89:8;151:14 second-generation (1) 42:15 secretary (3) 189:11,17;191:9 Section (7) 17:13,14;19:3; 60:19;61:10;148:6; 153:2 secure (1) 128:2 secured (1) 123:13 seeing (2) 166:16;167:10 seem (1) 170:21 seems (1) 74:12 selected (1) 120:7 sell (40) 12:23;16:16;25:3; 34:16;37:3;44:20; 50:22;56:22;74:2; 76:6;80:24;81:6; 82:21;85:4;88:11; 89:17;90:1;159:12; 160:8;161:20; 162:13,13,14;167:22; 168:5,5;170:23,24; 171:4,5;172:3,4; 184:6,17;186:24,25; 189:2;195:21; 196:18;198:10 selling (25) 9:25;13:19;35:21; 60:22;64:18;65:7; 68:12,18;77:5;80:10; 82:14;90:1;183:2,18; 184:21;186:24; 187:2;191:1,6,19; 192:10;196:16; 198:1,20;199:14 sells (4) 9:1;16:21;35:8; 50:14	selves (1) 178:6 seminars (1) 162:7 send (3) 8:9;63:6;106:4 sending (5) 52:15;181:7; 192:24,24,25 Senior (1) 4:9 sensitive (2) 42:11;113:9 sent (8) 8:12,12,15;63:13; 74:6;107:18;136:8; 144:25 separate (3) 57:2;58:15;91:7 Sequestration (1) 5:7 serious (5) 109:8;112:23,24; 113:6,7 service (10) 107:12,12;159:12; 171:7;183:4;184:4; 189:3,5;191:10; 196:20 services (7) 61:13,20;173:7,9, 10,12,16 set (3) 7:25;94:15;186:1 several (8) 10:20;26:19;49:14; 55:11,12;62:19; 70:24;79:4 severe (5) 74:13;110:22; 111:2,3;140:2 severity (1) 131:13 share (2) 5:25;50:9 shared (1) 87:25 sheet (6) 73:6;87:8;169:11; 170:1,8,9 sheets (2) 73:3;169:24 shelf (6) 60:10,18,21;93:9, 12;169:16 shelves (4) 19:6;22:23;96:7; 105:12 shelving (2) 19:17;94:6 shift (1) 45:25 shops (1)	198:22 short (1) 74:15 show (18) 6:23;18:24;22:21; 33:18;142:13; 147:23;153:12; 162:24;164:13; 169:10;176:21; 177:4;179:5,10; 181:21;192:20; 193:12;196:6 showed (3) 23:15;35:15;56:12 showing (3) 22:22;32:17; 163:11 shown (1) 114:9 shows (4) 37:25;107:6; 142:19;153:24 shut (4) 173:24;176:21; 177:4;198:21 sic (1) 54:9 sickened (1) 87:20 side (5) 30:12;33:21;43:20; 45:3;83:10 sides (1) 22:25 sign (2) 94:6;97:4 signal (13) 111:18,20,23; 112:1,7,15;118:2,3; 122:24;127:18; 146:7,9,16 signature (5) 7:24,24;8:4;63:20; 97:6 signatures (2) 7:19,20 signed (5) 8:3,4,10;22:9; 100:2 similar (7) 35:11;49:9,18; 55:7;116:11;118:16; 179:1 simple (2) 42:20,20 simply (1) 60:9 single (2) 75:3;166:25 sit (2) 157:24;181:2 Site (3) 47:25;73:10;95:17	Sites (1) 36:24 situation (3) 90:12;95:3;141:25 six (1) 23:23 size (21) 26:20;35:2;36:24; 43:1;52:1;70:25; 77:16;81:9,13,13; 108:11;109:12,25; 110:2,19;117:4; 131:19;148:1;149:3, 4,8 Sizes (1) 37:13 slightly (3) 25:18;26:19; 123:13 slower (1) 166:20 small (15) 21:5,8,15;29:2; 52:2;58:24;70:18; 71:5,12;78:24;88:22; 149:9;185:23; 186:17,23 smaller (10) 20:19,22;26:20; 71:14;76:13;78:4; 81:7;88:10;140:3; 149:4 smallest (2) 52:5;74:9 smooth (1) 19:8 snap-lock (1) 123:20 sold (50) 9:8;14:11;15:20, 25;24:2,15,16,21; 34:12,22,23;35:2,16; 36:5;42:23;43:2; 44:3;45:19,23;50:16, 16;52:6;57:1,3;61:4; 75:4;79:16,17;80:15, 23;81:9;82:4,14; 85:3,6;86:21;88:21; 92:17;95:6;98:11; 150:12,13;160:18; 161:18,19,21;162:11; 172:6,9;184:7 solid (2) 11:21;123:20 solo (1) 52:3 solution (1) 152:8 solutions (1) 76:25 somebody (10) 62:22;67:18;86:2; 88:8;96:3;98:23;	109:22;113:22; 118:24;160:23 somehow (1) 165:1 someone (7) 15:16;34:14,16; 49:20;85:2;87:2; 110:4 sometimes (4) 14:18;25:18;57:2; 95:10 somewhere (1) 56:23 soon (1) 107:18 sorry (42) 29:24;51:11;84:1; 98:22;100:25;109:6, 20,21;115:8;133:14, 16;135:19;138:17; 145:23;157:23,23; 158:1,22;159:2,24; 164:25;165:3,10,17; 168:14;171:15,25; 174:22;177:22; 179:24;180:9,15; 185:10,24;186:10,19; 188:16;189:8; 190:20;192:6; 193:19;196:4 sort (2) 109:16;119:10 sorted (1) 25:2 sound (1) 175:4 source (3) 138:1;144:9,13 sources (1) 144:5 speak (5) 42:13;54:9;70:25; 79:1;159:2 speaking (4) 20:25;158:7;169:1, 2 speaks (1) 48:23 special (6) 15:4;85:22,23,24; 86:1,3 species (4) 24:14;43:5;79:15; 124:3 specific (13) 6:24;15:10;17:3; 23:7;78:12;81:8; 85:19,21;90:7;91:9; 107:22;141:25;147:3 specifically (14) 6:6;27:12;30:6; 38:8;42:13;68:14,16; 98:2,3;119:3;145:2,
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17;149:20;150:12 specifics (1) 115:25 specimen (1) 45:7 spell (3) 10:15;103:20; 135:22 spend (1) 65:3 spends (1) 15:14 Spill (1) 11:1 spoke (3) 9:16;65:19;149:2 spot (1) 66:3 sprayed (1) 170:15 sprayer (2) 152:13,13 squirrel (2) 162:14;191:17 SSURO (1) 95:5 St (8) 9:20;18:2;20:20; 49:10,19;54:21; 156:22;157:17 Stacy (4) 69:8,14;189:17,18 Staff (4) 4:9,9;5:23;62:23 stand (4) 10:2;58:3;98:20; 103:8 standard (2) 52:7;148:24 standing (4) 10:4;65:9;103:9; 155:19 standpoint (4) 169:1,2,5;171:9 start (7) 62:13;136:11; 159:15;167:21; 181:17;182:23; 192:22 started (5) 56:7;104:13; 136:12;182:15; 190:24 starting (4) 4:12;18:23;22:21; 119:25 state (21) 10:13;52:22;53:20; 54:8,15,18,25;55:8; 59:23,25;69:13;75:5; 86:6,7;92:7;103:18; 105:7;107:10; 113:14;156:4;179:2	stated (4) 35:24;36:1;72:22, 24 statement (6) 5:13,16;8:21; 44:18;142:15;154:25 statements (2) 16:12;40:3 States (2) 12:19,23 station (8) 20:6;23:4;43:10; 91:20;93:8;95:25; 149:21,22 stations (4) 80:1;81:25;150:8, 11 statute (4) 141:25;143:4,8; 153:21 statutory (11) 108:7;109:2,14; 111:6;116:15,21; 129:20;134:22; 136:19;139:12; 147:23 step (6) 14:20;29:2;65:22; 101:17;154:18; 199:17 stepped (2) 65:23;66:6 steps (1) 150:17 stick (1) 169:4 still (22) 7:17;15:21;18:18; 47:14;58:3;60:11; 64:18,21;65:7;68:12, 17;78:20;123:11; 124:2;136:25;137:2; 150:15;151:16; 184:10;186:25; 199:8,13 stipulated (2) 6:12;8:1 stipulation (1) 197:11 stipulations (4) 7:2,10,22;200:5 stop (40) 35:21,24;46:13; 64:10,15;73:19,24; 74:7,8,11,13,15,17; 75:20;77:2,5;95:22; 137:1;140:19,22; 173:24;177:3;181:9, 10,11;182:9,9,10,10, 11,14,22;183:8; 186:5;187:5,6; 194:20,25;196:24; 198:6	stopped (1) 183:23 storage (3) 10:23;35:13;93:3 store (65) 9:19;19:11,23; 20:1,4;22:23;25:1; 28:10;31:16;34:2; 43:9;45:12;46:20,22; 49:7,12,12,15,24; 50:10;56:20;60:9,20, 25;61:1;64:21,22; 65:3,12,19;66:8,19, 22,23,24;67:2,2; 68:15;69:13;70:6,8; 71:15;78:16;96:7; 166:4,13;167:3; 168:12;180:4; 189:17;190:13,19,21; 191:2,7,10,15; 192:24,25;193:6,13, 14,16,24;194:4 stored (2) 93:1;191:14 storefront (11) 18:25;20:21;49:6; 52:6,9;54:5;88:25; 93:7,12,20;94:5 stores (22) 9:4;32:10,11,11,11, 12;33:4,4,4,5,5;41:8, 8,9,9,9;79:17,21; 156:19;183:19,22; 197:3 straighten (1) 199:11 street (1) 64:23 stressed (1) 36:2 strike (1) 193:20 studies (1) 146:21 stuff (14) 60:18;72:2;149:23; 165:4;169:19; 170:16,19;184:4,20; 186:15,18;187:4,16; 199:9 sturdy (5) 24:18;34:24;35:1; 43:3,12 subcontracting (1) 161:2 subject (1) 198:6 submit (5) 7:21;83:2;147:5; 163:18,20 submitted (2) 7:12;17:14 subsection (1)	15:4 subsequent (1) 122:15 Substance (1) 10:25 subtracted (1) 115:7 suggest (2) 150:17;200:17 suggested (1) 94:2 suggestion (1) 193:25 sum (2) 135:13;141:21 summarized (1) 16:12 summed (1) 114:6 supervisor (1) 51:15 supplier (4) 60:23;77:10,12; 78:23 suppliers (4) 70:16;81:3;162:4; 185:14 supplies (1) 168:12 supplying (1) 90:3 supporting (1) 12:13 supposed (6) 24:16;43:2;49:14; 68:21;87:21;176:15 Sure (21) 6:1;18:8,22;19:12; 49:6;55:16;57:15; 61:25;83:11;86:8; 99:8,23;105:6; 108:13;136:11; 137:2;144:8;145:4; 150:9;174:25;181:24 susceptible (1) 84:12 suspect (1) 94:23 suspected (1) 95:19 sworn (3) 10:8;103:13; 155:22 system (2) 14:18;143:22	156:6;157:21;179:4; 180:22 talked (8) 34:5;67:23;70:14; 71:24;119:11; 148:11;179:4;181:17 talking (13) 65:15;70:7;82:4,6; 138:16;156:14; 158:5;160:14,14; 171:12;173:19; 176:5;188:15 Talon (22) 23:18,18;24:3; 31:22;32:4,23;33:9, 13,17,21;34:1;40:22, 24;41:3,13,17,18,22; 116:5;121:15;122:6; 129:15 tamper-proof (2) 166:23;167:17 tanks (1) 10:24 target (1) 43:5 targeted (1) 166:24 technical (1) 61:12 technician (9) 55:5;61:16;90:20; 107:15;168:11,23; 169:1,4;170:24 technicians (28) 52:15;61:24;80:6, 11;85:16;90:20; 159:5;160:8,10,12; 161:8;165:15;168:6, 8,14,15,19;170:25; 171:3,11,14,15,16; 191:8,20;196:17,18, 19 techs (1) 69:11 Tekko (1) 125:21 telephone (1) 62:21 telling (1) 62:7 tells (2) 55:17;74:21 Tempo (1) 164:22 Tengard (1) 126:4 term (4) 21:7;57:10;58:10; 93:17 Termite (5) 125:15;126:19,22, 23;132:23 Termiticide/Insecticide (1)
		T		
		Table (5) 109:11;110:15; 114:24;148:1,2 talk (7) 40:18;46:1;67:1;		

126:4 termiticides (1) 19:21 terms (10) 59:7;73:21;74:15; 136:5;144:21;167:2; 168:23;170:23; 179:11;192:5 terrible (3) 186:3,22;188:3 test (2) 55:2;146:25 tested (2) 168:19;169:7 testified (7) 10:9;90:25;103:14; 155:23;178:3; 179:23;196:25 testify (3) 9:18,23;91:24 testimony (6) 8:1;58:9;162:16; 172:1;174:3;195:20 Thanks (1) 101:6 That's (1) 7:5 that'll (1) 7:23 theoretical (1) 16:15 theoretically (2) 78:8,25 thinking (2) 92:21;199:9 third (1) 61:13 thoroughly (1) 5:12 though (2) 72:6;98:13 thought (6) 175:12,14,16; 176:1;188:10;199:10 thousands (1) 93:5 three (22) 23:15,21;34:5,21; 41:20;57:2;98:12; 125:2;129:4;132:9; 134:6;163:2,12; 169:17;172:13; 174:14,15;176:5,8, 10;181:18;182:19 throughout (3) 49:7;136:18; 137:15 throw (75) 21:4,6,7;23:17,19, 20,23;24:2,21,25; 25:4;26:5;28:4,5,8, 12;29:4;30:8,13,16, 17,21,25;31:3,5,14,	18,25;32:20;33:9,13, 17,22,23;34:1,5,8,11, 15,18;35:9;38:6,9,12; 40:11,17;41:18; 46:14;49:15;71:25; 72:3,9,10,11,24,25; 74:2;76:7;86:21,25; 87:2;97:23;98:15; 122:4,5,6,23;131:5; 140:4,5,13;150:22; 151:7,7;170:7 tight (1) 181:2 Tim (1) 155:17 times (15) 79:4;83:24;84:3,6; 121:7,8;125:2;129:3; 130:19,20;132:9,10; 134:5,6;181:18 Timothy (8) 4:4,22,5,2;18:14; 155:17,21;156:5,7 tip (1) 96:4 tips (2) 12:7;95:9 today (12) 8:25;17:3;35:5; 80:18;82:4;106:15; 116:1;125:23;126:7, 11,21;179:23 together (5) 114:3;116:8;122:7; 126:25;144:22 told (16) 46:24;47:2;63:4; 69:14,16;71:21;76:3, 6;96:5;175:15; 179:18;181:20; 184:20;190:22; 191:1;193:22 tomorrow (1) 194:2 took (9) 18:22;22:17,25; 130:18;150:17; 177:13;179:5;190:7; 193:18 top (8) 23:2;40:11;41:18, 24;46:7;96:21;98:18; 150:25 total (15) 32:17;77:15;98:13; 114:16;115:18; 117:7;120:23;121:9; 124:14;125:4; 128:17;130:16; 132:11;135:9;139:1 touch (1) 178:15 towards (2)	20:2;167:6 Toxic (5) 10:25;118:15; 187:5,17,25 Toxicity (16) 111:12,16,19,23, 25;112:6;117:22; 122:21;127:13; 130:12;146:3,6,18, 20;148:15,20 track (2) 5:14;96:8 traditional (1) 19:7 traditionally (1) 58:23 train (1) 159:5 trained (1) 168:16 training (13) 11:13;46:23,24; 55:2;59:16,17,21,23; 86:3;98:23;105:22, 23;197:5 trainings (1) 86:4 transcript (2) 200:14,23 transmittal (1) 106:4 trap (1) 191:18 traps (6) 19:13;162:13,14, 14,14;191:17 treat (2) 171:10,18 treatment (2) 108:14;119:4 Tremendously (1) 185:4 tried (2) 50:11;79:16 true (3) 72:3,4;138:22 try (2) 170:21;187:25 trying (4) 64:10;94:13; 185:22;186:17 turn (79) 17:3;21:17;23:8, 11;25:8,23;26:12; 27:2,12,20,23;28:2, 12,13,18;29:6,15,23; 30:6,10,14,19,23; 31:1,18;32:2,21;33:7, 11,15,19;35:4,6;36:8, 9,16;37:5,16,23;38:2, 13,20;39:3,9,18;40:1, 8,13,19;41:1,11,15; 43:7,14,18;44:3,11,	22;45:1,5;47:21; 50:2;107:23;108:15; 111:8;114:8;120:3; 121:17;125:5,16,25; 126:13,24;129:6; 130:22;132:13; 134:8;142:8;169:20 turned (1) 33:14 Turning (1) 31:18 twice (1) 197:5 two (21) 9:7;15:8,13;98:11; 144:2;156:16,18,19; 160:1,6,6;173:25,25; 174:2;177:10; 180:14,16,17;181:18; 190:15;197:3 type (23) 19:16;21:11;24:8, 10;28:12;36:8;49:12; 51:18;52:9,18;57:4; 79:18;81:16,23; 88:20;93:24;95:25; 105:9;122:10; 123:20;186:1;190:8; 199:8 types (3) 19:19;34:5;123:11 typical (1) 42:19 typically (20) 21:9;42:19,25; 47:7;49:11;53:22; 59:15;70:24;74:20; 76:15;83:23;88:24; 94:25;96:17;97:4; 123:17;140:25; 147:22;152:7,9	118:15 uncooperative (1) 88:8 under (22) 11:15;12:9,23; 14:5;15:8,12,21; 36:3;54:17,18;58:3; 61:18;64:14;74:10, 11;90:21;91:7; 105:24;117:7;120:4; 143:20;176:1 underground (1) 10:23 underneath (1) 107:14 underside (1) 96:20 Understood (4) 101:16;138:18; 151:25;185:18 uniform (1) 136:18 unintended (1) 80:2 unintentional (2) 24:18;73:1 unique (5) 77:17;94:21;95:2, 3;148:9 United (2) 12:19,23 University (2) 12:1;103:23 unknown (7) 111:24;112:22; 113:5;120:5,10; 142:19;143:11 unlabeled (1) 35:17 unregistered (8) 9:25;16:9;111:21, 24;112:5;116:16,22; 121:13 up (50) 7:16;20:21;23:4; 40:11;44:17;49:25; 58:15;61:4,25;64:2; 76:19;84:13;88:17; 89:16,17;90:5,18; 91:21;93:18,23; 94:16;96:8;112:12; 113:24;114:6; 139:15,21,24;142:23, 24;146:3,24;152:8; 154:22;156:6,15; 157:24;159:2; 167:21;169:22; 170:7;176:20,21; 177:4;180:20;186:1; 188:1;189:23; 190:11;200:22 up-close (2) 30:21;43:16
U				
ultimate (2) 115:6;135:11 ultimately (2) 16:21;17:24 Um-hmm (12) 60:13;61:7;63:1; 66:21;84:23;89:4; 98:19;101:8;111:8; 162:20;171:23; 194:18 unable (2) 9:18;50:15 unaware (2) 79:1;87:21 uncertain (1) 63:11 unclear (2) 51:11;98:22 uncontrolled (1)				

update (1) 107:18	140:1;146:2,19,23	vitality (1) 42:11	weeks (1) 177:11	50:11;51:3;52:12; 53:4,12;55:3;56:9;
updated (1) 107:16	valued (1) 119:4	Vitamin (2) 42:19;119:3	weight (32) 23:19,20;26:10,11, 24;27:1,10;28:5,6,7, 24,25;29:12,13;30:4; 31:5,13;32:14,17; 33:6,23,25;36:25; 37:14;39:8,16,24; 44:16;45:16;81:14; 147:3;149:5	57:9;58:9,12;61:3, 19;64:1,18;66:7,9; 67:1,13;68:1,11,16; 69:5,7;71:19;72:15, 22;73:25;75:1,7,12; 76:1,18;80:10;82:20; 83:5;89:15;93:17; 94:11;97:13;101:13; 107:8;139:19; 143:19;145:14; 150:17;155:4,5,17, 21;156:5,7;163:11; 164:19;167:4; 173:17;195:20; 197:18
upon (3) 84:18;97:13;99:13	values (4) 114:3,4;120:11; 138:11	volatility (1) 145:16	Weights (1) 39:1	Wilson's (68) 4:4,23;5:3;9:10,15, 19,20;17:4,6,10; 18:14;20:11;21:22; 23:23;25:1;27:18; 28:9;31:15;34:2; 46:12;48:1;50:5; 51:17;52:1,8,20; 53:25;54:3,16;55:21, 25;57:11;59:4;70:18; 71:5;74:6;77:9,19; 78:6;82:13;83:1; 88:5;91:1,1;92:4; 99:22;100:24; 106:18,20,24;107:7; 113:25;119:19,24; 123:15;125:15; 126:23;136:25; 137:19;140:21; 142:2,2;145:7;156:8, 11;159:15;173:6; 185:5
upset (1) 186:19	varies (1) 147:10	vomiting (2) 170:4,6	weren't (2) 19:8;191:19	53:25;54:3,16;55:21, 25;57:11;59:4;70:18; 71:5;74:6;77:9,19; 78:6;82:13;83:1; 88:5;91:1,1;92:4; 99:22;100:24; 106:18,20,24;107:7; 113:25;119:19,24; 123:15;125:15; 126:23;136:25; 137:19;140:21; 142:2,2;145:7;156:8, 11;159:15;173:6; 185:5
up-to-date (1) 105:7	varieties (1) 23:2	W	what's (18) 6:22;27:21,24; 28:3;29:16;30:7,11, 24;37:6;60:2;94:19; 123:19;144:21; 146:3;166:15; 170:23;180:8;184:11	53:25;54:3,16;55:21, 25;57:11;59:4;70:18; 71:5;74:6;77:9,19; 78:6;82:13;83:1; 88:5;91:1,1;92:4; 99:22;100:24; 106:18,20,24;107:7; 113:25;119:19,24; 123:15;125:15; 126:23;136:25; 137:19;140:21; 142:2,2;145:7;156:8, 11;159:15;173:6; 185:5
use (77) 5:23;12:18;13:2,2, 23;15:1;16:11;23:22; 25:12,19,25;26:9,14, 23;27:5,8,17;35:3,13; 36:22;37:11;38:25; 39:15;42:12;44:16; 46:13;64:11;72:2,8,9, 19,23;73:13,15; 74:11;75:20;77:3,6; 78:9;79:24;81:25; 82:10,19;83:17; 84:24,25;85:1,2,4,7, 8,9,11,12,13,19,20; 87:11;90:1;93:3,4, 18;95:22;98:18,24; 104:13,15;112:2; 115:2;138:3;144:22; 146:12;149:15; 172:4;182:23;183:9; 194:25	vary (2) 54:1;165:15	wait (1) 47:2	Whenever (1) 96:3	53:25;54:3,16;55:21, 25;57:11;59:4;70:18; 71:5;74:6;77:9,19; 78:6;82:13;83:1; 88:5;91:1,1;92:4; 99:22;100:24; 106:18,20,24;107:7; 113:25;119:19,24; 123:15;125:15; 126:23;136:25; 137:19;140:21; 142:2,2;145:7;156:8, 11;159:15;173:6; 185:5
used (18) 13:3,5,6,14,16,21; 21:4;37:18;81:25; 85:1;92:17;147:11; 149:17,19;152:6; 162:7;170:19;187:20	vegetables (1) 170:15	waiting (1) 190:10	Whereupon (8) 10:6;57:23;102:7; 103:11;155:14,20; 195:12;201:5	53:25;54:3,16;55:21, 25;57:11;59:4;70:18; 71:5;74:6;77:9,19; 78:6;82:13;83:1; 88:5;91:1,1;92:4; 99:22;100:24; 106:18,20,24;107:7; 113:25;119:19,24; 123:15;125:15; 126:23;136:25; 137:19;140:21; 142:2,2;145:7;156:8, 11;159:15;173:6; 185:5
useful (1) 5:24	verbatim (1) 188:19	walk (7) 18:20;46:18;49:4; 64:23;76:24;92:22; 194:4	white (1) 96:21	53:25;54:3,16;55:21, 25;57:11;59:4;70:18; 71:5;74:6;77:9,19; 78:6;82:13;83:1; 88:5;91:1,1;92:4; 99:22;100:24; 106:18,20,24;107:7; 113:25;119:19,24; 123:15;125:15; 126:23;136:25; 137:19;140:21; 142:2,2;145:7;156:8, 11;159:15;173:6; 185:5
user (2) 13:22,22	version (1) 7:22	warm (2) 66:14;190:23	Whole (4) 49:12;111:11; 137:15;177:15	53:25;54:3,16;55:21, 25;57:11;59:4;70:18; 71:5;74:6;77:9,19; 78:6;82:13;83:1; 88:5;91:1,1;92:4; 99:22;100:24; 106:18,20,24;107:7; 113:25;119:19,24; 123:15;125:15; 126:23;136:25; 137:19;140:21; 142:2,2;145:7;156:8, 11;159:15;173:6; 185:5
uses (2) 16:5;42:9	versus (4) 148:4,24;170:24; 172:2	Warning (10) 74:20;106:13; 113:17;140:20,20,22, 24;141:4,12;146:11	whose (1) 79:7	53:25;54:3,16;55:21, 25;57:11;59:4;70:18; 71:5;74:6;77:9,19; 78:6;82:13;83:1; 88:5;91:1,1;92:4; 99:22;100:24; 106:18,20,24;107:7; 113:25;119:19,24; 123:15;125:15; 126:23;136:25; 137:19;140:21; 142:2,2;145:7;156:8, 11;159:15;173:6; 185:5
using (8) 16:3;20:16;52:14; 80:4;81:11;90:4; 122:18;136:12	veterinarian (1) 42:18	Warning' (1) 111:24	wide (1) 136:17	53:25;54:3,16;55:21, 25;57:11;59:4;70:18; 71:5;74:6;77:9,19; 78:6;82:13;83:1; 88:5;91:1,1;92:4; 99:22;100:24; 106:18,20,24;107:7; 113:25;119:19,24; 123:15;125:15; 126:23;136:25; 137:19;140:21; 142:2,2;145:7;156:8, 11;159:15;173:6; 185:5
usually (2) 92:15,15	Veterinarians (1) 87:19	warnings (2) 73:22;140:25	widespread (4) 112:23,24;113:6,7	53:25;54:3,16;55:21, 25;57:11;59:4;70:18; 71:5;74:6;77:9,19; 78:6;82:13;83:1; 88:5;91:1,1;92:4; 99:22;100:24; 106:18,20,24;107:7; 113:25;119:19,24; 123:15;125:15; 126:23;136:25; 137:19;140:21; 142:2,2;145:7;156:8, 11;159:15;173:6; 185:5
utilize (5) 106:10;108:5; 112:19;138:6;143:22	via (1) 115:24	Washington (2) 164:2,8	wilderness (1) 113:9	53:25;54:3,16;55:21, 25;57:11;59:4;70:18; 71:5;74:6;77:9,19; 78:6;82:13;83:1; 88:5;91:1,1;92:4; 99:22;100:24; 106:18,20,24;107:7; 113:25;119:19,24; 123:15;125:15; 126:23;136:25; 137:19;140:21; 142:2,2;145:7;156:8, 11;159:15;173:6; 185:5
utilized (1) 107:4	view (2) 30:21;43:16	waste (3) 10:23;11:21,22	Wildlife (10) 11:25;35:1;42:17; 79:15;81:21;84:12, 13;89:8;113:8; 128:10	53:25;54:3,16;55:21, 25;57:11;59:4;70:18; 71:5;74:6;77:9,19; 78:6;82:13;83:1; 88:5;91:1,1;92:4; 99:22;100:24; 106:18,20,24;107:7; 113:25;119:19,24; 123:15;125:15; 126:23;136:25; 137:19;140:21; 142:2,2;145:7;156:8, 11;159:15;173:6; 185:5
V	violating (2) 141:2;143:4	wasted (1) 119:4	willful (1) 143:8	53:25;54:3,16;55:21, 25;57:11;59:4;70:18; 71:5;74:6;77:9,19; 78:6;82:13;83:1; 88:5;91:1,1;92:4; 99:22;100:24; 106:18,20,24;107:7; 113:25;119:19,24; 123:15;125:15; 126:23;136:25; 137:19;140:21; 142:2,2;145:7;156:8, 11;159:15;173:6; 185:5
value (17) 114:11,17;115:1; 117:25;119:15; 120:4,11,17,23; 124:14;128:17; 131:17;138:15;	violation (57) 64:12;69:2;74:19, 21;76:21;77:4,94:23; 95:6,13;96:7,9;109:3, 4,5,7,8;110:20,21,24; 111:5;113:22; 116:15,17,21;117:20; 120:5;122:13;127:7, 9;129:20,22;131:13, 15,19;134:22,24; 138:22,23;139:4,6, 16,19;140:1,2,8; 142:19;143:8,11; 146:1;147:23,24; 148:3;150:18;153:8, 18,19,24	water (5) 113:8;124:4;152:8, 12;153:1	willing (2) 182:3;188:5	53:25;54:3,16;55:21, 25;57:11;59:4;70:18; 71:5;74:6;77:9,19; 78:6;82:13;83:1; 88:5;91:1,1;92:4; 99:22;100:24; 106:18,20,24;107:7; 113:25;119:19,24; 123:15;125:15; 126:23;136:25; 137:19;140:21; 142:2,2;145:7;156:8, 11;159:15;173:6; 185:5
	violations (26) 9:4;74:7,16,18,22; 76:22,23,24;79:3; 95:4,5,19,21;96:1; 106:7,9,10,12;124:9, 13;137:7,19,23,25; 141:11;148:8	way (28) 7:18;13:23;25:20; 54:4;59:10;68:24; 70:13;73:22;76:4; 77:8;89:8;113:2; 116:10;122:10,18,25; 147:21;149:16; 152:20,23;165:5; 167:21;179:8; 180:21;182:24; 183:9;184:7;189:23	willingness (1) 113:22	53:25;54:3,16;55:21, 25;57:11;59:4;70:18; 71:5;74:6;77:9,19; 78:6;82:13;83:1; 88:5;91:1,1;92:4; 99:22;100:24; 106:18,20,24;107:7; 113:25;119:19,24; 123:15;125:15; 126:23;136:25; 137:19;140:21; 142:2,2;145:7;156:8, 11;159:15;173:6; 185:5
	Violator (5) 109:15;116:23,24; 117:1,4	Weather (3) 36:12;38:16;43:12	Wilson (89) 4:4,22,23,25;5:2,3, 5:9:1,3,8,17;18:14, 25;19:2,9,15;20:1,6, 17,25;23:15;35:8,15, 20,21,23;38:5;40:16; 44:24;45:11;46:3,4;	53:25;54:3,16;55:21, 25;57:11;59:4;70:18; 71:5;74:6;77:9,19; 78:6;82:13;83:1; 88:5;91:1,1;92:4; 99:22;100:24; 106:18,20,24;107:7; 113:25;119:19,24; 123:15;125:15; 126:23;136:25; 137:19;140:21; 142:2,2;145:7;156:8, 11;159:15;173:6; 185:5
	visit (2) 65:7;94:23	Weatherblok (2) 40:22;41:3		53:25;54:3,16;55:21, 25;57:11;59:4;70:18; 71:5;74:6;77:9,19; 78:6;82:13;83:1; 88:5;91:1,1;92:4; 99:22;100:24; 106:18,20,24;107:7; 113:25;119:19,24; 123:15;125:15; 126:23;136:25; 137:19;140:21; 142:2,2;145:7;156:8, 11;159:15;173:6; 185:5
	visited (1) 94:9	Weatherbloks (1) 40:24		53:25;54:3,16;55:21, 25;57:11;59:4;70:18; 71:5;74:6;77:9,19; 78:6;82:13;83:1; 88:5;91:1,1;92:4; 99:22;100:24; 106:18,20,24;107:7; 113:25;119:19,24; 123:15;125:15; 126:23;136:25; 137:19;140:21; 142:2,2;145:7;156:8, 11;159:15;173:6; 185:5
	vital (1) 50:21	website (3) 107:4,16,18		53:25;54:3,16;55:21, 25;57:11;59:4;70:18; 71:5;74:6;77:9,19; 78:6;82:13;83:1; 88:5;91:1,1;92:4; 99:22;100:24; 106:18,20,24;107:7; 113:25;119:19,24; 123:15;125:15; 126:23;136:25; 137:19;140:21; 142:2,2;145:7;156:8, 11;159:15;173:6; 185:5

147:21;148:8,13,17, 20,24;149:2,8,11,14, 18;150:3,6,9,13,19, 23;151:1,5,9,11,13, 20,22;152:3,7,16,24; 153:6,10,14,17; 154:1,3,5,17,19; 155:3,12,16,22; 158:1,3;188:16; 195:5;197:22,24; 198:2,4,7,9,11,13,15, 19,21,24;199:2,18	14,17,25;7:1,7,9,15, 23;8:6,8,11,14,17,19; 10:4,10;18:8;48:18, 22;49:2;50:24;57:12, 17,21,24;58:2;86:15, 18;88:16;89:1,5,11, 15,23;90:7,23;91:13, 18,23;92:2,12,24; 93:11,15,25;94:11, 17;95:18;96:10,14, 17,23;97:1,4,10,12, 16,20,22,25;98:4,17, 20,25;99:6,8,11,16; 101:5,7,9,16,20,24; 102:3;103:1,5,9,15; 135:16;143:14,17; 147:15,17;148:6,10, 14,18,23;149:1,7,9, 12,15;150:1,5,7,11, 15,21,24;151:2,6,10, 12,17,21,25;152:5, 14,20;153:5,7,13,16, 25;154:2,4,7,9,13,16, 18,20,22,24;155:6,9, 15,18,24;156:1; 163:3,5,7,9;164:17; 188:13,17;195:5,8, 11,13;197:9,13,15, 17,23,25;198:3,5,8, 10,12,14,18,20,22,25; 199:16,19,22,25; 200:3,11;201:1,3	years (32) 11:21;12:8;55:24; 72:16;75:2;104:14, 24;113:13;119:20, 24;120:16;124:10; 142:3,4;159:18,19; 163:19;169:17; 174:14,15;176:5,8, 10;178:25;182:19; 187:8;193:2,7,8,10; 198:24;199:8 yellow (2) 96:21,22 young (1) 190:16	109:5,6,7;110:15; 111:2,19;112:21; 113:4;116:2,3,12,17, 19,20,21,23,24; 117:16,20,23,24; 119:7,16;120:7,24; 121:4;122:14,19; 123:1,5,23;124:6,12; 127:9,15,21;128:6, 12,15;129:15,24; 130:4,7;133:11; 139:19;146:3,5,6,11; 147:25;148:1,4; 149:12;151:4,4; 164:14,20;165:1,4; 197:12;200:5,6	12a1E (2) 129:21;133:3 12a2Biii (1) 134:23 13 (1) 134:9 14 (13) 6:6,9,18;129:11,13, 17;130:1,4,17,18; 131:11;200:6,7 14a1 (2) 109:16;117:1 14a2 (2) 109:17,24 15 (16) 18:10;62:9;64:13; 131:2,3,7,10,18,23; 132:5;133:6;139:20; 161:12;175:3;182:8; 189:24 15th (2) 18:5;22:16 16 (18) 26:10,11;28:25,25; 32:13,18;36:25;37:2, 4,13;39:1,8;41:7; 43:1;44:17,19,21; 200:9 17 (13) 6:6,10,18;9:6; 131:2,4,8,11,18,23; 132:6;133:6;139:20 18 (9) 43:11;132:18,19, 24;133:9,15,17,25; 134:2 1-800 (1) 170:4 1995 (3) 114:2;119:25; 142:4 1AA (4) 116:13,14;122:12; 127:6 1EE (2) 131:9;133:5 1EF (4) 129:18,19;133:1,2
witnesses (1) 154:20 woman (2) 50:9;65:19 Wood (1) 65:15 Woodson (20) 9:10,19;48:2;64:5; 65:15;69:21;70:7,9; 90:25;156:21;157:2; 183:16,16;188:23,24; 189:7;193:4,12,14,23 word (13) 111:18,20,23; 112:2,7,15;118:2,3; 122:24;127:18; 146:7,9,16 wording (1) 25:17 words (5) 16:10;49:5;82:20; 140:16;141:3 work (18) 10:22,23;12:2; 71:10;92:11;93:17; 104:8;160:1,25; 161:1;164:6;167:21; 171:10,19,21;176:20; 181:10;191:10 worked (12) 11:20;12:3,7; 20:13;90:6;104:9,16; 159:22,25;160:4; 161:3;173:15 working (10) 19:15;49:20;52:12, 13;75:16;104:23; 107:14;173:7;177:4; 199:6 works (1) 114:15 Worksheet (9) 108:20;114:7,23; 121:24;125:10; 129:11;131:2; 132:18;134:11 wrestle (1) 179:22 WRIGHT (181) 4:2,6,17,20,24;5:1, 4,6,9,11;6:1,3,9,11,	write (3) 48:9;85:4;96:20 writing (1) 182:13 written (3) 22:3,7;63:7 wrong (11) 17:20;74:10;96:6; 179:7;181:8,16,23; 182:6;186:9;188:6; 199:10 wrote (3) 21:24;48:3;96:2	zero (1) 14:12 zip (2) 28:1;36:1 zip- (2) 41:23;150:24 Ziploc (5) 42:8;45:3;49:11; 74:3;151:16 zipper (2) 27:18;36:2 zipper- (2) 40:10;41:17 zippered (1) 23:2 zipper-top (16) 23:24;28:1;30:8, 12,16,17;33:9,13,18; 34:24;35:11;38:1; 40:17;41:14,19; 44:24 zip-top (12) 24:6;25:5;27:18; 34:7,11,18;42:2;45:9, 18,22;123:8;148:22 zooming (1) 23:13	1,698 (1) 132:8 1.4 (1) 132:11 1.42324 (7) 115:19;125:4; 129:5;130:21; 132:11;134:6;135:9 1.5 (3) 23:20;27:10;28:6 10 (35) 11:21;26:24;27:1; 29:13,13;35:10; 36:23;37:12,13,14; 39:16,24;43:1;51:22; 55:24;56:3,7;82:8; 110:11;115:3; 125:10,12,15;126:22; 127:5,8,11,14,20; 128:5,18;129:2; 133:19;152:2,18 10:40 (1) 57:21 100 (1) 144:8 10-minute (2) 155:10;195:7 10-year (2) 56:3;169:16 11 (16) 12:8;27:2;29:15; 35:16;40:1;114:17, 19;121:2;129:11,12, 16,25;130:3,17,18; 131:11 12 (1) 29:24 12,870 (1) 134:6 12:04 (1) 102:7 12:50 (1) 102:6 12:53 (1) 103:2 12a1A (1) 116:15	2 (31) 26:24;27:1,16; 29:13,13;32:8;37:14; 81:5;109:11;111:23; 116:4;119:22,23; 120:2,4,7;134:25; 142:19;143:10,11; 146:11;148:4;153:9, 9,24;162:24;163:4, 12;165:2,5;197:12 2,000 (1) 44:18
	X	0		2
	XT (2) 40:22;41:3	0 (7) 112:20;113:4; 119:17;121:2; 137:15;142:23,24 0.453 (1) 37:14 0.88 (6) 23:19;30:4;31:7; 33:5,24;81:5		
	Y	1		
	y'all (2) 194:4,4 year (14) 14:12;57:3,4; 104:7;136:12; 163:20;165:7,16,16, 19,19,23;172:13; 197:6 yearly (1) 174:15	1 (70) 6:6,9,17;8:2;37:14; 39:16,24;55:19;		

<p>2,200 (1) 105:2 2,268 (1) 36:23 2.4 (1) 126:15 2:20 (1) 155:13 20 (14) 66:18;69:6;72:6; 105:2;132:18,20,25; 133:10,15,18,25; 134:3;143:15;189:24 2013 (2) 51:12,13 2020 (3) 11:4;51:10,15 2022 (19) 17:8;18:10;22:16; 51:21;52:11;55:10; 62:9;64:13;75:9,12; 100:23;156:10; 174:4,7,20;175:3; 176:2;181:11;193:10 2023 (16) 48:7;64:5;65:7,11; 68:12;96:15;99:22; 100:24;156:15; 189:6,7;192:15; 193:21;196:16,22; 197:23 2025 (4) 7:11,17,25;9:6 21 (11) 7:25;46:1;134:11, 13,15,19;135:1,3,7; 150:16;153:8 21st (1) 7:14 22 (16) 156:14;158:6; 159:21;160:5,14,18; 161:20;166:14; 173:8,19,21;174:19; 176:6,11;185:2,3 22.68 (1) 36:25 22nd (1) 182:8 23 (10) 158:6;159:22; 160:5,14,18;161:20; 166:14;173:8,20,21 24 (2) 37:16;143:15 2400 (2) 18:2;156:21 25 (3) 66:18;141:9; 161:12 259 (1) 36:24 25-gram (1)</p>	<p>33:2 2616 (3) 48:2;156:21;157:2 27 (2) 48:7;96:15 28 (2) 36:24;44:17 29 (1) 153:15 2BD (3) 134:20,21;153:20 3 3 (38) 25:23;28:18,18; 32:2,3;36:16;38:20, 24;41:1,2;44:11,12; 79:5;98:18;109:6; 112:1,22;113:5; 114:24;116:5; 118:10,11;119:8; 121:18;125:17,19; 126:1,3;131:16,19; 138:24;139:21; 146:5,6,6,12;148:5, 15 3/32 (3) 32:12,13;33:5 3:15 (1) 195:9 3:23 (1) 201:5 30 (5) 30:6;72:16;97:22; 153:20;154:3 30-plus (2) 119:24;142:3 31 (4) 7:17;30:10,11;79:6 31st (1) 7:10 32 (4) 6:6,10,18;30:14 33 (3) 30:19;98:1,4 34 (13) 30:23;98:1,4; 111:8;120:3;142:9, 12,13;143:16; 163:19;178:25; 187:8;193:2 35 (7) 31:1,12;97:22; 142:3;193:2;198:24; 199:8 3540 (10) 56:15;57:6;82:25; 162:17,19;165:2,6, 12;175:18,23 3540-16 (3) 14:8;54:12;195:21 3540's (1)</p>	<p>83:5 36 (2) 33:7,8 37 (2) 33:11,12 38 (2) 33:15;159:18 39 (2) 33:19;154:3 4 4 (36) 29:3;32:12,18; 109:6,8;111:3;116:2, 6,12,18,25;117:9,16, 23;119:7,16;120:7, 24;121:5;122:19; 123:1;124:6,12; 126:13,14;128:12,15; 129:15;130:4,8; 142:23,24;143:3,7; 148:5;149:12 4,290 (1) 134:5 4.53 (1) 37:14 40 (12) 27:12,15;72:16; 75:1;124:20;128:21; 132:4,7;134:1,4; 141:17;159:19 40,705 (2) 121:9;130:21 41 (1) 27:20 42 (1) 27:23 43 (1) 28:2 45 (1) 37:12 453 (1) 37:12 460 (1) 37:13 47 (3) 37:23,24,25 48 (2) 40:8,9 49 (2) 41:11,12 5 5 (27) 45:13;81:5;98:18; 101:20;112:23; 113:7;117:9;119:20; 121:24;122:2,3,4,11, 16,22;123:4,14,22; 124:15,16,24;125:6; 126:25;128:19;</p>	<p>131:6,23;151:2 50 (9) 26:11;28:25;36:25; 39:8;41:15,16;43:1; 81:7;146:24 50-pound (1) 80:25 51 (2) 40:13,14 52 (1) 38:2 53 (2) 44:22,23 54 (1) 45:1 55 (2) 45:5,17 55-gallon (2) 20:18;162:10 5-gallon (1) 123:18 6 6 (4) 23:11;37:12; 114:23;122:5 640 (1) 37:13 7 7 (31) 10:18;11:9;17:13, 14;18:14,18;19:3; 26:12;29:6;35:6; 39:9,9;47:13,15; 62:23;121:24;122:2, 3,6,11,16,22;123:4, 14,22;124:15,25; 129:7;131:6,23; 151:2 7,150 (2) 122:17;130:19 7.26 (1) 36:25 726 (1) 36:23 75 (1) 161:9 76 (2) 43:7,23 77 (2) 43:14,23 78 (2) 43:18,24 7f (1) 114:11 7's (2) 9:13,23 8</p>	<p>8 (24) 32:12,13,17,18; 37:5;39:18,19;61:10; 114:18;115:3,3; 125:10,11,13;127:5, 7,10,14,20;128:5,18; 129:1;133:18;152:2 816 (1) 36:24 85 (2) 161:9,9 86 (1) 159:16 87 (2) 159:16,16 9 9 (10) 23:20;32:21; 114:17,18;120:25; 121:2;125:14; 130:22;152:18,18 9/28/2015 (1) 26:3</p>
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