



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
FOUR PENN CENTER – 1600 JOHN F. KENNEDY BLVD.
PHILADELPHIA, PENNSYLVANIA 19103

In the Matter of ) EPA Docket No. FIFRA-03-2023-0053
)
PelGar USA Corporation ) Proceeding under Section 14(a) of the
215 Evergreen Court ) Federal Insecticide, Fungicide and
Saylorsburg, Pennsylvania 18353 ) Rodenticide Act, 7 U.S.C. § 136l(a)
)
Respondent. )

CONSENT AGREEMENT

PRELIMINARY STATEMENT

- 1. This Consent Agreement is entered into by the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III ("Complainant") and PelGar USA Corporation ("Respondent") (collectively the Parties), pursuant to Section 14(a) of the Federal Insecticide, Fungicide and Rodenticide Act ("FIFRA"), 7 U.S.C. § 136l(a), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R Part 22. Section 14(a) of FIFRA, 7 USC § 136l(a), authorizes the Administrator of the U.S. Environmental Protection Agency to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated this authority to the Regional Administrator who, in turn, has delegated the authority to enter into agreements concerning administrative penalties to the Complainant. This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the "Consent Agreement and Final Order") resolve Complainant's civil penalty claims against Respondent under FIFRA (or the "Act") for the violations alleged herein.
2. In accordance with 40 CFR §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

JURISDICTION

- 3. The U.S. Environmental Protection Agency ("EPA") has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.
4. The Consolidated Rules of Practice govern this administrative proceeding pursuant to 40 C.F.R. § 22.1(a)(1).

5. EPA and Respondent have executed Tolling Agreements which, taken together, establish that the period commencing February 27, 2020 and ending February 28, 2023 (inclusive) will not be included in computing the running of any statute of limitations that might be applicable to this action.

### **GENERAL PROVISIONS**

6. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order.
7. Except as provided in Paragraph 6, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.
8. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this Consent Agreement and Final Order.
9. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this Consent Agreement and Final Order and waives its right to appeal the accompanying Final Order.
10. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.
11. Respondent shall bear its own costs and attorney fees in connection with this proceeding.

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

12. In accordance with 40 CFR §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth below.
13. Section 2(s) of FIFRA, 7 U.S.C. § 136(s), defines “person” to mean any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.
14. At all times relevant to the violations alleged herein, Respondent was a corporation registered in the Commonwealth of Pennsylvania. Pelgar USA Corporation conducted business as the Pennsylvania registered corporation AB Bait Company until on or about March 2016.
15. At all times relevant to the violations alleged herein, Respondent was a “person” as defined by Section 2(s) of FIFRA, 7 U.S.C. § 136(s).
16. Section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1), provides that any registrant, commercial applicator, wholesaler, dealer, retailer or other distributor who violates any provision of FIFRA may be assessed a civil penalty by EPA of not more than \$5,000 for each offense.

Pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended through the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, and the Civil Monetary Penalty Inflation Adjustment Rule promulgated at 40 C.F.R. Part 19, violations of FIFRA which occur or occurred after November 2, 2015 and where penalties are assessed on or after January 12, 2022 are subject to a statutory maximum penalty of \$21,805 per violation. 87 Fed. Reg. 1676, 1678 (January 12, 2022).

17. At all times relevant to the violations alleged herein, Respondent was a “wholesaler, dealer, retailer, or other distributor” within the meaning of, and subject to the assessment of a civil penalty under, Section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1), for any violation of FIFRA.
18. Pursuant to Section 3(a) of FIFRA, 7 U.S.C. § 136a(a), no person in any State may distribute or sell to any person any pesticide that is not registered under FIFRA.
19. Pursuant to 40 C.F.R. § 152.132, a registered pesticide may be distributed or sold under the name and address of a person other than that of the registrant (i.e., as a “distributor product”) so long as specified conditions are met including, but not limited to, the submission by the registrant to EPA of a statement with details concerning the agreement between the registrant and other person, and a requirement that the label for the distributor product be the same as that for the registered product with exceptions not relevant to this matter. Distribution or sale of a distributor product is termed “supplemental distribution” and both the registrant and the supplemental distributor may be held liable for violations pertaining to the distributor product.
20. Section 12(a)(1)(C) of FIFRA, 7 U.S.C. § 136j(a)(1)(C), makes it unlawful for any person in any State to distribute or sell to any person any registered pesticide the composition of which differs at the time of its distribution or sale from its composition as described in the statement required in connection with its registration under Section 3 of FIFRA, 7 U.S.C. § 136a.
21. Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), makes it unlawful for any person in any State to distribute or sell to any person any pesticide which is adulterated or misbranded.
22. Section 12(a)(2)(I) of FIFRA, 7 U.S.C. § 136j(a)(2)(I), makes it unlawful for any person to violate any order issued under Section 13 of FIFRA, 7 U.S.C. § 136k.
23. Section 2(u) of FIFRA, 7 U.S.C. § 136(u), and 40 C.F.R. §152.3 define “pesticide”, in part with exceptions not relevant here, to mean “...any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.”
24. Section 2(y) of FIFRA, 7 U.S.C. § 136(y), defines “registrant” to mean a person who has registered any pesticide pursuant to FIFRA.
25. Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), and 40 C.F.R. §152.3 define “distribute or sell”, in part with exceptions not relevant here, to mean “to distribute, sell, offer for sale,

- hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, release for shipment, or receive and (having so received) deliver or offer to deliver.”
26. Section 2(c) of FIFRA, 7 U.S.C. § 136(c), defines “adulterated”, in part, to mean as applying “to any pesticide if...its strength or purity falls below the professed standard of quality as expressed on its labeling under which it is sold.”
  27. Section 2(q)(1)(A) of FIFRA, 7 U.S.C. § 136(q)(1)(A), defines a pesticide to be “misbranded” if “its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular.”
  28. On July 19, 2010, EPA registered a product with the brand name *BRIGAND SB SOFT BAIT RODENTICIDE* as a pesticide and assigned it the registration number EPA Reg. No. 87235-1 (“*BRIGAND SB SOFT BAIT RODENTICIDE* (EPA Reg. No. 87235-1)”). The application for pesticide registration for this product was submitted by AB Bait Company and the registrant for *BRIGAND SB SOFT BAIT RODENTICIDE* (EPA Reg. No. 87235-1) is Pelgar International, LTD, the parent company of Pelgar USA Corporation and former parent company (up until on or about March 2016) of AB Bait Company.
  29. On August 16, 2010, EPA registered the product *BRIGAND WB WAX BLOCK RODENTICIDE* as a pesticide and assigned it the registration number EPA Reg. No. 87235-2 (“*BRIGAND WB WAX BLOCK RODENTICIDE* (EPA Reg. No. 87235-2)”). The application for pesticide registration for this product was submitted by AB Bait Company and the registrant for *BRIGAND WB WAX BLOCK RODENTICIDE* (EPA Reg. No. 87235-2) is Pelgar International, LTD, the parent company of Pelgar USA Corporation and former parent company (up until on or about March 2016) of AB Bait Company.
  30. *BRIGAND SB SOFT BAIT RODENTICIDE* (EPA Reg. No. 87235-1) and *BRIGAND WB WAX BLOCK RODENTICIDE* (EPA Reg. No. 87235-2) are each a “pesticide” as defined in Section 2(u) of FIFRA, 7 U.S.C. § 136(u), and 40 C.F.R. §152.3.
  31. At all times relevant to the violations alleged herein, the EPA accepted label for the initial and subsequent registrations of *BRIGAND SB SOFT BAIT RODENTICIDE* (EPA Reg. No. 87235-1) identified the % of the active ingredient Bromadiolone as 0.005.
  32. At all times relevant to the violations alleged herein, the confidential statement of formula (“CSF”) submitted in connection with the initial and subsequent registrations of *BRIGAND SB SOFT BAIT RODENTICIDE* (EPA Reg. No. 87235-1) identified the % by weight of the active ingredient Bromadiolone as 0.005, with applicable upper and lower certified limits of 0.006 and 0.004 % of Bromadiolone by weight, respectively.
  33. At all times relevant to the violations alleged herein, the EPA accepted label for the initial and subsequent registrations of *BRIGAND WB WAX BLOCK RODENTICIDE* (EPA Reg. No. 87235-2) identified the % of the active ingredient Bromadiolone as 0.005.

34. At all times relevant to the violations alleged herein, the CSF submitted in connection with the initial and subsequent registrations of *BRIGAND WB WAX BLOCK RODENTICIDE* (EPA Reg. No. 87235-2) identified the % by weight of the active ingredient Bromadiolone as 0.005, with applicable upper and lower certified limits of 0.006 and 0.004 % of Bromadiolone by weight, respectively; and did not identify COMPONENT 1 or COMPONENT 2 as components of the formulation.
35. On May 17, 2017, a representative of the Pennsylvania Department of Agriculture (“PDA”), Bureau of Plant Industry, conducted an inspection of All Pro Pest and Wildlife Control at 826 Garfield Avenue in Glenside, Pennsylvania. The inspector obtained three 10-gram packets of *BRIGAND SB SOFT BAIT RODENTICIDE* (EPA Reg. No. 87235-1) from batch 25160900, produced by Pelgar Internation LTD. The contents of the three 10-gram packets were analyzed at a PDA laboratory for the % by weight of the active ingredient Bromadiolone. This analysis indicated that the % by weight of Bromadiolone in the sample was 0.003, a % by weight below both the claimed % by weight of 0.005 and the lower certified limit of 0.004 identified on the CSF submitted in connection with the pesticide registration of *BRIGAND SB SOFT BAIT RODENTICIDE* (EPA Reg. No. 87235-1).
36. Due to the % by weight of the active ingredient Bromadiolone determined by the PDA laboratory, EPA finds that the composition of batch 25160900 of *BRIGAND SB SOFT BAIT RODENTICIDE* (EPA Reg. No. 87235-1) described in Paragraph 35 differed from the composition described in the statement required in connection with its registration under Section 3 of FIFRA, 7 U.S.C. § 136a, within the meaning of Section 12(a)(1)(C) of FIFRA, 7 U.S.C. § 136j(a)(1)(C).
37. Due to the % by weight of the active ingredient Bromadiolone determined by the PDA laboratory, EPA finds that batch 25160900 of *BRIGAND SB SOFT BAIT RODENTICIDE* (EPA Reg. No. 87235-1) described in Paragraph 35 was “adulterated or misbranded” within the meaning of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).
38. On October 25, 2017, EPA conducted an inspection of Pelgar USA Corporation. By mutual agreement, this inspection was conducted at the Hilton Baltimore Inner Harbor in Baltimore, Maryland. This hotel is connected to the Baltimore, Maryland Convention Center, where representatives of both Pelgar USA Corporation and Pelgar International LTD were participating in a trade show called Pest World 2017 from October 24-27, 2017. At this trade show, these representatives had in their possession, and were offering free of charge to trade show attendees, sample packs of *BRIGAND SB SOFT BAIT RODENTICIDE* (EPA Reg. No. 87235-1) and of *BRIGAND WB WAX BLOCK RODENTICIDE* (EPA Reg. No. 87235-2). During this inspection, EPA obtained two sample packs of *BRIGAND SB SOFT BAIT RODENTICIDE* (EPA Reg. No. 87235-1) from batch 25171000 and two sample packs of *BRIGAND WB WAX BLOCK RODENTICIDE* (EPA Reg. No. 87235-2) from batch 25071000, produced by Pelgar International LTD. The contents of the two samples of *BRIGAND SB SOFT BAIT RODENTICIDE* (EPA Reg. No. 87235-1) were analyzed at an EPA laboratory for the % by weight of the active ingredient Bromadiolone. This analysis indicated that the % by weight of Bromadiolone in the two sample packs of *BRIGAND SB SOFT BAIT*

*RODENTICIDE* (EPA Reg. No. 87235-1) were 0.0030 and 0.0028, respectively, each a % by weight below both the claimed % by weight of 0.005 and the lower certified limit of 0.004 identified on the CSF submitted in connection with the pesticide registration of *BRIGAND SB SOFT BAIT RODENTICIDE* (EPA Reg. No. 87235-1).

39. Due to the % by weight of the active ingredient Bromadiolone determined by the EPA laboratory, EPA finds that the composition of batch 2517000 of *BRIGAND SB SOFT BAIT RODENTICIDE* (EPA Reg. No. 87235-1) described in Paragraph 38 differed from the composition described in the statement required in connection with its registration under Section 3 of FIFRA, 7 U.S.C. § 136a, within the meaning of Section 12(a)(1)(C) of FIFRA, 7 U.S.C. § 136j(a)(1)(C).
40. Due to the % by weight of the active ingredient Bromadiolone determined by the EPA laboratory, EPA finds that batch 2517000 of *BRIGAND SB SOFT BAIT RODENTICIDE* (EPA Reg. No. 87235-1) described in Paragraph 38 was “adulterated or misbranded” within the meaning of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).
41. Also during the October 25, 2017 inspection, EPA collected a written statement from a representative of Pelgar USA Corporation, stating that “[d]uring the production of [*BRIGAND WB WAX BLOCK RODENTICIDE* (EPA Reg. No. 87235-2)] Pelgar uses a low-level mixture of COMPONENT 1 and COMPONENT 2 to provide a [ ] odor which is often perceived as a chocolate smell or scent”. EPA laboratory analysis of the two sample packs of *BRIGAND WB WAX BLOCK RODENTICIDE* (EPA Reg. No. 87235-2) from batch 25071000 collected during the inspection indicated that the % by weight of COMPONENT 1 in the samples was 0.0123 and 0.0157, respectively, and the % by weight of COMPONENT 2 in the samples was 0.0145 and 0.0176, respectively.
42. On February 27, 2020, EPA issued a stop sale, use, or removal order under Section 13(a) of FIFRA, 7 USC § 136k(a), (“SSURO (Docket No. FIFRA-03-2020-0056SS)”) ordering Respondent “to immediately stop all sale, use, and removal, including but not limited to all distribution and sale [as “to distribute or sell” is defined in Section 2(gg) of FIFRA, 7 USC § 136(gg), and 40 CFR § 152.3]” of *BRIGAND SB SOFT BAIT RODENTICIDE* (EPA Reg. No. 87235-1) and *BRIGAND WB WAX BLOCK RODENTICIDE* (EPA Reg. No. 87235-2) under their ownership, custody or control, or under the custody or control of any parties acting for them, wherever those products were located, as well as any *BRIGAND SB SOFT BAIT RODENTICIDE* (EPA Reg. No. 87235-1) and *BRIGAND WB WAX BLOCK RODENTICIDE* (EPA Reg. No. 87235-2) products which come under their ownership, custody or control, or under the custody or control of any parties acting for them, wherever such pesticides were located, after the issuance of the order. The SSURO took effect immediately upon its receipt and applies to all quantities (in all packaging types, sizes and weights) of *BRIGAND SB SOFT BAIT RODENTICIDE* (EPA Reg. No. 87235-1) and *BRIGAND WB WAX BLOCK RODENTICIDE* (EPA Reg. No. 87235-2).
43. During a March 2-5, 2020 Vertebrate Pest Conference, held at the Hilton Santa Barbara Beachfront Resort in Santa Barbara, California, two EPA employees observed that a representative from Pelgar USA Corporation possessed and was offering free of charge to trade show attendees sample packs of *BRIGAND SB SOFT BAIT RODENTICIDE* (EPA

- Reg. No. 87235-1) and *BRIGAND WB WAX BLOCK RODENTICIDE* (EPA Reg. No. 87235-2). On March 3, 2020, EPA obtained a sample pack of *BRIGAND SB SOFT BAIT RODENTICIDE* (EPA Reg. No. 87235-1) from batch 705190828 and a sample pack of *BRIGAND WB WAX BLOCK RODENTICIDE* (EPA Reg. No. 87235-2) from batch 25090205, produced by Pelgar International LTD. These two sample packs were analyzed at an EPA laboratory for the % by weight of the active ingredient Bromadiolone, and, for the *BRIGAND WB WAX BLOCK RODENTICIDE* (EPA Reg. No. 87235-2) product, for the % by weight of the compounds COMPONENT 1 and COMPONENT 2 as well. This analysis indicated that the % by weight of Bromadiolone in the sample pack of *BRIGAND SB SOFT BAIT RODENTICIDE* (EPA Reg. No. 87235-1) was 0.0035, a % by weight below both the claimed % by weight of 0.005 and the lower certified limit of 0.004 identified on the CSF submitted in connection with the pesticide registration of *BRIGAND SB SOFT BAIT RODENTICIDE* (EPA Reg. No. 87235-1). This analysis also indicated that the % by weight of Bromadiolone in the sample pack of *BRIGAND WB WAX BLOCK RODENTICIDE* (EPA Reg. No. 87235-2) was not detected - a % by weight below both the claimed % by weight of 0.005 and the lower certified limit of 0.004 identified on the CSF submitted in connection with the pesticide registration of *BRIGAND WB WAX BLOCK RODENTICIDE* (EPA Reg. No. 87235-2), and that the % by weight of COMPONENT 1 in the samples was 0.0135, and the % by weight of COMPONENT 2 was 0.0062.
44. Due to the % by weight of the active ingredient Bromadiolone determined by the EPA laboratory, EPA finds that the composition of batch 705190828 of *BRIGAND SB SOFT BAIT RODENTICIDE* (EPA Reg. No. 87235-1) described in Paragraph 43 differed from the composition described in the statement required in connection with its registration under Section 3 of FIFRA, 7 U.S.C. § 136a, within the meaning of Section 12(a)(1)(C) of FIFRA, 7 U.S.C. § 136j(a)(1)(C).
45. Due to the % by weight of the active ingredient Bromadiolone determined by the EPA laboratory, EPA finds that batch 705190828 of *BRIGAND SB SOFT BAIT RODENTICIDE* (EPA Reg. No. 87235-1) described in Paragraph 43 was “adulterated or misbranded” within the meaning of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).
46. Due to the % by weight of the active ingredient Bromadiolone determined by the EPA laboratory, EPA finds that the composition of batch 25090205 of *BRIGAND WB WAX BLOCK RODENTICIDE* (EPA Reg. No. 87235-2) described in Paragraph 43 differed from the composition described in the statement required in connection with its registration under Section 3 of FIFRA, 7 U.S.C. § 136a, within the meaning of Section 12(a)(1)(C) of FIFRA, 7 U.S.C. § 136j(a)(1)(C).
47. Due to the % by weight of the active ingredient Bromadiolone determined by the EPA laboratory, EPA finds that batch 25090205 of *BRIGAND WB WAX BLOCK RODENTICIDE* (EPA Reg. No. 87235-2) described in paragraph 43 was “adulterated or misbranded” within the meaning of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

48. Due to the addition of COMPONENT 1 and COMPONENT 2 determined, in part, by the EPA laboratory, EPA finds that the composition of *BRIGAND WB WAX BLOCK RODENTICIDE* (EPA Reg. No. 87235-2) differed from the composition described in the statement required in connection with its registration under Section 3 of FIFRA, 7 U.S.C. § 136a, within the meaning of Section 12(a)(1)(C) of FIFRA, 7 U.S.C. § 136j(a)(1)(C).

**Count I**

**Unlawful Acts under Sections 12(a)(1)(C) and (E) of FIFRA, 7 U.S.C. §§ 136j(a)(1)(C) and (E)  
*BRIGAND SB SOFT BAIT RODENTICIDE* (EPA Reg. No. 87235-1)  
Batches 25160900, 25171000, or 705190828**

49. The allegations of Paragraphs 1 through 48 of this Consent Agreement are incorporated herein by reference.
50. As part of EPA’s investigation, Respondent provided sales records demonstrating that on at least 19 occasions between October 2016 and March 2020, Respondent sold one or more units of *BRIGAND SB SOFT BAIT RODENTICIDE* (EPA Reg. No. 87235-1) from batches 25160900, 2517000, or 705190828 to various individuals, partnerships, associations, corporations, or other organized groups of persons.
51. Due to the % by weight of the active ingredient Bromadiolone determined by PDA and EPA laboratories, EPA finds that each occasion that Respondent sold one or more units of *BRIGAND SB SOFT BAIT RODENTICIDE* (EPA Reg. No. 87235-1) from batches 25160900, 25171000, or 705190828 constitutes a “distribution or sale” of a registered pesticide to a person the composition of which differs at the time of its distribution or sale from its composition as described in the statement required in connection with its registration under Section 3 of FIFRA, 7 U.S.C. § 136k, within the meaning of, and a separate unlawful act under, Section 12(a)(1)(C) of FIFRA, 7 U.S.C. § 136j(a)(1)(C), for which penalties may be assessed pursuant to Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).
52. Due to the % by weight of the active ingredient Bromadiolone determined by PDA and EPA laboratories, EPA finds that each occasion that Respondent sold one or more units of *BRIGAND SB SOFT BAIT RODENTICIDE* (EPA Reg. No. 87235-1) from batches 25160900, 25171000, or 705190828 constitutes a “distribution or sale” of an “adulterated or misbranded pesticide” to a person within the meaning of, and a separate unlawful act under, Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), for which penalties may be assessed pursuant to Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

**Count II**

**Unlawful Acts under Sections 12(a)(1)(C) and (E) of FIFRA, 7 U.S.C. §§ 136j(a)(1)(C) and (E)  
*BRIGAND WB WAX BLOCK RODENTICIDE* (EPA Reg. No. 87235-2)  
Batch 25090205**

53. The allegations of Paragraphs 1 through 52 of this Consent Agreement are incorporated herein by reference.

54. As part of EPA's investigation, Respondent provided sales records demonstrating that on at least two (2) occasions in March 2020, Respondent sold one or more units of *BRIGAND WB WAX BLOCK RODENTICIDE* (EPA Reg. No. 87235-2) from batch 25090205 to various individuals, partnerships, associations, corporations, or other organized groups of persons.
55. Due in part to the % by weight of the active ingredient Bromadiolone determined by the EPA laboratory, EPA finds that each occasion that Respondent sold one or more units of *BRIGAND WB WAX BLOCK RODENTICIDE* (EPA Reg. No. 87235-2) from batch 25090205 constitutes a "distribution or sale" to a person a registered pesticide the composition of which differs at the time of its distribution or sale from its composition as described in the statement required in connection with its registration under Section 3 of FIFRA, 7 U.S.C. § 136a, within the meaning of, and a separate unlawful act under, Section 12(a)(1)(C) of FIFRA, 7 U.S.C. § 136j(a)(1)(C), for which penalties may be assessed pursuant to Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).
56. Due in part to the % by weight of the active ingredient Bromadiolone determined by the EPA laboratory, EPA finds that each occasion that Respondent sold one or more units of *BRIGAND WB WAX BLOCK RODENTICIDE* (EPA Reg. No. 87235-2) from batch 25090205 constitutes a "distribution or sale" of an "adulterated or misbranded pesticide" within the meaning of, and a separate unlawful act under, Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), for which penalties may be assessed pursuant to Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

### Count III

#### **Unlawful Acts under Sections 12(a)(1)(C) of FIFRA, 7 U.S.C. § 136j(a)(1)(C) *BRIGAND WB WAX BLOCK RODENTICIDE* (EPA Reg. No. 87235-2)**

57. The allegations of Paragraphs 1 through 56 of this Consent Agreement are incorporated herein by reference.
58. As part of EPA's investigation, Respondent provided sales records demonstrating that on at least 383 occasions between February 27, 2015 and February 27, 2020, Respondent sold one or more units of *BRIGAND WB WAX BLOCK RODENTICIDE* (EPA Reg. No. 87235-2) to various individuals, partnerships, associations, corporations, or other organized groups of persons.
59. Due to the addition of COMPONENT 1 and COMPONENT 2 as determined, in part, by the EPA laboratory, EPA finds that each occasion that Respondent sold one or more units of *BRIGAND WB WAX BLOCK RODENTICIDE* (EPA Reg. No. 87235-2) constitutes a "distribution or sale" to a person a registered pesticide the composition of which differs at the time of its distribution or sale from its composition as described in the statement required in connection with its registration under Section 3 of FIFRA, 7 U.S.C. § 136a, within the meaning of, and a separate unlawful act under, Section 12(a)(1)(C) of FIFRA, 7 U.S.C. § 136j(a)(1)(C), for which penalties may be assessed pursuant to Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

**Count IV**

**Unlawful Acts under Section 12(a)(2)(I) of FIFRA, 7 U.S.C. § 136j(a)(2)(I)  
*BRIGAND SB SOFT BAIT RODENTICIDE* (EPA Reg. No. 87235-1)  
*BRIGAND WB WAX BLOCK RODENTICIDE* (EPA Reg. No. 87235-2)**

60. The allegations of Paragraphs 1 through 59 of this Consent Agreement are incorporated herein by reference.
61. Respondent's conduct described in Paragraph 43 constitutes violations of SSURO (Docket No.: FIFRA-03-2020-0056SS), an "order issued under Section 13 of FIFRA, 7 U.S.C. § 136k" within the meaning of, and at least two (2) unlawful acts under, Section 12(a)(2)(I) of FIFRA, 7 U.S.C. § 136j(a)(2)(I), for which penalties may be assessed pursuant to Section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

**CIVIL PENALTY**

62. In settlement of EPA's claims for civil penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of *ONE HUNDRED AND TWENTY-FIVE THOUSAND DOLLARS (\$125,000)*, which Respondent shall be liable to pay in accordance with the terms set forth below.
63. The civil penalty is based upon EPA's consideration of a number of factors, including the penalty criteria ("statutory factors") set forth in Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), including, the following: the size of Respondent's business, the effect of the penalty on Respondent's ability to continue in business, and the gravity of the violation. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA's December 2009 FIFRA Enforcement Response Policy which reflects the statutory penalty criteria and factors set forth at Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), the appropriate Adjustment of Civil Monetary Penalties for Inflation, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA's civil penalty policies to account for inflation.
64. The civil penalty is also based upon an analysis of Respondent's ability to pay a civil penalty. This analysis was based upon information submitted to EPA by Respondent.
65. Based upon this analysis EPA has determined that the Respondent is unable to pay a civil penalty in excess of the dollar amount set forth in Paragraph 62, above, in settlement of the above-captioned action. Complainant has relied upon the financial information provided by Respondent and, based upon that information, it is Complainant's conclusion that the Respondent has established that it is unable to pay the full amount of the civil penalty identified and set forth in Paragraph 62, above, within thirty (30) days of the effective date of this Consent Agreement and that a payment plan of the nature and duration set forth below is necessary and appropriate.
66. Pursuant to the provisions of this Consent Agreement, Respondent will remit a total civil penalty (principal) of *ONE HUNDRED AND TWENTY-FIVE THOUSAND DOLLARS (\$125,000)* plus interest (calculated at the rate of 2% per annum on the outstanding

principal balance) in the amount *FOUR HUNDRED AND SIXTY-EIGHT DOLLARS AND SEVENTY-FIVE CENTS (\$468.75)*, in accordance with the installment payment schedule set forth in the chart, immediately below:

<b>Payment No.</b>	<b>Principal Amount</b>	<b>Interest</b>	<b>Date Payment Due (From Effective Date of Consent Agreement)</b>	<b>Payment Amount Due</b>
1	\$31,367.19	\$0	<i>Within 30 Days</i>	\$31,367.19
2	\$31,132.81	\$234.38	<i>Within 90 Days</i>	\$31,367.19
3	\$31,210.94	\$156.25	<i>Within 180 Days</i>	\$31,367.19
4	\$31,289.06	\$78.13	<i>Within 270 Days</i>	\$31,367.19
<b>Total:</b>	<b>\$125,000</b>	<b>\$468.75</b>		<b>\$125,468.75</b>

67. If Respondent fails to make timely payment of any one of the required installment payments in accordance with the installment payment schedule set forth in Paragraph 66, immediately above, the entire unpaid balance of the penalty and all accrued interest shall become due immediately upon such failure, and Respondent shall immediately pay the entire remaining principal balance of the civil penalty along with any interest that has accrued up to the time of such payment. In addition, Respondent shall be liable for, and shall pay, applicable interest, administrative handling charges and late payment penalty charges as described in Paragraphs 70 through 74, below, in the event of any such failure or default.
68. Respondent may, at any time after commencement of payments under the installment payment schedule, elect to pay the entire principal balance, together with accrued interest to the date of such full payment.
69. Payment of the civil penalty amount, and any associated interest, administrative fees, and late payment penalties owed, shall be made by either cashier’s check, certified check or electronic wire transfer, in the following manner:
  - a. All payments by Respondent shall include reference to Respondent’s name and address, and the Docket Number of this action, i.e., Docket No: FIFRA-03-2023-0053;
  - b. All checks shall be made payable to the “United States Treasury”;

- c. All payments made by check and sent by regular mail shall be addressed and mailed to:

U.S. Environmental Protection Agency  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

- d. For additional information concerning other acceptable methods of payment of the civil penalty amount see:

<https://www.epa.gov/financial/makepayment>

- e. A copy of Respondent's check or other documentation of payment of the penalty using the method selected by Respondent for payment shall be sent simultaneously by email to:

Jennifer M. Abramson  
Senior Assistant Regional Counsel  
[Abramson.Jennifer@epa.gov](mailto:Abramson.Jennifer@epa.gov)

and

U.S. EPA Region III Regional Hearing Clerk  
[R3\\_Hearing\\_Clerk@epa.gov](mailto:R3_Hearing_Clerk@epa.gov).

70. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment of the penalty as specified herein shall result in the assessment of late payment charges including interest, penalties and/or administrative costs of handling delinquent debts.
71. Payment of the civil penalty, in accordance with the above terms and provisions, is due and payable immediately upon receipt by Respondent of a true and correct copy of the fully executed and filed Consent Agreement and Final Order. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed Consent Agreement and Final Order, with a date stamp indicating the date on which the Consent Agreement and Final Order was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed EPA by Respondent in accordance with 40 C.F.R. § 13.9(a).
72. INTEREST: In accordance with 40 C.F.R. § 13.11(a)(1), interest on the civil penalty assessed in this Consent Agreement and Final Order will begin to accrue on the date Respondent is notified of its debt to the United States as established upon the ratification and filing of the fully executed Consent Agreement and Final Order with the Regional Hearing Clerk. However, EPA will not seek to recover interest on any amount of the civil

penalties that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).

73. ADMINISTRATIVE COSTS: The costs of the EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's Resources Management Directives – Case Management, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
74. LATE PAYMENT PENALTY: A late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
75. Respondent agrees not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.
76. The Parties consent to service of the Final Order by e-mail at the following valid email addresses: [Abramson.Jennifer@epa.gov](mailto:Abramson.Jennifer@epa.gov) (for Complainant), and [gareth@pelgar.co.uk](mailto:gareth@pelgar.co.uk) (for Respondent).

#### **GENERAL SETTLEMENT CONDITIONS**

77. By signing this Consent Agreement, Respondent acknowledges that this Consent Agreement and Final Order will be available to the public and represents that, to the best of Respondent's knowledge and belief, this Consent Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondent.
78. Respondent certifies that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission, true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this Consent Agreement and Final Order, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

**CERTIFICATION OF COMPLIANCE**

79. Respondent certifies to EPA, upon personal investigation and to the best of its knowledge and belief, that it currently is in compliance with regard to the violations alleged in this Consent Agreement.

**OTHER APPLICABLE LAWS**

80. Nothing in this Consent Agreement and Final Order shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit. This Consent Agreement and Final Order does not constitute a waiver, suspension or modification of the requirements of the FIFRA, or any regulations promulgated thereunder.

**RESERVATION OF RIGHTS**

81. This Consent Agreement and Final Order resolves only EPA's claims for civil penalties for the specific violations alleged against Respondent in this Consent Agreement and Final Order. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. This settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice, 40 C.F.R. § 22.18(c). EPA reserves any rights and remedies available to it under FIFRA, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this Consent Agreement and Final Order after its effective date.

**EXECUTION /PARTIES BOUND**

82. This Consent Agreement and Final Order shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents and assigns of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and Final Order.

**EFFECTIVE DATE**

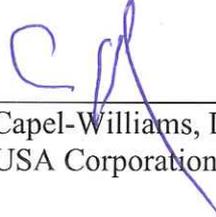
83. The effective date of this Consent Agreement and Final Order is the date on which the Final Order, signed by the Regional Administrator of EPA, Region III, or his/her designee, the Regional Judicial Officer, is filed along with the Consent Agreement with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

**ENTIRE AGREEMENT**

84. This Consent Agreement and Final Order constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed in this Consent Agreement and Final Order.

For Respondent:

Date: 2 February 2023



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Gareth Capel-Williams, Director  
PelGar USA Corporation

For Complainant:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement and Compliance Assurance Division of the United States Environmental Protection Agency, Region 3, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or his designee, the Regional Judicial Officer, issue the attached Final Order.

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Karen Melvin, Director  
Enforcement and Compliance and Assurance Division  
U.S. EPA - Region 3

Counsel for Complainant:

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Jennifer M. Abramson, Senior Assistant Regional Counsel  
Office of Regional Counsel  
U.S. EPA - Region 3



Date: \_\_\_\_\_

By: \_\_\_\_\_

Joseph J. Lisa  
Regional Judicial and Presiding Officer  
U.S. EPA Region III

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
Philadelphia, Pennsylvania 19103-2029**

<b>In the Matter of:</b>	)	<b>U.S. EPA Docket No. FIFRA-03-2023-0053</b>
	)	
<b>PelGar USA Corporation</b>	)	<b>Proceeding under Section 14(a) of the</b>
<b>215 Evergreen Court</b>	)	<b>Federal Insecticide, Fungicide and</b>
<b>Saylorsburg, Pennsylvania 18353</b>	)	<b>Rodenticide Act, 7 U.S.C. § 136l(a)</b>
	)	
<b>Respondent.</b>	)	

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**CERTIFICATE OF SERVICE**

I certify that the foregoing *Consent Agreement and Final Order* was filed with the EPA Region III Regional Hearing Clerk on the date that has been electronically stamped on the *Consent Agreement and Final Order*. I further certify that on the date set forth below, I caused to be served a true and correct copy of the foregoing to each of the following persons, in the manner specified below, at the following addresses:

Copies served via email to:

Dr Gareth Capel-Williams, Director  
Pelgar USA Corporation  
[gareth@pelgar.co.uk](mailto:gareth@pelgar.co.uk)  
Unit 13 Newman Lane  
Alton, Hampshire  
GU34 2QR UK

Jennifer M. Abramson  
Senior Assistant Regional Counsel  
U.S. EPA, Region III  
[Abramson.Jennifer@epa.gov](mailto:Abramson.Jennifer@epa.gov)

Rich Ponak  
Enforcement Officer  
U.S. EPA, Region III  
[Ponak.Rich@epa.gov](mailto:Ponak.Rich@epa.gov)

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[*Digital Signature and Date*]  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region III