

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 3  
Philadelphia, Pennsylvania 19103**



**In the Matter of:** :  
 :  
**PALLET MACHINERY GROUP, INC.** : **U.S. EPA Docket No. FIFRA-03-2024-0079**  
**250 Commerce Road, Unit A** :  
**Tappahannock, Virginia 22560** : **Proceeding under Section 14(a) of the Federal**  
 : **Insecticide, Fungicide, and Rodenticide Act, 7**  
**Respondent.** : **U.S.C. § 136/(a).**

**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 3 (“Complainant”) and Pallet Machinery Group, Inc. (“Respondent”) (collectively the “Parties”), pursuant to Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (“FIFRA”), 7 U.S.C. § 136/(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 U.S.C. § 136/(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 C.F.R. §§ 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 adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a) because this is an administrative action for assessment of

civil penalties under section 14(a) of FIFRA, 7 U.S.C. § 136l(a), for violations of sections 12(a)(1)(A) and 12(a)(1)(E) of FIFRA, 7 U.S.C. §§ 136j(a)(1)(A) and (E).

5. The Parties executed a Tolling Agreement that provides that the time period from December 15, 2023, to and including March 1, 2024, will not be included in calculating or in computing the running of any statute of limitations 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's fees in connection with this proceeding.

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

12. In accordance with 40 C.F.R. §§ 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 immediately below.
13. "Person" means "any individual, partnership, association, corporation, or any organized group or persons whether incorporated or not." 7 U.S.C. § 136(s).
14. "To distribute or sell" means to distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, release for shipment, or receive and (having so received) deliver or offer to deliver. 7 U.S.C. § 136(gg).
15. "Pesticide" is defined in part as "any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest." 7 U.S.C. § 136(u).

16. “Pest” means any insect, rodent, nematode, fungus, weed, any other form of terrestrial or aquatic plant or animal life or virus, bacteria, prion, or other micro-organisms (except viruses, bacteria, or other micro-organisms on or in living man or other living animals and those on or in processed food or processed animal feed, beverage, drugs, and cosmetics) which the Administrator declares to be a pest under section 25(c)(1). 7 U.S.C. § 136(t); 40 C.F.R. § 152.5.
17. “A substance is considered to be intended for a pesticidal purpose, [i.e., used for the purpose of preventing, destroying, repelling, or mitigating any pest] and thus a pesticide requiring registration if: (A) The person who distributes or sells the substance claims, states, or implies (by labeling or otherwise): (i) That the substance (either by itself or in combination with any other substance) can or should be used as a pesticide; or . . . (C) The person who distributes or sells the substance has actual or constructive knowledge that the substance will be used, or is intended to be used, for a pesticidal purpose.” 40 C.F.R. § 152.15.
18. An “active ingredient” is an ingredient in a pesticide other than a plant regulator, defoliant, desiccant, or nitrogen stabilizer that will prevent, destroy, repel, or mitigate any pest. 7 U.S.C. § 136(a).
19. A pesticide may be “misbranded” for several reasons depending upon the content of the product’s label or labeling. “Label” means “the written, printed, or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers.” 7 U.S.C. § 136(p)(1). “Labeling” includes “all labels and all other written, printed, or graphic matter accompanying the pesticide or device at any time, or to which reference is made on the label or in literature accompanying the pesticide or device.” 7 U.S.C. § 136(p)(2).
20. A pesticide may be misbranded if its label does not contain a warning or caution statement adequate to protect health and the environment. 7 U.S.C. § 136(q)(1)(G).
21. Registered product labels must have hazard and precautionary statements. 40 C.F.R. § 156.60.
22. “Most human hazard, precautionary statements, and human personal protective equipment statements are based upon the Toxicity Category of the pesticide product as sold or distributed.” Toxicity categories range from I-IV in descending order of acute toxicity. 40 C.F.R. § 156.62.
23. Signal words on product labels reflect the “highest Toxicity Category [Category I being the highest] to which the product is assigned by any of the five routes of exposure.” 40 C.F.R. § 156.64(a).
24. “Any pesticide product meeting the criteria of Toxicity Category I for any route of exposure must bear on the front panel the signal word ‘DANGER.’” 40 C.F.R.

§ 156.64(a)(1).

25. The Toxicity Category also determines the minimum personal protective equipment (PPE) and first aid statements on labels that must be provided to protect human health. All Toxicity Categories have minimum PPE requirements except Category IV. 40 C.F.R. § 156.212(e). All Toxicity Category I and II products must bear a first aid statement. 40 C.F.R. § 156.68(a).
26. A pesticide may 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, including pesticidal and non-pesticidal claims. 7 U.S.C. § 136(q)(1)(A).
27. A product may also be misbranded if its labeling does not contain adequate directions for use to protect health and the environment. 7 U.S.C. § 136(q)(1)(F).
28. “Directions for use must be stated in terms which can be easily read and understood by the average person likely to use or to supervise the use of the pesticide. When followed, directions must be adequate to protect the public from fraud and from personal injury and to prevent unreasonable adverse effects on the environment.” 40 C.F.R. § 156.10(i)(1)(i).
29. Directions for use on registered pesticide labels must include the following non-exhaustive list of statements:
  - a. The site(s) of application, as for example the crops, animals, areas, or objects to be treated. 40 C.F.R. § 156.10(i)(2)(iii).
  - b. The target pest(s) associated with each site. 40 C.F.R. § 156.10(i)(2)(iv).
  - c. The dosage rate associated with each site and pest. 40 C.F.R. § 156.10(i)(2)(v).
  - d. The method of application, including instructions for dilution, if required, and type(s) of application apparatus or equipment required. 40 C.F.R. § 156.10(i)(2)(vi).
  - e. The frequency and timing of applications necessary for effective results without causing unreasonable adverse effects. 40 C.F.R. § 156.10(i)(2)(vii).
30. Sections 3(a) and 12(a)(1)(A) of FIFRA provide that it is unlawful for any person in any state to distribute or sell to any person a pesticide that is not registered under FIFRA subject to certain exemptions not relevant to this matter. 7 U.S.C. §§ 136a(a), 136j(a)(1)(A).

31. Section 12(a)(1)(E) of FIFRA provides that it is unlawful for any person in any State to distribute or sell to any person any pesticide that is adulterated or misbranded. 7 U.S.C. § 136j(a)(1)(E).
32. Respondent is Pallet Machinery Group, Inc., a company incorporated in Virginia and headquartered at 250 Commerce Road, Unit A, Tappahannock, Virginia 22560. Respondent is therefore a “person” as defined under 7 U.S.C. § 136(s).
33. As part of its initial investigation, EPA reviewed publicly available dockets concerning Respondent’s possible sale or distribution of an unregistered pesticide. *See ISK Biocides, Inc. v. Pallet Machinery Group Inc. & J&G Manufacturing LLC*, No. 3:21-CV-00386 (E.D. Va. 2021). This docket contained a sales and distribution statement and identified two manufacturers of the unregistered pesticide: Specialty Adhesives and RB Manufacturing.
34. On May 10, 2023, an EPA-credentialed inspector at the Tennessee Department of Agriculture conducted an inspection of Specialty Adhesives at 3791 Air Park Street, Memphis, Tennessee 38118.
35. On May 11, 2023, an EPA-credentialed inspector at the Alabama Department of Agriculture and Industries conducted an inspection of RB Manufacturing, LLC at 40 Red Hill Road, Baileyton, Alabama 35019.
36. EPA’s investigation showed that Respondent engaged in the sale and distribution of the following pesticide products containing the same active ingredients and distributed under the brand name Woodlock Bioshield (collectively referred to hereafter as “WLBS”):
  - a. WLBS (1-gallon container)
  - b. WLBS (sample pails)
  - c. WLBS (55-gallon drum)
  - d. WLBS (275-gallon tote)
  - e. WLBS-E or WLBS-Exxon (55-gallon drum)
  - f. WLBS-E or WLBS-Exxon (275-gallon tote)
  - g. WLBS-H or WLBS High Performance (55-gallon drum)
  - h. WLBS-H or WLBS High Performance (275-gallon tote)
  - i. WLBS-S or WLBS Spray (55-gallon drum)
  - j. WLBS-S or WLBS Spray (275-gallon tote)

#### **Sale or Distribution of Unregistered Pesticides**

37. Marketing materials available online and within the aforementioned docket indicate that WLBS was intended to be used on wood pallets to mitigate or prevent the growth of mold and mildew.

38. Promotional packages sent by Respondent via email to potential customers and posted online included a study and results titled, “Comprehensive Evaluation of the Effectiveness of [] Woodlock Bio-Shield.” The study used ASTM International Standard D4445 (2019), which is the “Test Method for Fungicides for Controlling Sapstain and Mold on Unseasoned Lumber.”<sup>1</sup>
39. Other promotional materials used by Respondent, including online and print advertisements, contained the following non-exhaustive list of pesticidal claims:
- “Control mold with peace of mind.”
- “Tested [] in a mold chamber for 6 weeks.”
- “The New Approach to Mold Protection for Pallets and Sawn Wood”
- “WoodLock Bio-Shield is a water-based polymer that delivers time-tested and proven mold inhibition.”
- “WoodLock BioShield protects wood, such as pallets, freshly sawn or kiln dried wood, and a variety of porous surfaces.”
- “Active ingredients are captive on the surface and always partially bio-available preventing any growth.”
- “Protection. Performance. Peace of Mind.”
- “Long-Lasting Mold Prevention”
- “Zone of inhibition up to 3 mm away, ensuring full protection even without complete coverage”
40. Based on the above claims, WLBS is a “pesticide” because it is a substance intended to prevent or mitigate the growth of mold and mildew on wood pallets. *See* 7 U.S.C. § 136(u); 40 C.F.R. § 125.15(a)(1).
41. At no time was WLBS registered with EPA as a pesticide under FIFRA.
42. Sale or distribution of an unregistered pesticide is an unlawful act under section 12(a)(1)(A) of FIFRA. 7 U.S.C. § 136j(a)(1)(A).

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<sup>1</sup> *ASTM D4445: Standard Test Method for Fungicides for Controlling Sapstain and Mold on Unseasoned Lumber (Laboratory Method)*, ASTM INT’L., <https://compass.astm.org/document/?contentCode=ASTM%7CD4445-10R19%7Cen-US&proxycl=https%3A%2F%2Fsecure.astm.org&fromLogin=true>.

**Sale or Distribution of Misbranded Pesticides**

43. The docket and documentary samples of labels collected during the inspections showed that WLBS product labels used for the time applicable to this action provided only the following information:

WOODLOCK BIO SHIELD – E  
MIX 1 PART WLBS TO 50 PARTS OF WATER  
MIX TOTE WELL BEFORE USING  
DIP FOR A MINIMUM OF 5 MINUTES.  
FOR PROFESSIONAL USE ONLY.  
J&G Manufacturing, LLC  
4451 Gulf Shore Blvd  
Suite 302  
Naples, Florida 34103  
(781) 799-4729

44. Each sale or distribution of WLBS was a sale or distribution of a misbranded pesticide because the label did not contain a warning or caution statement adequate to protect health and the environment, in violation of FIFRA sections 2(q)(1)(G) and 12(a)(1)(E). 7 U.S.C. §§ 136(q)(1)(G), 136j(a)(1)(A).
45. In addition to the lack of information contained on the product label above, the docket and inspection records indicated that WLBS was a polymer mixed with two registered pesticides: Mergal® V450 (EPA Reg. No. 5383-147) and Mergal® MC14 (EPA Reg. No. 5383-141).
46. Mergal® V450 (EPA Reg. No. 5383-147) is an industrial preservative and mildewcide. The EPA-accepted label lists 2-n-octyl-4-isothiazolin-3-one (octhilinone or OIT) as its active ingredient. Its signal word is “DANGER,” and its precautionary statements include:

**CORROSIVE.** Causes skin burns and irreversible eye damage.  
Harmful if inhaled, swallowed or absorbed through skin.  
Prolonged or frequently repeated skin contact may cause allergic reactions in some individuals.

Avoid breathing vapor or spray mist. Do not get in eyes, on skin or on clothing. Wear goggles or face shield, chemical resistant gloves and chemical resistant apron. Mixers, loaders and others exposed to this product must wear: long-sleeved shirt and long pants.

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**ENVIRONMENTAL HAZARDS**

This product is toxic to fish, aquatic invertebrates, oysters and shrimp.

47. Mergal® MC14 (EPA Reg. No. 5383-141) is a microbiocide. The EPA-accepted label lists 5-Chloro-2-methyl-4-isothiazolin-3-one (CMIT) and 2-Methyl-4-isothiazolin-3-one (MIT) as its active ingredients. Its signal word is “DANGER,” and its precautionary statements include:

CORROSIVE. Causes irreversible eye damage and skin burns. May be fatal if absorbed through skin or swallowed. May cause allergic reaction. Harmful if inhaled. Do not get in eyes, on skin or on clothing. Wear goggles or face shield, chemical resistant gloves and chemical resistant apron. Mixers, loaders and others exposed to this product must wear: long-sleeved shirt and long pants.

...

ENVIRONMENTAL HAZARDS

This product is toxic to aquatic plants, fish, and aquatic invertebrates.

48. OIT, CMIT, and MIT are Toxicity Category I (corrosive) for eye and skin irritation.<sup>2</sup>
49. Therefore, WLBS labels failed to provide an adequate warning or caution statement to protect human health and the environment during the use of WLBS, as evident from the EPA-accepted label for each registered pesticide used in WLBS and EPA’s hazard characterization of WLBS ingredients. 7 U.S.C. § 136(q)(1)(G); 40 C.F.R. §§ 156.60, 156.62, and 156.64(a)(1). This renders each sale or distribution of WLBS a sale or distribution of a misbranded pesticide, pursuant to FIFRA sections 2(q)(1)(G) and 12(a)(1)(E). 7 U.S.C. §§ 136(q)(1)(G), 136j(a)(1)(E).
50. Further, each sale or distribution of WLBS was a sale or distribution of a misbranded pesticide because the labeling contained false and misleading statements, pursuant to sections 2(q)(1)(A) and 12(a)(1)(E). 7 U.S.C. §§ 136(q)(1)(A), 136j(a)(1)(E).
51. Docket contents and inspection records revealed that a safety data sheet (SDS) was provided by Respondent with each purchase of WLBS, making the SDS “labeling” under 7 U.S.C. § 136(p)(2).
52. SDSs used from January 1, 2019, to September 1, 2020, stated that:

**There are no GHS label elements. There are no hazardous materials requiring reporting.**

...

EFFECTS AND SYMPTOMS OF ACUTE EXPOSURE: NONE EXPECTED

EFFECTS AND SYMPTOMS OF CHRONIC EXPOSURE: NONE EXPECTED

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<sup>2</sup> EPA, HAZARD CHARACTERIZATION OF ISOTHIAZOLINONES IN SUPPORT OF FIFRA REGISTRATION REVIEW (2020), <https://www.regulations.gov/document/EPA-HQ-OPP-2014-0159-0008>.



**SECTION VI – FIRST AID MEASURES**

FIRST AID MEASURES: NONE REQUIRED. NO ACUTE HEALTH EFFECTS EXPECTED.

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**SECTION VIII – EXPOSURE CONTROLS / PERSONAL PROTECTION**

RESPIRATORY PROTECTION AND SPECIAL VENTILATION

REQUIREMENTS: NONE REQUIRED

OTHER PROTECTIVE EQUIPMENT (GLOVES, GOGGLES, ETC): NONE REQUIRED

WORK/HYGIENE PRACTICES: NONE REQUIRED.

OTHER PROTECTIVE EQUIPMENT (GLOVES, GOGGLES, ETC.): NONE REQUIRED

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**SECTION XII – ECOLOGICAL INFORMATION**

NO HARMFUL EFFECTS KNOWN OTHER THAN THOSE ASSOCIATED WITH SUSPENDED INERT SOLIDS IN WATER.

53. The SDSs used by Respondent from September 1, 2020, to November 16, 2021, stated that:

**There are no GHS label elements. There are no hazardous materials requiring reporting.**

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EFFECTS AND SYMPTOMS OF ACUTE EXPOSURE: NONE EXPECTED

EFFECTS AND SYMPTOMS OF CHRONIC EXPOSURE: MILD EYE AND SKIN IRRITATION

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**SECTION IV – FIRST AID MEASURES**

FIRST AID MEASURES: NONE REQUIRED. NO ACUTE HEALTH EFFECTS EXPECTED.

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**SECTION VIII – EXPOSURE CONTROLS / PERSONAL PROTECTION**

RESPIRATORY PROTECTION AND SPECIAL VENTILATION

REQUIREMENTS: NONE REQUIRED

EYES: WEAR PROTECTIVE EYEWARE TO PREVENT CONTACT WITH EYES.

SKIN: IN CASE OF SKIN CONTACT, WASH AFFECTED AREA WITH COLD WATER AND SOAP.

OTHER PROTECTIVE EQUIPMENT (GLOVES, GOGGLES, ETC): AS REQUIRED TO PREVENT CONTACT WITH EYES AND SKIN

...

## SECTION XII – ECOLOGICAL INFORMATION

### NO HARMFUL EFFECTS KNOWN OTHER THAN THOSE ASSOCIATED WITH SUSPENDED INERT SOLIDS IN WATER.

54. The Globally Harmonized System (GHS) of Classification of Labelling of Chemicals is a “single, globally harmonized system to address classification of chemicals, labels, and safety data sheets.” GHS label requirements align with the Hazard Communication Standard adopted by the Occupational Safety and Health Administration at 29 C.F.R. § 1910.1200.
55. GHS label requirements include pictograms, signal words, hazard statements, and precautionary statements.<sup>3</sup>
56. The GHS classification for each WLBS active ingredient—OIT,<sup>4</sup> MIT,<sup>5</sup> CMIT<sup>6</sup>—is “hazardous” requiring the inclusion of at least three pictograms, the signal word “Danger,” and numerous hazard and precautionary statements.
57. As provided in above, all WLBS active ingredients are Toxicity Category 1 for eye and skin irritation, require first aid measures, require personal protection equipment, and are considered harmful to aquatic habitats.
58. Therefore, WLBS labeling contained multiple false or misleading statements, rendering each sale or distribution of WLBS a sale or distribution of a misbranded pesticide, pursuant to FIFRA sections 2(q)(1)(A) and 12(a)(1)(E). 7 U.S.C. §§ 136(q)(1)(A), 136j(a)(1)(E).
59. Further, each sale or distribution of WLBS was a sale or distribution of a misbranded pesticide because its labeling failed to provide adequate directions for use to protect health and the environment under FIFRA section 2(q)(1)(F) and 12(a)(1)(E). 7 U.S.C. §§ 136(q)(1)(F), 136j(a)(1)(E).
60. WLBS labeling failed to provide the following directions for use statements:

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<sup>3</sup> *PubChem GHS Classification (Rev.10, 2023) Summary*, U.S. NAT’L CTR. FOR BIOTECHNOLOGY INFO., <https://pubchem.ncbi.nlm.nih.gov/ghs/>.

<sup>4</sup> *PubChem Compound Summary for CID 33528, Octhilinone*, U.S. NAT’L CTR. FOR BIOTECHNOLOGY INFO., <https://pubchem.ncbi.nlm.nih.gov/compound/33528>.

<sup>5</sup> *PubChem Compound Summary for CID 39800, 2-Methyl-4-isothiazolin-3-one*, U.S. NAT’L CTR. FOR BIOTECHNOLOGY INFO., <https://pubchem.ncbi.nlm.nih.gov/compound/39800>.

<sup>6</sup> *PubChem Compound Summary for CID 33344, 5-Chloro-2-methyl-4-isothiazolin-3-one*, U.S. NAT’L CTR. FOR BIOTECHNOLOGY INFO., <https://pubchem.ncbi.nlm.nih.gov/compound/33344>.

- a. Site of application. *See* 40 C.F.R. § 156.10(i)(2)(iii). The only indication that the product could be used on wood is the product brand name.
  - b. Target pests for each application site. *See* 40 C.F.R. § 156.10(i)(2)(iv). Only promotional materials mentioned mold and mildew.
  - c. Dosage rate associated with each site and pest. *See* 40 C.F.R. § 156.10(i)(2)(v). The label only said to dip for a minimum of five minutes.
  - d. Clear instructions for dilution or type of application apparatus or equipment required. *See* 40 C.F.R. § 156.10(i)(2)(vi). The label only said mix “X” parts WLBS with “X” parts water. No definition of what is considered a “part” was provided.
  - e. Frequency and timing of applications necessary for effective results without causing unreasonable adverse effects. *See* 40 C.F.R. § 156.10(i)(2)(vii). No information was provided on the maximum dip time whether the product could be re-applied.
61. Therefore, WLBS labeling failed to provide adequate directions for use to protect health and the environment, rendering each sale or distribution of WLBS a sale or distribution of a misbranded pesticide, pursuant to FIFRA sections 2(q)(1)(F) and 12(a)(1)(E). 7 U.S.C. §§ 136(q)(1)(F), 136j(a)(1)(E).

### **Count I**

#### **Sale or Distribution of Unregistered Pesticides**

62. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
63. Sections 3 and 12(a)(1)(A) of FIFRA, 7 U.S.C. §§ 136a, 136j(a)(1)(A), make it unlawful for any person in any State to distribute or sell to any person any pesticide that is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.
64. WLBS was never and is not currently a registered pesticide under FIFRA section 3.
65. Based on a sale and distribution sheet admitted into evidence in the docket cited in paragraph 33 and documents collected during the inspection confirming such sales or distributions, Respondent violated section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing an unregistered pesticide—WLBS—on at least 76 occasions from January 1, 2019, through November 16, 2021.
66. Each occasion that Respondent distributed or sold WLBS constitutes a separate unlawful act for which penalties may be assessed pursuant to section 14(a) of FIFRA, 7 U.S.C. § 136(a).

**Count II**  
**Sale or Distribution of Misbranded Pesticides**

67. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
68. Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), makes it unlawful to sell or distribute a misbranded pesticide.
69. A pesticide may be misbranded if (in relevant part) its label fails to provide an adequate warning or caution statement to protect human health and the environment; its labeling is false or misleading in any particular; or its labeling failed to provide adequate directions for use to protect health and the environment. 7 U.S.C. §§ 136(q)(1)(G), (A), and (F).
70. Based on a sale and distribution sheet admitted to evidence in the docket cited in paragraph 33 and documents collected during the inspection confirming such sales or distributions, Respondent violated section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), by selling or distributing WLBS, a misbranded pesticide, on at least 76 occasions from January 1, 2019, to November 16, 2021
71. Each occasion that Respondent distributed or sold the misbranded pesticide, WLBS, constitutes a separate unlawful act for which penalties may be assessed pursuant to section 14(a) of FIFRA, 7 U.S.C. § 136l(a).

**CIVIL PENALTY**

72. 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 TWENTY THOUSAND DOLLARS (\$120,000)**, which Respondent shall be liable to pay in accordance with the terms set forth below.
73. 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 the business of the person charged, the effect of the person'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 *FIFRA Enforcement Response Policy*, dated December 2009 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.
74. 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

including the following: federal tax returns, cash flow statements, balance sheets, and income statements.

- 75. Based upon this analysis EPA has determined that Respondent is unable to pay a civil penalty in excess of the dollar amount set forth in Paragraph 72, above, in settlement of the above-captioned action.
- 76. Complainant has relied upon the financial information provided by Respondent and identified in Paragraph 74 and has concluded that Respondent has established that it is unable to pay the full amount of the civil penalty identified and set forth in Paragraph 72, 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.
- 77. Pursuant to the provisions of this Consent Agreement, Respondent will remit a total civil penalty (principal) of \$120,000 and interest (calculated at the rate of 2% per annum on the outstanding principal balance) in the amount of \$851.68, in accordance with the installment payment schedule set forth in the chart, immediately below:

Payment No.	Principal Amount	Interest	Date Payment Due (From Effective Date of Consent Agreement)	Payment Amount Due
1	\$ 30,000.00	\$ 0.00	Within 90 Days	\$ 30,000.00
2	\$ 30,000.00	\$ 443.84	Within 180 Days	\$ 30,443.84
3	\$ 30,000.00	\$ 295.89	Within 270 Days	\$ 30,295.89
4	\$ 30,000.00	\$ 147.95	Within 360 Days	\$ 30,147.95
<b>Total:</b>	<b>\$ 120,000.00</b>	<b>\$ 851.68</b>		<b>\$120,851.68</b>

- 78. 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 77, 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 83 through 87, below, in the event of any such failure or default.
- 79. 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.

80. Respondent agrees that, within 90 days of the effective date of this Consent Agreement and Final Order, Respondent shall make a payment according to the payment schedule set forth in paragraph 77 to “**United States Treasury**” with the case name, address and docket number of this Consent Agreement and Final Order (FIFRA-03-2024-0079), for the amount specified above. Respondent shall pay the assessed penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website:  
<https://www.epa.gov/financial/makepayment>. For additional instructions see:  
<https://www.epa.gov/financial/additional-instructions-making-payments-epa>.

81. 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:

Haley C. Todd  
Attorney  
[Todd.Haley@epa.gov](mailto:Todd.Haley@epa.gov)

and

Kyla L. Townsend-McIntyre  
Compliance & Enforcement Officer  
[Townsend.Kyla@epa.gov](mailto:Townsend.Kyla@epa.gov)

and

U.S. EPA Region 3 Regional Hearing Clerk  
[R3\\_Hearing\\_Clerk@epa.gov](mailto:R3_Hearing_Clerk@epa.gov).

82. If Respondent fails to timely make payment, EPA may refer the matter to the Attorney General, who will recover such amount by action in the appropriate United States District Court, consistent with section 14(a)(5) of FIFRA. 7 U.S.C. § 136(a)(5). The validity, amount, and appropriateness of the civil penalty is not reviewable in a collection action.

83. 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.

84. 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).
85. 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).
86. 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). If payment is not received within 30 calendar days of the effective date of this Consent Agreement, EPA will also 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.
87. 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).
88. Respondent agrees not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.
89. The Parties consent to service of the Final Order by e-mail at the following valid email addresses: Haley C. Todd at Todd.Haley@epa.gov (for Complainant), and Jaime Wisegarver at jwisegarver@hirschlerlaw.com (for Respondent).
90. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service ("IRS") annually, a completed IRS Form 1098-F ("Fines, Penalties, and Other Amounts") with respect to any court order or settlement agreement (including administrative settlements), that require a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor's violation of any law or the investigation or inquiry into the payor's potential violation of any law, including amounts paid for "restitution or remediation of property" or to come "into compliance with a law." EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each

payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number (“TIN”), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1.

91. In order to provide EPA with sufficient information to enable it to fulfill these obligations, EPA herein requires, and Respondent herein agrees, that:
- a. Respondent shall complete an IRS Form W-9 (“Request for Taxpayer Identification Number and Certification”), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;
  - b. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent’s correct TIN or that Respondent has applied and is waiting for issuance of a TIN;
  - c. Respondent shall email its completed Form W-9 to EPA’s Cincinnati Finance Center at [henderson.jessica@epa.gov](mailto:henderson.jessica@epa.gov), within 30 days after the Final Order ratifying this Consent Agreement is filed, and EPA recommends encrypting IRS Form W-9 email correspondence; and
  - d. In the event that Respondent has certified in its completed IRS Form W-9 that it has applied for a TIN and that TIN has not been issued to Respondent within 30 days after the effective date, then Respondent, using the same email address identified in the preceding sub-paragraph, shall further:
    - i. notify EPA’s Cincinnati Finance Center of this fact, via email, within 30 days after the 30 days after the effective date of the Final Order per Paragraph 49; and
    - ii. provide EPA’s Cincinnati Finance Center with Respondent’s TIN, via email, within five (5) days of Respondent’s issuance and receipt of the TIN.

#### **GENERAL SETTLEMENT CONDITIONS**

92. 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.
93. 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, **including information about respondent's ability to pay a penalty**, 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**

94. 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**

95. 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 FIFRA, or any regulations promulgated thereunder.

#### **RESERVATION OF RIGHTS**

96. 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**

97. 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**

98. 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 3, 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**

99. 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: PALLET MACHINERY GROUP, INC.

By: Gregory Wine 2/27/24  
[Digital Signature and Date]  
Gregory Wine, President  
Pallet Machinery Group, Inc.

Attorney for Respondent:

By: Jaime B. Wisegarver  
[Digital Signature and Date]  
Jaime Wisegarver, Counsel  
Hirschler Law

FOR THE COMPLAINANT:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement & 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/her designee, the Regional Judicial Officer, issue the attached Final Order.

By: \_\_\_\_\_  
[Digital Signature and Date]  
Karen Melvin, Director  
Enforcement & Compliance Assurance Division  
U.S. EPA Region 3  
Complainant

Attorney for Complainant:

By: \_\_\_\_\_  
[Digital Signature and Date]  
Haley C. Todd, Attorney  
Office of Enforcement and Compliance Assurance  
U.S. Environmental Protection Agency

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 3  
Philadelphia, Pennsylvania 19103



In the Matter of: :  
: :  
PALLET MACHINERY GROUP, INC. : U.S. EPA Docket No. FIFRA-03-2024-0079  
250 Commerce Road, Unit A : :  
Tappahannock, Virginia 22560 : Proceeding under Section 14(a) of the Federal  
: Insecticide, Fungicide, and Rodenticide Act, 7  
Respondent. : U.S.C. § 136/(a).

**FINAL ORDER**

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region 3, and Respondent, Pallet Machinery Group, Inc. have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with 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 (with specific reference to Sections 22.18(b)(2) and (3) (*for Consent Agreement/Final Orders*)). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based upon the representations of the Parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA's *FIFRA enforcement Response Policy (December 2009)*, and the statutory factors set forth in section 14(a)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136/(a)(4).

**NOW, THEREFORE, PURSUANT TO** Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136(a), and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of **One Hundred Twenty Thousand Dollars (\$120,000.00)**, plus applicable interest, in accordance with the payment provisions set forth in the Consent Agreement and in 40 C.F.R. § 22.31(c), and comply with the terms and conditions of the Consent Agreement.

This Final Order constitutes the final Agency action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final Order resolves only those causes of action alleged in the Consent Agreement and does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of FIFRA and the regulations promulgated thereunder.

The effective date of the attached Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

By: \_\_\_\_\_  
[*Digital Signature and Date*]  
Joseph J. Lisa  
Regional Judicial and Presiding Officer  
U.S. EPA Region 3

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 3  
Philadelphia, Pennsylvania 19103

In the Matter of: :  
: :  
PALLET MACHINERY GROUP, INC. : U.S. EPA Docket No. FIFRA-03-2024-0079  
250 Commerce Road, Unit A :  
Tappahannock, Virginia 22560 : Proceeding under Section 14(a) of the Federal  
: Insecticide, Fungicide, and Rodenticide Act, 7  
Respondent. : U.S.C. § 136/(a).

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**CERTIFICATE OF SERVICE**

I certify that the foregoing ***Consent Agreement and Final Order*** was filed with the EPA Region 3 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:

Gregory Wine, President  
Pallet Machinery Group, Inc.  
250 Commerce Road, Unit A  
Tappahannock, Virginia 22560  
Greg@palletmachinery.com

Jaime Wisegarver, Counsel  
Hirschler Law  
2100 East Cary Street  
Richmond, Virginia 23223  
Jwisegarver@hirschlerlaw.com

Haley C. Todd  
Attorney  
U.S. Environmental Protection Agency  
Todd.Haley@epa.gov

Kyla L. Townsend-McIntyre  
Compliance & Enforcement Officer  
U.S. Environmental Protection Agency, Region 3  
Townsend.Kyla@epa.gov

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[Digital Signature and Date]

Regional Hearing Clerk  
U.S. EPA Region 3