



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

Transmitted by Email (to Andrej@pelgar.co.uk) and UPS

Mr. Andrej Branc
PelGar USA Corporation
AB Bait Company
215 Evergreen Court
Saylorsburg, Pennsylvania 18353

FEB 27 2020

Re: Federal Insecticide, Fungicide, and Rodenticide Act
Stop Sale, Use, or Removal Order
Docket No. FIFRA-03-2020-0056SS

Dear Mr. Branc:

Attached/enclosed is a Stop Sale, Use, or Removal Order (Order) concerning violations of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, 7 United States Code (USC) § 136 et seq. The United States Environmental Protection Agency (EPA) is issuing this Order under the authority of Section 13(a) of FIFRA, 7 USC § 136k(a), for the following pesticides which have been and/or are being distributed and/or sold in violation of FIFRA:

1. Brigand SB Soft Bait Rodenticide and Brigand SB - Agricultural Building Use (EPA Registration No. 87235-1), and
2. Brigand WB Wax Block Rodenticide and Brigand WB - Agricultural Building Use (EPA Registration No. 87235-2).

The attached/enclosed Order is effective immediately upon your receipt of the email transmitting it and requires the immediate cessation of 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 Code of Federal Regulations (CFR) § 152.3], of all Brigand SB Soft Bait Rodenticide and Brigand SB - Agricultural Building Use (EPA Registration No. 87235-1) and Brigand WB Wax Block Rodenticide and Brigand WB - Agricultural Building Use (EPA Registration No. 87235-2) under the ownership, custody or control of PelGar USA Corporation and/or AB Bait Company, or under the custody or control of any parties acting for PelGar USA Corporation and/or AB Bait Company, wherever such pesticides are located, at the moment of your receipt of the email transmitting it. This



Order also applies to all Brigand SB Soft Bait Rodenticide and Brigand SB - Agricultural Building Use (EPA Registration No. 87235-1) and Brigand WB Wax Block Rodenticide and Brigand WB - Agricultural Building Use (EPA Registration No. 87235-2) which comes under the ownership, custody or control of PelGar USA Corporation and/or AB Bait Company, or under the custody or control of any parties acting for PelGar USA Corporation and/or AB Bait Company, wherever such pesticides are located, after the moment of your receipt of the email transmitting it.

The Order applies to all quantities of such pesticides (in all packaging types, sizes and weights). Any violation of this Order is an unlawful act under Section 12(a)(2)(I) of FIFRA, 7 USC § 136j(a)(2)(I), and is subject to civil and/or criminal penalties under Section 14(a) and (b) of FIFRA, 7 USC § 136l(a) and (b).

As noted above, the attached/enclosed Order takes effect immediately upon your receipt of the email transmitting it, whereupon it will remain in effect unless and until revoked, terminated, suspended, or modified, in writing, by EPA. For any questions relating to the Order, or to request an opportunity to confer with EPA regarding the Order, please contact, or have your legal counsel contact, James M. Baker, Senior Assistant Regional Counsel, at (215) 814-2109 or baker.james@epa.gov. Neither questions relating to the Order nor any request for an opportunity to confer with EPA regarding the Order shall stay the effectiveness of the Order.

Sincerely,



Karen Melvin
Director
Enforcement and Compliance Assurance Division
United States Environmental Protection Agency
Region III

Attachment/Enclosure (12-page Stop Sale, Use, or Removal Order)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

In Re:	:	
	:	
PelGar USA Corporation	:	Docket No. FIFRA-03-2020-0056SS
215 Evergreen Court	:	
Saylorsburg, Pennsylvania 18353, and	:	STOP SALE, USE, OR REMOVAL ORDER
	:	
AB Bait Company	:	
11 West 2nd Street, Unit #213	:	Proceeding under Section 13(a) of the Federal
Bethlehem, Pennsylvania 18015,	:	Insecticide, Fungicide, and Rodenticide Act
	:	
Respondents.	:	

STOP SALE, USE, OR REMOVAL ORDER

I. Applicable Law

1. Section 13(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 United States Code (USC) § 136k(a), authorizes the Administrator of the United States Environmental Protection Agency (EPA) to issue a written stop sale, use, or removal order to any person who owns, controls, or has custody of a pesticide whenever such pesticide is found by the Administrator in any State and there is reason to believe on the basis of inspection or tests that such pesticide is in violation of any of the provisions of Subchapter II of Chapter 6 of Title 7 of the United States Code (7 USC §§136 through 136y) or that such pesticide has been or is intended to be distributed or sold in violation of any provisions of Subchapter II of Chapter 6 of Title 7 of the United States Code (7 USC §§136 through 136y). This authority was most recently delegated by the Administrator to the Regional Administrator of EPA Region III on January 18, 2017 by Delegation of Authority 5-12 (1200 TN 350 5-12), and was most recently redelegated by the Regional Administrator of EPA Region III to the Director of the Enforcement and Compliance Assurance Division of EPA Region III on April 15, 2019 by Regional Delegation of Authority 5-12 (1200 TN RIII 207). EPA Region III consists of the District of Columbia and the States of Pennsylvania, Delaware, Maryland, Virginia and West Virginia.

2. The term “Administrator” is defined in Section 2(b) of FIFRA, 7 USC § 136(b) [see also 40 Code of Federal Regulations (CFR) § 152.3].

3. The term “person” is defined in Section 2(s) of FIFRA, 7 USC § 136(s), as “any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not”.

4. The term “pesticide” is defined in Section 2(u) of FIFRA, 7 USC § 136(u), as “...any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest” [see also 40 CFR § 152.3]. The term “pest” is defined in Section 2(t) of FIFRA, 7 USC § 136(t), as, among other things, “...any...rodent...or...any other form of terrestrial...animal life...which the Administrator declares to be a pest under section 136w(c)(1) of” Title 7 of the United States Code, 7 USC § 136w(c)(1) [see 40 CFR § 152.5]. 40 CFR § 152.5 provides that “[a]n organism is declared to be a pest under circumstances that make it deleterious to man or the environment, if it is...[a]ny vertebrate animal other than man...”. In addition, 40 CFR § 152.15 provides that “a pesticide is any substance (or mixture of substances) intended for a pesticidal purpose, i.e., use for the purpose of preventing, destroying, repelling, or mitigating any pest...” and that “a substance is considered to be intended for a pesticidal purpose, and thus to be a pesticide requiring registration, if...[t]he person who distributes or sells the substance claims, states, or implies (by labeling or otherwise)...[t]hat the substance (either by itself or in combination with any other substance) can or should be used as a pesticide”.
5. The term “State” is defined in Section 2(aa) of FIFRA, 7 USC § 136(aa).
6. The phrase “to distribute or sell” is defined in Section 2(gg) of FIFRA, 7 USC § 136(gg), as “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 (and having so received) deliver or offer to deliver” [see also 40 CFR § 152.3].
7. The term “adulterated” is defined in Section 2(c)(1) of FIFRA, 7 USC § 136(c)(1), 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...”.
8. The term “misbranded” is defined in Section 2(q)(1)(A) of FIFRA, 7 USC § 136(q)(1)(A), as meaning, with reference to a pesticide, that “its labeling bears any statement...relative...to its ingredients which is false or misleading in any particular...”.

II. Findings of Fact

1. PelGar USA Corporation is a corporation incorporated in the State of Pennsylvania on February 17, 2016 and has a business address at 215 Evergreen Court, Saylorsburg, Pennsylvania 18353.
2. AB Bait Company is a corporation incorporated in the State of Pennsylvania on December 3, 2009 (effective 2/1/10) and has business addresses at 11 West 2nd Street, Unit #213, Bethlehem, Pennsylvania 18015 and at 215 Evergreen Court, Saylorsburg, Pennsylvania 18353.
3. Rats, mice and meadow voles are vertebrate animals which under certain circumstances are deleterious to man or the environment.

4. Brigand SB Soft Bait Rodenticide (<https://www.pelgar.co.uk/usa/product/brigand-sb-soft-bait-rodenticide/>) is a mixture of substances intended for destroying or mitigating rats, mice and meadow voles (rodents) that fall within the definition of “pest” in Section 2(t) of FIFRA, 7 USC § 136(t), and as declared by the Administrator in 40 CFR § 152.5. Brigand SB Soft Bait Rodenticide has EPA Registration No. 87235-1.
5. Brigand SB - Agricultural Building Use is a mixture of substances intended for destroying or mitigating rats, mice and meadow voles (rodents) that fall within the definition of “pest” in Section 2(t) of FIFRA, 7 USC § 136(t), and as declared by the Administrator in 40 CFR § 152.5. Brigand SB - Agricultural Building Use also has EPA Registration No. 87235-1.
6. Brigand WB Wax Block Rodenticide (<https://www.pelgar.co.uk/usa/product/brigand-wb/>) is a mixture of substances intended for destroying or mitigating rats, mice and meadow voles (rodents) that fall within the definition of “pest” in Section 2(t) of FIFRA, 7 USC § 136(t), and as declared by the Administrator in 40 CFR § 152.5. Brigand WB Wax Block Rodenticide has EPA Registration No. 87235-2.
7. Brigand WB - Agricultural Building Use (<https://www.pelgar.co.uk/usa/product/brigand-wb-agricultural-use/>) is a mixture of substances intended for destroying or mitigating rats, mice and meadow voles (rodents) that fall within the definition of “pest” in Section 2(t) of FIFRA, 7 USC § 136(t), and as declared by the Administrator in 40 CFR § 152.5. Brigand WB - Agricultural Building Use also has EPA Registration No. 87235-2.
8. Brigand SB Soft Bait Rodenticide is presently being, and has been, imported into the United States by PelGar USA Corporation. Brigand SB Soft Bait Rodenticide has been imported into the United States by AB Bait Company. Brigand SB - Agricultural Building Use is presently being, and has been, imported into the United States by PelGar USA Corporation. Brigand SB - Agricultural Building Use has been imported into the United States by AB Bait Company. PelGar USA Corporation is presently, and has been, engaged in one or more of the following acts with respect to Brigand SB Soft Bait Rodenticide and Brigand SB - Agricultural Building Use: distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, release for shipment, or receive and (and having so received) deliver or offer to deliver. AB Bait Company has been engaged in one or more of the following acts with respect to Brigand SB Soft Bait Rodenticide and Brigand SB - Agricultural Building Use: distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, release for shipment, or receive and (and having so received) deliver or offer to deliver.
9. Brigand WB Wax Block Rodenticide is presently being, and has been, imported into the United States by PelGar USA Corporation. Brigand WB Wax Block Rodenticide has been imported into the United States by AB Bait Company. Brigand WB - Agricultural Building Use is presently, and has been, imported into the United States by PelGar USA Corporation. Brigand

WB - Agricultural Building Use has been imported into the United States by AB Bait Company. PelGar USA Corporation is presently, and has been, engaged in one or more of the following acts with respect to Brigand WB Wax Block Rodenticide and Brigand WB - Agricultural Building Use: distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, release for shipment, or receive and (and having so received) deliver or offer to deliver. AB Bait Company has been engaged in one or more of the following acts with respect to Brigand WB Wax Block Rodenticide and Brigand WB - Agricultural Building Use: distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, release for shipment, or receive and (and having so received) deliver or offer to deliver.

10. Brigand SB Soft Bait Rodenticide and Brigand SB - Agricultural Building Use (EPA Registration No. 87235-1) are presently, and have been, produced in the United Kingdom by PelGar International Limited. The initial basic confidential statement of formula (CSF) submitted to EPA in connection with the registration was submitted by AB Bait Company, on behalf of PelGar International Limited, on December 16, 2009. This initial basic CSF was accepted by EPA as part of the registration on July 19, 2010. One component in the formulation indicated on the CSF is the active ingredient, Bromadiolone (CAS No. 28772-56-7). The % by weight of Bromadiolone in the formulation claimed on the CSF was .005. The upper and lower certified limits of Bromadiolone in the formulation (in % by weight) on the CSF were .006 and .004, respectively. On October 12, 2017, PelGar USA Corporation, on behalf of PelGar International Limited, applied to EPA for acceptance of an amended basic CSF for Brigand SB Soft Bait Rodenticide and Brigand SB - Agricultural Building Use (EPA Registration No. 87235-1). On February 8, 2018, EPA accepted the amended basic CSF. One component in the formulation indicated on the amended basic CSF is the active ingredient, Bromadiolone (CAS No. 28772-56-7). The % by weight of Bromadiolone in the formulation claimed on the amended basic CSF is .005. The upper and lower certified limits of Bromadiolone in the formulation (in % by weight) on the amended basic CSF are .006 and .004, respectively. Every label accepted by EPA for Brigand SB Soft Bait Rodenticide and Brigand SB - Agricultural Building Use (EPA Registration No. 87235-1) as part of the registration has included the claimed .005 % by weight of Bromadiolone in the formulation indicated on the initial and amended basic CSFs.

11. Brigand WB Wax Block Rodenticide and Brigand WB - Agricultural Building Use (EPA Registration No. 87235-2) are presently, and have been, produced in the United Kingdom by PelGar International Limited. The basic confidential statement of formula (CSF) submitted to EPA in connection with the registration was submitted by AB Bait Company, on behalf of PelGar International Limited, on January 7, 2010. This basic CSF was accepted by EPA as part of the registration on August 16, 2010. One component in the formulation indicated on the CSF is the active ingredient, Bromadiolone (CAS No. 28772-56-7). The % by weight of Bromadiolone in the formulation claimed on the CSF is .005. The upper and lower certified limits of Bromadiolone in the formulation (in % by weight) on the CSF are .006 and .004, respectively. Every label accepted by EPA for Brigand WB Wax Block Rodenticide and

Brigand WB - Agricultural Building Use (EPA Registration No. 87235-2) as part of the registration has included the claimed .005 % by weight of Bromadiolone in the formulation indicated on the basic CSF.

12. On May 17, 2017, Daniel H. Duer, a representative of the Pennsylvania Department of Agriculture (PDA), Bureau of Plant Industry, visited the premises of All Pro Pest and Wildlife Control at 826 Garfield Avenue, Glenside, Pennsylvania 19038. Mr. Duer obtained three 10-gram packets of Brigand SB Soft Bait Rodenticide (EPA Registration No. 87235-1) from PelGar International Limited's Batch 25160900 [SAMPLE NO. 17-07-DHD-009]. The contents of the three 10-gram packets were mixed together and 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 .003, a % by weight below both the claimed % by weight of .005 and the lower certified limit of .004 on the initial basic CSF submitted to EPA on December 16, 2009 and accepted by EPA on July 19, 2010.

13. 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 PelGar USA Corporation and PelGar International Limited were participating in a trade show called Pest World from October 24-27, 2017. At this trade show, the PelGar representatives had in their possession quantities of Brigand SB Soft Bait Rodenticide (EPA Registration No. 87235-1) and Brigand WB Wax Block Rodenticide (EPA Registration No. 87235-2). At this inspection, the North American Business Manager for PelGar USA Corporation, Andrej Branc, provided a written statement. In his written statement, Mr. Branc stated that "During the production of the wax block rodenticide Pelgar uses a low-level mixture of ethyl and methyl vanillin to provide a vanillin odor which is often perceived as a chocolate smell or scent". At this inspection, EPA also obtained two bags of Brigand SB Soft Bait Rodenticide (EPA Registration No. 87235-1) from PelGar International Limited's Batch 25171000, and two bags of Brigand WB Wax Block Rodenticide (EPA Registration No. 87235-2) from PelGar International Limited's Batch 25071000. Samples from each of these bags were analyzed at an EPA laboratory for the % by weight of the active ingredient, Bromadiolone. The analyses indicated that the % by weight of Bromadiolone in the two soft bait samples was below both the claimed % by weight of .005 and the lower certified limit of .004 indicated on the initial basic CSF submitted to EPA on December 16, 2009 and accepted by EPA on 7/19/10. The analyses also indicated that the % by weight of Bromadiolone in the two wax block samples was below both the claimed % by weight of .005 and the lower certified limit of .004 indicated on the basic CSF submitted to EPA on January 7, 2010 and accepted by EPA on 8/16/10. The analyses of the two soft bait samples indicated that the % by weight of Bromadiolone in the samples was .0030 and .0028. The analyses of the two wax block samples indicated that the % by weight of Bromadiolone in the samples was .0029 and .0030.

14. For a period of time following EPA's August 16, 2010 issuance of the pesticide registration for Brigand WB Wax Block Rodenticide (EPA Registration No. 87235-2), AB Bait Company advertised that Brigand WB Wax Block Rodenticide and Brigand WB - Agricultural Building Use had "a unique chocolate aroma".

15. For a period of time following EPA's August 16, 2010 issuance of the pesticide registration for Brigand WB Wax Block Rodenticide (EPA Registration No. 87235-2), PelGar USA Corporation advertised that Brigand WB Wax Block Rodenticide and Brigand WB - Agricultural Building Use had "a unique chocolate aroma".

16. For a period of time following EPA's August 16, 2010 issuance of the pesticide registration for Brigand WB Wax Block Rodenticide (EPA Registration No. 87235-2), PelGar USA Corporation advertised that Brigand WB Wax Block Rodenticide and Brigand WB - Agricultural Building Use had "a unique aroma", and PelGar USA Corporation presently advertises that Brigand WB Wax Block Rodenticide and Brigand WB - Agricultural Building Use have "a unique aroma".

17. EPA has reviewed the basic CSF for Brigand WB Wax Block Rodenticide (EPA Registration No. 87235-2) submitted to EPA by AB Bait Company on January 7, 2010 and accepted by EPA on 8/16/10. The listed components of the formulation for the pesticide do not include either ethyl or methyl vanillin. In addition, it is EPA's view that none of the listed components of the formulation on the basic CSF for Brigand WB Wax Block Rodenticide (EPA Registration No. 87235-2), alone or in combination, are capable of generating a chocolate aroma or a unique aroma.

III. Conclusions of Law

1. PelGar USA Corporation and AB Bait Company are each a "person" as defined in Section 2(s) of FIFRA, 7 USC § 136(s).

2. Brigand SB Soft Bait Rodenticide and Brigand SB - Agricultural Building Use (EPA Registration No. 87235-1), and Brigand WB Wax Block Rodenticide and Brigand WB - Agricultural Building Use (EPA Registration No. 87235-2), are each a "pesticide" as defined in Section 2(u) of FIFRA, 7 USC § 136(u), and in 40 CFR § 152.3.

3. The State of Pennsylvania is a "State" as defined in Section 2(aa) of FIFRA, 7 USC § 136(aa).

4. The State of Maryland is a "State" as defined in Section 2(aa) of FIFRA, 7 USC § 136(aa).

5. PelGar USA Corporation is presently, and has been, engaged in the distribution and sale [as “to distribute or sell” is defined in Section 2(gg) of FIFRA, 7 USC § 136(gg), and in 40 CFR § 152.3] of Brigand SB Soft Bait Rodenticide and Brigand SB - Agricultural Building Use (EPA Registration No. 87235-1). AB Bait Company has been engaged in the distribution and sale [as “to distribute or sell” is defined in Section 2(gg) of FIFRA, 7 USC § 136(gg), and in 40 CFR § 152.3] of Brigand SB Soft Bait Rodenticide and Brigand SB - Agricultural Building Use (EPA Registration No. 87235-1).
6. PelGar USA Corporation is presently, and has been, engaged in the distribution and sale [as “to distribute or sell” is defined in Section 2(gg) of FIFRA, 7 USC § 136(gg), and in 40 CFR § 152.3] of Brigand WB Wax Block Rodenticide and Brigand WB - Agricultural Building Use (EPA Registration No. 87235-2). AB Bait Company has been engaged in the distribution and sale [as “to distribute or sell” is defined in Section 2(gg) of FIFRA, 7 USC § 136(gg), and in 40 CFR § 152.3] of Brigand WB Wax Block Rodenticide and Brigand WB - Agricultural Building Use (EPA Registration No. 87235-2).
7. By claiming in its advertising, as a part of its distribution and sale of Brigand WB Wax Block Rodenticide and Brigand WB - Agricultural Building Use (EPA Registration No. 87235-2), that the registered pesticide had “a unique chocolate aroma”, AB Bait Company made a claim that was substantially different from any claims made for the registered pesticide as a part of the statement required in connection with its registration under Section 136a of Title 7 of the United States Code, 7 USC § 136a. In so doing, AB Bait Company committed unlawful acts under Section 12(a)(1)(B) of Title 7 of the United States Code, 7 USC § 136j(a)(1)(B).
8. By claiming in its advertising, as a part of its distribution and sale of Brigand WB Wax Block Rodenticide and Brigand WB - Agricultural Building Use (EPA Registration No. 87235-2), that the registered pesticide had “a unique chocolate aroma” or had or has “a unique aroma”, PelGar USA Corporation made, and/or is making, a claim that was, and/or is, substantially different from any claims made for the registered pesticide as a part of the statement required in connection with its registration under Section 136a of Title 7 of the United States Code, 7 USC § 136a. In so doing, PelGar USA Corporation has committed, and/or is committing, unlawful acts under Section 12(a)(1)(B) of Title 7 of the United States Code, 7 USC § 136j(a)(1)(B).
9. By distributing and selling a registered pesticide, Brigand WB Wax Block Rodenticide and/or Brigand WB - Agricultural Building Use (EPA Registration No. 87235-2), with ethyl and methyl vanillin as components of the pesticide, AB Bait Company distributed and sold a registered pesticide the composition of which differed at the time of its distribution from its composition as described in the statement required in connection with its registration under Section 136a of Title 7 of the United States Code, 7 USC § 136a. In so doing, AB Bait Company committed unlawful acts under Section 12(a)(1)(C) of Title 7 of the United States Code, 7 USC § 136j(a)(1)(C).

10. By distributing and selling a registered pesticide, Brigand WB Wax Block Rodenticide and Brigand WB - Agricultural Building Use (EPA Registration No. 87235-2), with ethyl and methyl vanillin as components of the pesticide, PelGar USA Corporation has distributed and sold, and continues to distribute and sell, a registered pesticide the composition of which differed/differs at the time of its distribution from its composition as described in the statement required in connection with its registration under Section 136a of Title 7 of the United States Code, 7 USC § 136a. In so doing, PelGar USA Corporation has committed, and is committing, unlawful acts under Section 12(a)(1)(C) of Title 7 of the United States Code, 7 USC § 136j(a)(1)(C).

11. By distributing and selling a registered pesticide, Brigand WB Wax Block Rodenticide and/or Brigand WB - Agricultural Building Use (EPA Registration No. 87235-2), with the % by weight of the active ingredient Bromadiolone below both the claimed % by weight of .005 and the lower certified limit of .004 indicated on the basic CSF submitted to EPA on January 7, 2010 and accepted by EPA on 8/16/10, AB Bait Company distributed and sold a registered pesticide the composition of which differed at the time of its distribution from its composition as described in the statement required in connection with its registration under Section 136a of Title 7 of the United States Code, 7 USC § 136a. In so doing, AB Bait Company committed unlawful acts under Section 12(a)(1)(C) of Title 7 of the United States Code, 7 USC § 136j(a)(1)(C).

12. By distributing and selling a registered pesticide, Brigand WB Wax Block Rodenticide and/or Brigand WB - Agricultural Building Use (EPA Registration No. 87235-2), with the % by weight of the active ingredient Bromadiolone below both the claimed % by weight of .005 and the lower certified limit of .004 indicated on the basic CSF submitted to EPA on January 7, 2010 and accepted by EPA on 8/16/10, PelGar USA Corporation has distributed and sold, and continues to distribute and sell, a registered pesticide the composition of which differed/differs at the time of its distribution from its composition as described in the statement required in connection with its registration under Section 136a of Title 7 of the United States Code, 7 USC § 136a. In so doing, PelGar USA Corporation has committed, and is committing, unlawful acts under Section 12(a)(1)(C) of Title 7 of the United States Code, 7 USC § 136j(a)(1)(C).

13. By distributing and selling a registered pesticide, Brigand SB Soft Bait Rodenticide and Brigand SB - Agricultural Building Use (EPA Registration No. 87235-1), with the % by weight of the active ingredient Bromadiolone below both the claimed % by weight of .005 and the lower certified limit of .004 indicated on the basic CSFs submitted to EPA on December 16, 2009 (and accepted by EPA on 7/19/10) and October 12, 2017 (and accepted by EPA on 2/8/18), AB Bait Company distributed and sold a registered pesticide the composition of which differed at the time of its distribution from its composition as described in the statement required in connection with its registration under Section 136a of Title 7 of the United States Code, 7 USC § 136a. In so doing, AB Bait Company committed unlawful acts under Section 12(a)(1)(C) of Title 7 of the United States Code, 7 USC § 136j(a)(1)(C).

14. By distributing and selling a registered pesticide, Brigand SB Soft Bait Rodenticide and Brigand SB - Agricultural Building Use (EPA Registration No. 87235-1), with the % by weight of the active ingredient Bromadiolone below both the claimed % by weight of .005 and the lower certified limit of .004 indicated on the basic CSFs submitted to EPA on December 16, 2009 (and accepted by EPA on 7/19/10) and October 12, 2017 (and accepted by EPA on 2/8/18), PelGar USA Corporation has distributed and sold, and continues to distribute and sell, a registered pesticide the composition of which differed/differs at the time of its distribution from its composition as described in the statement required in connection with its registration under Section 136a of Title 7 of the United States Code, 7 USC § 136a. In so doing, PelGar USA Corporation has committed, and is committing, unlawful acts under Section 12(a)(1)(C) of Title 7 of the United States Code, 7 USC § 136j(a)(1)(C).

15. By distributing and selling a registered pesticide, Brigand WB Wax Block Rodenticide and/or Brigand WB - Agricultural Building Use (EPA Registration No. 87235-2), with the % by weight of the active ingredient Bromadiolone below both the claimed % by weight of .005 and the lower certified limit of .004 indicated on the basic CSF submitted to EPA on January 7, 2010 and accepted by EPA on 8/16/10, AB Bait Company has distributed and sold a registered pesticide which was adulterated. In so doing, AB Bait Company committed unlawful acts under Section 12(a)(1)(E) of Title 7 of the United States Code, 7 USC § 136j(a)(1)(E).

16. By distributing and selling a registered pesticide, Brigand WB Wax Block Rodenticide and/or Brigand WB - Agricultural Building Use (EPA Registration No. 87235-2), with the % by weight of the active ingredient Bromadiolone below both the claimed % by weight of .005 and the lower certified limit of .004 indicated on the basic CSF submitted to EPA on January 7, 2010 and accepted by EPA on 8/16/10, PelGar USA Corporation has distributed and sold, and continues to distribute and sell, a registered pesticide which was/is adulterated. In so doing, PelGar USA Corporation has committed, and is committing, unlawful acts under Section 12(a)(1)(E) of Title 7 of the United States Code, 7 USC § 136j(a)(1)(E).

17. By distributing and selling a registered pesticide, Brigand SB Soft Bait Rodenticide and Brigand SB - Agricultural Building Use (EPA Registration No. 87235-1), with the % by weight of the active ingredient Bromadiolone below both the claimed % by weight of .005 and the lower certified limit of .004 indicated on the basic CSF submitted to EPA on December 16, 2009 and accepted by EPA on 7/19/10, AB Bait Company distributed and sold a registered pesticide which was adulterated. In so doing, AB Bait Company committed unlawful acts under Section 12(a)(1)(E) of Title 7 of the United States Code, 7 USC § 136j(a)(1)(E).

18. By distributing and selling a registered pesticide, Brigand SB Soft Bait Rodenticide and Brigand SB - Agricultural Building Use (EPA Registration No. 87235-1), with the % by weight of the active ingredient Bromadiolone below both the claimed % by weight of .005 and the lower certified limit of .004 indicated on the basic CSFs submitted to EPA on December 16, 2009 (and accepted by EPA on 7/19/10) and October 12, 2017 (and accepted by EPA on 2/8/18), PelGar

USA Corporation has distributed and sold, and continues to distribute and sell, a registered pesticide which was/is adulterated. In so doing, PelGar USA Corporation has committed, and is committing, unlawful acts under Section 12(a)(1)(E) of Title 7 of the United States Code, 7 USC § 136j(a)(1)(E).

19. By distributing and selling a registered pesticide, Brigand WB Wax Block Rodenticide and/or Brigand WB - Agricultural Building Use (EPA Registration No. 87235-2), with the % by weight of the active ingredient Bromadiolone below both the claimed % by weight of .005 and the lower certified limit of .004 indicated on the basic CSF submitted to EPA on January 7, 2010 and accepted by EPA on 8/16/10, AB Bait Company has distributed and sold a registered pesticide which was misbranded. In so doing, AB Bait Company committed unlawful acts under Section 12(a)(1)(E) of Title 7 of the United States Code, 7 USC § 136j(a)(1)(E).

20. By distributing and selling a registered pesticide, Brigand WB Wax Block Rodenticide and/or Brigand WB - Agricultural Building Use (EPA Registration No. 87235-2), with the % by weight of the active ingredient Bromadiolone below both the claimed % by weight of .005 and the lower certified limit of .004 indicated on the basic CSF submitted to EPA on January 7, 2010 and accepted by EPA on 8/16/10, PelGar USA Corporation has distributed and sold, and continues to distribute and sell, a registered pesticide which was/is misbranded. In so doing, PelGar USA Corporation has committed, and is committing, unlawful acts under Section 12(a)(1)(E) of Title 7 of the United States Code, 7 USC § 136j(a)(1)(E).

21. By distributing and selling a registered pesticide, Brigand SB Soft Bait Rodenticide and Brigand SB - Agricultural Building Use (EPA Registration No. 87235-1), with the % by weight of the active ingredient Bromadiolone below both the claimed % by weight of .005 and the lower certified limit of .004 indicated on the basic CSF submitted to EPA on December 16, 2009 and accepted by EPA on 7/19/10, AB Bait Company distributed and sold a registered pesticide which was misbranded. In so doing, AB Bait Company committed unlawful acts under Section 12(a)(1)(E) of Title 7 of the United States Code, 7 USC § 136j(a)(1)(E).

22. By distributing and selling a registered pesticide, Brigand SB Soft Bait Rodenticide and Brigand SB - Agricultural Building Use (EPA Registration No. 87235-1), with the % by weight of the active ingredient Bromadiolone below both the claimed % by weight of .005 and the lower certified limit of .004 indicated on the basic CSFs submitted to EPA on December 16, 2009 (and accepted by EPA on 7/19/10) and October 12, 2017 (and accepted by EPA on 2/8/18), PelGar USA Corporation has distributed and sold, and continues to distribute and sell, a registered pesticide which was/is misbranded. In so doing, PelGar USA Corporation has committed, and is committing, unlawful acts under Section 12(a)(1)(E) of Title 7 of the United States Code, 7 USC § 136j(a)(1)(E).

IV. Order

1. Pursuant to the authority of Section 13(a) of FIFRA, 7 USC § 136k(a), EPA hereby orders Respondent PelGar USA Corporation and Respondent AB Bait Company 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 and Brigand SB - Agricultural Building Use (EPA Registration No. 87235-1) and Brigand WB Wax Block Rodenticide and Brigand WB - Agricultural Building Use (EPA Registration No. 87235-2) under its ownership, custody or control, or under the custody or control of any parties acting for such respondents, wherever such pesticide products are located, at the moment of receipt of the email transmitting this Order. This Order also applies to all Brigand SB Soft Bait Rodenticide and Brigand SB - Agricultural Building Use (EPA Registration No. 87235-1) and Brigand WB Wax Block Rodenticide and Brigand WB - Agricultural Building Use (EPA Registration No. 87235-2) which comes under the ownership, custody or control of PelGar USA Corporation and/or AB Bait Company, or under the custody or control of any parties acting for PelGar USA Corporation and/or AB Bait Company, wherever such pesticides are located, after the moment of receipt of the email transmitting this Order. This Order applies to all quantities (in all packaging types, sizes and weights) of Brigand SB Soft Bait Rodenticide and Brigand SB - Agricultural Building Use (EPA Registration No. 87235-1) and Brigand WB Wax Block Rodenticide and Brigand WB - Agricultural Building Use (EPA Registration No. 87235-2). This Order shall take effect immediately upon its receipt by email, whereupon it will remain in effect unless and until revoked, terminated, suspended, or modified, in writing, by EPA.
2. Any violation of this Order is an unlawful act under Section 12(a)(2)(I) of FIFRA, 7 USC § 136j(a)(2)(I).
3. The issuance of this Order shall not act as a waiver by EPA of any enforcement authority or other authority given to EPA under FIFRA or any other federal statute.
4. For any questions relating to this Order, or to request an opportunity to confer with EPA regarding this Order, please contact, or have your legal counsel contact:

James M. Baker
Senior Assistant Regional Counsel
Air and Toxics Branch (3RC30)
Office of Regional Counsel
U.S. EPA - Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029
Phone: (215) 814-2109
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Neither questions relating to the Order nor any request for an opportunity to confer with EPA regarding the Order shall stay the effectiveness of the Order.

FEB 27 2020

Date



Karen Melvin

Director

Enforcement and Compliance Assurance Division

United States Environmental Protection Agency

Region III