

ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.

_____ In re J&G Manufacturing, LLC _____))))))))	Docket No. FIFRA-HQ-2023-5013
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FINAL ORDER

Pursuant to 40 C.F.R. § 22.18(b)-(c) of EPA’s Consolidated Rules of Practice, the attached Consent Agreement resolving this matter is incorporated by reference into this Final Order and is hereby ratified.

The Respondent is ORDERED to comply with all terms of the Consent Agreement, effective immediately.

So ordered.¹

ENVIRONMENTAL APPEALS BOARD



 Ammie Roseman-Orr
 Environmental Appeals Judge

Dated: September 26, 2024

¹ The three-member panel ratifying this matter is composed of Environmental Appeals Judges Aaron P. Avila, Wendy L. Blake, and Ammie Roseman-Orr.

**ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**

In the Matter of:)	
)	
J&G MANUFACTURING, LLC, Naples, Florida)	Docket No. FIFRA-HQ-2023-5013
)	
RESPONDENT.)	
)	

CONSENT AGREEMENT

I. PRELIMINARY STATEMENT

1. This is a civil administrative action commenced and concluded under section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 136l(a), and sections 22.13(b) and 22.18(b)(2)-(3) of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (Consolidated Rules of Practice), as codified at 40 C.F.R. pt. 22.

2. Complainant is the Director of the Waste and Chemical Enforcement Division within the Office of Civil Enforcement of the United States Environmental Protection Agency (“EPA”). Complainant is authorized by lawful delegation from the Administrator of the EPA to negotiate and sign consent agreements memorializing settlements in multi-regional cases pursuant to section 14 of FIFRA. 7 U.S.C. § 136l; EPA Delegation 5-14 (May 11, 1994; Administrative Update Feb. 4, 2016); WCED Delegation 5-14 (Sept. 2015).

3. At all times relevant to this proceeding, Respondent was J&G Manufacturing, LLC, a Florida limited liability company headquartered at 8028 San Simeon Way, Naples, Florida 34109.

4. The Effective Date of this Consent Agreement and proposed Final Order is the date on which the Consent Agreement, signed by all Parties, and the ratified Final Order is filed by the Clerk of the Environmental Appeals Board. 40 C.F.R. § 22.31(b).

II. JURISDICTION

5. This is an administrative action for the 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).

6. The Consolidated Rules of Practice governs all administrative adjudicatory proceedings for the assessment of any administrative civil penalty under section 14(a) of FIFRA, 7 U.S.C. § 136l(a). 40 C.F.R. § 22.1(a)(1).

7. This action may be commenced and concluded simultaneously by the issuance of this Consent Agreement and proposed Final Order because Complainant and Respondent (“the Parties”) agree to settle this action without the filing of a complaint or the adjudication of any issue of fact or law. 40 C.F.R. § 22.13(b).

8. The Environmental Appeals Board is authorized to ratify this Consent Agreement, which memorializes a settlement between the Parties. 40 C.F.R. §§ 22.4(a) and 22.18(b)-(c); EPA Delegation 5-15-B (May 11, 1994).

9. The Parties executed an initial and second Tolling Agreement to stay the running of the statute of limitations from October 5, 2018, through January 1, 2025.

III. GOVERNING LAW

10. 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).

11. 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).

12. Section 12(a)(2)(M) of FIFRA provides that it is unlawful to knowingly falsify all or part of any information submitted to EPA pursuant to section 7 or any report required under FIFRA. 7 U.S.C. § 136j(a)(2)(M).

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); 40 C.F.R. § 152.3.

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. A “pesticide product” is a pesticide in the particular form (including composition, packaging, and labeling) in which the pesticide is, or is intended to be, distributed or sold. 40 C.F.R. § 152.3.

19. 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).

20. A pesticide may be misbranded if:

- (A) 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));
- (B) Its labeling does not contain adequate directions for use to protect health and the environment (7 U.S.C. § 136(q)(1)(F)); or
- (C) 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. “Label” means “the written, printed, or graphic matter on, or attached to, the pesticide or device or any to its containers or wrappers.” 7 U.S.C. § 136(p)(1).

22. “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).

23. Pesticide labels must include hazard and precautionary statements required under 40 C.F.R. § 156.60. “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.” 40 C.F.R. § 156.62.

24. Toxicity Categories range from I-IV in descending order of acute toxicity, with Category I being the most toxic. 40 C.F.R. § 156.62.

25. “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).

26. All Toxicity Category I and II products must bear a first aid statement. 40 C.F.R. § 156.68(a).

27. All Toxicity Categories have minimum personal protective equipment (PPE) requirements, except Category IV. 40 C.F.R. § 156.212(e).

28. Adequate directions for use are those that, when followed, are “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 generally must include instructions for the “site(s) of application,” target pests for each site, dosage rates, method of application and dilution instructions, and frequency of applications necessary for effective results. *See* 40 C.F.R. § 156.10(i).

30. Section 7 of FIFRA states that no person shall produce any pesticide or active ingredient subject to FIFRA unless the establishment in which it is produced is registered with the EPA as a pesticide producing establishment. 7 U.S.C. § 136e(a).

31. An “establishment” is any place where a pesticide or device or active ingredient used in producing a pesticide is produced, or held, for distribution or sale. 7 U.S.C. § 136(dd). Each site must be registered regardless of whether such site is independently owned or operated. 40 C.F.R. § 167.3.

32. To “produce” means to manufacture, prepare, compound, propagate, or process any pesticide or device or active ingredient used in producing a pesticide. 7 U.S.C. § 136(w). This includes activities such as packaging, repackaging, labeling, relabeling, or otherwise changing the container of any pesticide or device. 40 C.F.R. § 167.3.

33. The term “producer” means the person who manufactures, prepares, compounds, propagates, or processes any pesticide or device or active ingredient used in producing a pesticide. 7 U.S.C. § 136(w).

34. Any producer operating a registered pesticide producing establishment must submit an initial report no later than 30 days after first being registered as an establishment and annually submit reports concerning the pesticides being produced, that were produced during the last year, and that were sold or distributed within the last year. 7 U.S.C. § 136e(c).

IV. COMPLAINANT’S FINDINGS OF FACT AND LAW

35. At all times relevant to this proceeding, Respondent was J&G Manufacturing, LLC, a Florida limited liability company headquartered at 8028 San Simeon Way, Naples, Florida 34109. Respondent is therefore a “person” as defined under 7 U.S.C. § 136(s).

36. Following up on a tip, and as part of its initial investigation, EPA reviewed the publicly available docket, *ISK Biocides, Inc. v. Pallet Machinery Group Inc. & J&G Manufacturing LLC*, No. 3:21-CV-00386 (E.D. Va. June 15, 20212), concerning Respondent’s possible sale or distribution of

unregistered pesticides under the umbrella brand name “Woodlock Bioshield” or “WLBS.”¹ This docket contained a sales and distribution statement submitted by Respondent, and information identifying two manufacturers of the unregistered pesticide: Specialty Adhesives and RB Manufacturing.

37. On April 21, 2023, Respondent submitted a pesticide product registration application to EPA for a product initially called Woodlock BioShield. On March 28, 2024, an EPA registration number was issued for the registration application filed by Respondent. The final pesticide product was registered as “Proteqt” or “JG5049” (EPA Reg. No. 94499-1).

38. 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.

39. On May 11, 2023, an EPA-credentialed inspector at the Alabama Department of Agriculture and Industries conducted an inspection of RB Manufacturing, LLC, located at 40 Red Hill Road, Baileyton, Alabama 35019.

40. Inspection reports for both facilities showed that Woodlock Bioshield products were produced at one or both locations from October 2018 to April 2024.

41. Based on the contents of the docket, information obtained during the above-referenced inspections, and the pesticide registration application, EPA issued a Stop Sale, Use, or Removal Order (SSURO) under its authorities in Section 13 of FIFRA to Respondent on September 22, 2023, to suspend further sales or distribution of its unregistered pesticide products.

42. The SSURO also requested submission of specific information concerning Respondent’s sales or distributions, product inventory, active ingredients, and product labeling. Respondent provided all requested information on December 14, 2023.

43. As described above, EPA’s investigations showed that Respondent engaged in the production, sale, and distribution of the following pesticide products marketed under the brand name Woodlock Bioshield (collectively referred to hereafter as “WLBS”):

¹ The product name, “Woodlock Bioshield,” was spelled differently by Respondent in numerous marketing materials. Direct quotes reflect the spelling used by Respondent.

- (A) Endurance BioBarrier/EBB/MycoBarrier/T500 (275-gallon tote)
- (B) Endurance BioBarrier/EBB/MycoBarrier/T500 (55-gallon drum)
- (C) Endurance BioBarrier/EBB/MycoBarrier Fabric (55-gallon drum)
- (D) WLBS (sample pails)
- (E) WLBS (55-gallon drum)
- (F) WLBS (275-gallon tote)
- (G) WLBS-E or WLBS-Exxon (55-gallon drum)
- (H) WLBS-E or WLBS-Exxon (275-gallon tote)
- (I) WLBS-H or WLBS High Performance (275-gallon tote)
- (J) WLBS-S or WLBS Spray (55-gallon drum)
- (K) WLBS-S or WLBS Spray (275-gallon tote)

44. Sales and distribution records provided by Respondent, plus records from the docket and confirmed by the inspection reports indicate that Respondent completed 192 sales or distributions of WLBS from October 29, 2018, to April 17, 2023.

COUNTS 1-192
Sale or Distribution of Unregistered Pesticides

45. Respondent admitted in its answer filed with the Court that WLBS “is a product to treat wood pallets to prevent the growth of mold or mildew on wood pallets.” J&G Answer at para. 26.

46. EPA collected evidence showing that Respondent signed a statement that was used in promotional packages stating that:

J&G Manufacturing LLC is the owner and creator of Endurance Bio Barrier and WoodLock Bio Shield. Endurance Bio Barrier is a ready to use formulation that is exclusively sold to the consumer through retail outlets. WoodLock Bio Shield is a commercial product that is sold for wood preservation for commercial use only. The active ingredients in both products are identical, and both products are designated GRAS [Generally Recognized as Safe and exempt from food additive tolerance requirements under the Federal Food, Drug, and Cosmetic Act]. The only difference is that WoodLock Bio Shield is produced and sold as a concentrate in bulk containers for field dilution for dipping, spraying, and other methods of application, primarily for the pallet industry.

47. EPA collected evidence that included an email from Respondent requesting that a study be conducted on the effectiveness of WLBS. The report was 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.”²

48. EPA collected other promotional materials that were reviewed and approved by Respondent and contained the following non-exhaustive list of pesticidal claims:

- (A) “Control mold with peace of mind.”
- (B) “The New Approach to Mold Protection for Pallets and Sawn Wood.”
- (C) “WoodLock Bio-Shield is a water-based polymer that delivers time-tested and proven mold inhibition.”
- (D) “WoodLock BioShield protects wood, such as pallets, freshly sawn or kiln dried wood, and a variety of porous surfaces.”
- (E) “Long-Lasting Mold Prevention.”

49. Based on evidence collected by the EPA, including but not limited to, publicly available information from the docket in *ISK Biocides, Inc.*, Respondent’s marketing claims for WLBS product and information Respondent submitted in its registration application with the EPA, WLBS is a “pesticide,” because it was and continues to be a substance or mixture of substances intended to prevent or mitigate the growth of mold and mildew on wood pallets. 7 U.S.C. § 136(u); 40 C.F.R. § 125.15(a)(1).

50. WLBS was not a registered pesticide under FIFRA at any time from October 29, 2018, to April 17, 2023.

51. Each sale or distribution of an unregistered pesticide is an unlawful act under section 12(a)(1)(A) of FIFRA for which civil penalties may be assessed pursuant to section 14(a) of FIFRA. 7 U.S.C. §§ 136j(a)(1)(A) and 136l(a).

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

52. Records from the docket, the inspection reports from the manufacturers' facilities, and information provided by Respondent show that Respondent completed 192 sales or distributions of WLBS from October 29, 2018, to April 17, 2023.

53. Therefore, Respondent violated section 12(a)(1)(A) of FIFRA on 192 occasions from October 29, 2018, to April 17, 2023. 7 U.S.C. § 136j(a)(1)(A).

COUNTS 193-384
Sale or Distribution of Misbranded Pesticides

54. Complainant incorporates the factual allegations in the preceding paragraphs of this Consent Agreement by reference as if fully stated herein.

55. Respondent used substantially the same label and labeling for all WLBS products from October 29, 2018, to April 17, 2023. For brevity, the examples used herein are the most recent and most favorable version used by Respondent.

56. Each sale or distribution of WLBS during this time was a sale or distribution of a misbranded pesticide because its label failed to provide an adequate warning or caution statement to protect human health and the environment under section 2(q)(1)(G), its labeling contained false and misleading statements under sections 2(q)(1)(A), and its labeling failed to provide adequate directions for use to protect health and the environment under section 2(q)(1)(F). 7 U.S.C. §§ 136(q)(1)(G), (A), and (F).

57. Samples of labels collected during the inspection and from Respondent showed that the most recent WLBS labels used prior to registration included the following information with little variation:

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 #302
Naples, Florida 34103

**Wear eye protection and avoid skin contact. Wash with soap and water if skin is exposed to solution.
Do not ingest. READ SDS BEFORE USING.**

58. Information provided by Respondent indicated that WLBS is polymer mixed with two EPA-registered pesticides: Mergal V450 (Reg. No. 5383-147) and Mergal MC14 (Reg. No. 5383-141).

59. 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 the active ingredient.

60. 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.

61. Each of these active ingredients (OIT, CMIT, and MIT) are Toxicity Category I (corrosive) for eye and skin irritation. As a result, most products incorporating these active ingredients use the signal word DANGER, require extensive first aid statements, and include personal protective equipment requirements (PPE).

62. For example, the EPA-accepted label for both Mergal V450 (EPA Reg. No. 5383-147) and Mergal MC14 (EPA Reg. No. 5383-141) have the signal word, "DANGER."

63. The Mergal V450 (EPA Reg. No. 5383-147) label includes the following precautionary statements, which are the same or similar to those of Mergal MC14 (EPA Reg. No. 5383-141):

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.

...

ENVIRONMENTAL HAZARDS

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

64. In contrast, the WLBS label contains no signal word, includes inadequate PPE requirements, does not provide a first aid statement, and includes no environmental precautionary statement.

65. As such, the label fails to provide an adequate warning or caution statement to protect human health and the environment during the use of WLBS. 7 U.S.C. § 136(q)(1)(G); 40 C.F.R. §§ 156.60, 156.62, and 156.64(a)(1).

66. This renders each sale or distribution of WLBS from October 29, 2018, to April 17, 2023, a sale or distribution of a misbranded pesticide under FIFRA section 2(q)(1)(G), in violation of FIFRA section 12(a)(1)(E). 7 U.S.C. § 136j(a)(1)(E).

67. Further, WLBS labeling contained false and misleading statements under FIFRA section 2(q)(1)(A), in violation of FIFRA section 12(a)(1)(E). 7 U.S.C. §§ 136(q)(1)(A), 136j(a)(1)(E).

68. 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).

69. The most favorable SDS provided with each sale or distribution of WLBS from October 29, 2018, to April 17, 2023,³ stated that:

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

...

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

EFFECTS AND SYMPTOMS OF CHRONIC EXPOSURE: NONE EXPECTED

...

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

...

SECTION VIII – EXPOSURE CONTROLS / PERSONAL PROTECTION

RESPIRATORY PROTECTION AND SPECIAL VENTILATION REQUIREMENTS: Positive ventilation to prevent exposure to employees if sprayed.

³ The SDS used herein was provided during the May 2023 inspection and was dated December 1, 2022. This SDS was used instead of the March 2022 SDS because EPA determined that, overall, it was not more favorable to Respondent and was likely never used. This is because the first page was structured and formatted differently and used colored fonts instead of the standard black and ended in a sentence fragment. The fragment from the first page was never completed and the remaining pages incomprehensibly reverted back to the formatting and language used in the December 2022 SDS.

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.

70. 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” that aligns with the Hazard Communication Standard adopted by the Occupational Safety and Health Administration (OSHA) at 29 C.F.R. § 1910.1200.

71. The GHS classification for each WLBS active ingredient—OIT,⁴ MIT,⁵ CMIT⁶—is “hazardous,” requiring the inclusion of at least three pictograms, the signal word “Danger,” and numerous hazard and precautionary statements.

72. Further, the EPA-accepted labels for both pesticide ingredients in WLBS included extensive first aid statements, personal protection equipment, and are considered harmful to aquatic habitats.

73. Therefore, WLBS labeling contained multiple false or misleading statements under FIFRA section 2(q)(1)(A), in violation of FIFRA sections 12(a)(1)(E). 7 U.S.C. §§ 136(q)(1)(A), 136j(a)(1)(E).

74. Finally, WLBS labeling failed to provide adequate directions for use to protect health and the environment under FIFRA section 2(q)(1)(F), in violation of FIFRA section 12(a)(1)(E). 7 U.S.C. §§ 136(q)(1)(F), 136j(a)(1)(E).

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

⁵ *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>.

⁶ *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>.

75. WLBS labeling failed to provide the following statements concerning directions for use:

- (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, which does not distinguish between wood species or uses.
- (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. The SDS provided no additional requirements.
- (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). WLBS label did not mention reapplication.

76. As a result, each sale or distribution of WLBS was a sale or distribution of a misbranded pesticide in violation of section 12(a)(1)(E) of FIFRA because (1) its labeling failed to provide adequate directions for use to protect health and the environment under FIFRA section 2(q)(1)(F), (2) its labeling contained multiple false or misleading statements under FIFRA section 2(q)(1)(A), and (3) its labeling failed to provide adequate directions for use to protect health and the environment under FIFRA section 2(q)(1)(F). 7 U.S.C. §§ 136(q)(1)(F), 136(q)(1)(A), 136(q)(1)(F), 136j(a)(1)(E).

77. Each sale or distribution of a misbranded pesticide is an unlawful act under section 12(a)(1)(E), for which penalties may be assessed under section 14(a) of FIFRA. 7 U.S.C. §§ 136j(a)(1)(E), 136l(a).

78. Respondent completed 192 sales or distributions of misbranded WLBS products, resulting in 192 violations of section 12(a)(1)(E) of FIFRA from October 29, 2018, to April 17, 2023,

COUNTS 385-389
Knowing Submission of Falsified Information

79. Complainant incorporates the factual allegations in the preceding paragraphs of this Consent Agreement by reference as if fully stated herein.

80. On or about March 25, 2019, an individual identified as the authorized agent for Respondent registered the following site name and address as an EPA pesticide producing establishment:

Specialty Adhesives
EPA Est. No. 94499-TN-1
3791 Air Park Street
Memphis, Tennessee 38118

81. Respondent portrayed itself as the authorized agent for Specialty Adhesives by listing its company name and EPA-assigned company number as the primary contact information in the application for Specialty Adhesives establishment registration. For example, 812 Buttonbush Lane, Naples, Florida 38118 was the listed mailing address for the establishment. This address was used by Respondent as its principal mailing address filed with the Florida Secretary of State from 2018-2019.

82. On April 24, 2023, Respondent filed with the EPA five pesticide production reports—one for each year from 2018 to 2022—on behalf of Specialty Adhesives. This was three days before Respondent submitted its WLBS pesticide product registration application.

83. Each of the production reports filed by Respondent stated that no pesticides were produced at Specialty Adhesives from 2018 to 2022.

84. The May 10, 2023, inspection report for Specialty Adhesives showed that WLBS was produced and distributed at that establishment every year from 2018 to 2022.

85. Therefore, Respondent knowingly falsified information on five occasions when it submitted production reports falsely stating that no production occurred at Specialty Adhesives for the years 2018, 2019, 2020, 2021, and 2022.

86. Each knowing submission of falsified information is a separate unlawful act under section 12(a)(2)(M), for which penalties may be assessed under section 14(a) of FIFRA. 7 U.S.C. §§ 136j(a)(2)(M), 136l(a).

87. Therefore, Respondent violated section 12(a)(2)(M) of FIFRA on five occasions by knowingly submitting falsified information concerning its status as a producer and the quantity of pesticides produced at the registered facility from 2018 to 2022. 7 U.S.C. § 136(a)(2)(M).

V. CIVIL PENALTY

88. Respondent agrees to pay a civil penalty in the amount of **ONE HUNDRED THOUSAND DOLLARS (\$100,000)**. This penalty was calculated according to the following factors set forth in FIFRA section 14(a)(4): the size of Respondent's business, the effect of paying a civil penalty on Respondent's ability to continue in business, and the gravity of the violation. 7 U.S.C. § 136(a)(4). The 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 ("ERP"), and the appropriate inflationary adjustment pursuant to 40 C.F.R. pt. 19.

89. The penalty is also based on Respondent's documented inability to pay claim, EPA's economic analysis of Respondent's financial information, and in accordance with applicable laws. EPA has determined that the penalty is an appropriate amount to settle this action, which Respondent consents to pay as follows:

- (A) The total penalty amount with interest that will be paid upon completion of all payments will be \$104,000.00.
- (B) The penalty will be paid in two equal installments, in order to complete payment of the entire penalty with interest, which is assessed at the Internal Revenue Service's (IRS) standard underpayment rate of 8%.
- (C) The first payment is due within 30 days after the date the Final Order ratifying this Consent Agreement and Final Order is filed with the Clerk of the Environmental Appeals Board ("Effective Date"). Respondent's subsequent payments shall thereafter be made within one year from said Effective Date.
- (D) Respondent shall make payments according to the following schedule:

Payment No.	Payment Shall Be Made No Later Than	Principal Amount	Interest Amount	Total Payment Amount
1	30 days after Effective Date	\$ 50,000.00	\$ 0.00	\$ 50,000.00
2	365 days after Effective Date	\$ 50,000.00	\$ 4,000.00	\$ 54,000.00
Total	365 days after Effective Date	\$ 100,000.00	\$ 4,000.00	\$ 104,000.00

- (E) Notwithstanding Respondent’s agreement to pay the penalty according to the installment schedule above, Respondent may pay the entire penalty within 30 days of the Effective Date and thereby avoid payment of interest pursuant to 40 C.F.R. § 13.11(a).
- (F) In addition, Respondent may, at any time after commencement of payments under the installment schedule, elect to pay the entire principal balance remaining, together with any interest and other charges accrued up to the date of such full payment.

90. Respondent shall pay the 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>.

91. When making a payment, Respondent shall:

- (A) Identify every payment with Respondent’s name and the docket number of this Consent Agreement and Final Order, Docket No. FIFRA-HQ-2023-5013.
- (B) Concurrently with any payment or within 24 hours of any payment, Respondent shall serve proof of such payment to the following person(s):

Emilio Cortes, Clerk of the Board
U.S. Environmental Protection Agency
Environmental Appeals Board
1200 Pennsylvania Avenue, NW (Mail Code 1103M)
Washington, D.C. 20460-0001
Clerk_EAB@epa.gov

Haley C. Todd, Attorney-Advisor

U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (Mail Code 2249A)
Washington, D.C. 20001
Todd.haley@epa.gov

Kimberly Tonkovich, Life Scientist
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street Southwest
Atlanta, Georgia 30303
Tonkovich.Kimberly@epa.gov

and

U.S. Environmental Protection Agency
Cincinnati Finance Center
Via electronic mail to:
CINWD_AcctsReceivable@epa.gov

- (C) “Proof of payment” means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent’s name.

92. Interest, Charges, and Penalties on Late Payments. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to make any payment in accordance with the schedule set forth above and the terms of this Consent Agreement and Final Order, the entire unpaid balance of the penalty and all accrued interest shall become immediately due and owing, and EPA is authorized to recover the following amounts from Respondent or its two shareholders who are identified herein as Respondent’s signatories of this Consent Agreement, excluding counsel.

- (A) Interest. Interest begins to accrue from the Effective Date. If the penalty is paid in full within 30 days, interest accrued is waived. If the penalty is not paid in full within 30 days, interest will continue to accrue until any unpaid portion of the penalty as well as any interest, penalties, and other charges are paid in full. To protect the interests of the United States the rate of interest is set at the Internal Revenue

Service's (IRS) standard underpayment rate, any lower rate would fail to provide Respondent adequate incentive for timely payment.

(B) Handling Charges. Respondent will be assessed a monthly charge to cover EPA's costs of processing and handling overdue debts.

(C) Late Payment Penalty. A late payment penalty of 6% per annum will be assessed monthly on all debts, including any unpaid portion of the penalty, interest, late payment penalties, and other charges that remain delinquent more than 90 days.

93. Late Penalty Actions. In addition to the amounts described in the prior paragraph, if Respondent fails to timely pay any portion of the penalty, interest, or other charges and penalties per this Consent Agreement and Final Order, EPA may take additional actions. Such actions EPA may take include, but are not limited to, the following:

(A) Refer the debt to a credit reporting agency or a collection agency pursuant to 40 C.F.R. §§ 13.13 and 13.14.

(B) Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, 40 C.F.R. Part 13, Subparts C and H.

(C) Suspend or revoke Respondent's licenses or other privileges or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, 40 C.F.R. § 13.17.

(D) Request that the Attorney General bring a civil action in the appropriate district court to recover the amount outstanding pursuant to 7 U.S.C. § 136l(a)(5).

94. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the outstanding principal penalty amount.

VI. TERMS OF CONSENT AGREEMENT

95. The Parties agree to accept digital or original signatures and consent to service of this Consent Agreement and attached Final Order via email to Haley C. Todd at todd.haley@epa.gov (for Complainant), and Michael Boucher at mboucher@steptoe.com (for Respondent). An email response confirming receipt, automated confirmation of email delivery, or an automated read receipt shall be evidence of effective service.

96. For the purposes of this proceeding only and as required by 40 C.F.R. § 22.18(b)(2), Respondent agrees to the terms set forth below and otherwise contained in this Consent Agreement and Final Order:

- (A) Admits to all jurisdictional allegations contained herein;
- (B) Neither admits nor denies any specific factual allegations provided herein;
- (C) Consents to the assessment of this civil penalty;
- (D) Consents to the issuance of, and compliance with, any additional terms or conditions contained herein;
- (E) Agrees to make payment and fulfill all tax reporting according to the terms of this Consent Agreement and Final Order;
- (F) Waives any right to contest EPA's jurisdiction concerning the execution or enforcement of this Consent Agreement and Final Order;
- (G) Waives its right to contest any allegations of liability for civil penalties under FIFRA contained in this Consent Agreement and Final Order; and
- (H) Waives all rights to obtain administrative or judicial review of this Consent Agreement and Final Order.

97. This Consent Agreement and Final Order resolves Respondent's liability only for civil penalties for the specific violations alleged herein.

98. Respondent shall bear its own costs and attorney's fees in connection with this proceeding.

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

100. Respondent acknowledges that submission of false or misleading information may result in further civil or criminal liability, under 18 U.S.C. § 1001, and that EPA has the right to institute further actions to recover appropriate relief upon obtaining evidence that any information provided and/or representations made by Respondent were false, inaccurate, or misleading.

101. Respondent acknowledges that this Consent Agreement and proposed Final Order may contain identifying information such as names, mailing addresses, or email addresses that will be available to the public via a searchable database upon filing.

102. Respondent agrees that this Consent Agreement and proposed Final Order does not contain any confidential business information, trade secrets, or information otherwise protected from disclosure under any applicable federal law.

103. Nothing in this Consent Agreement and Final Order shall relieve Respondent of its obligation to comply with all applicable provisions of FIFRA and other federal, state, and local laws and regulations. Nor shall it constitute a waiver, suspension, or modification of the requirements of FIFRA and any regulations promulgated thereunder.

104. 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.

105. EPA reserves all 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.

VII. EFFECT OF CONSENT AGREEMENT AND FINAL ORDER

106. This Consent Agreement and Final Order shall apply to and be binding upon EPA, Respondent, and Respondent's officers, directors, employees, contractors, successors, agents, and assigns.

107. Any person who signs this Consent Agreement on behalf of Respondent certifies that they are fully authorized to execute this Consent Agreement and to legally bind that party to the terms and conditions of this Consent Agreement and proposed Final Order.

108. This Consent Agreement and proposed 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.

109. There are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed herein.

110. The Effective Date of this Consent Agreement and proposed Final Order is the date on which the Consent Agreement, signed by all Parties, is filed by the Clerk of the Board with the ratified Final Order, signed by the Environmental Appeals Board.

VIII. TAX REPORTING

111. Payments made pursuant to this Consent Agreement and Final Order are not deductible for federal tax purposes. All payments set forth herein constitute an amount paid or incurred by suit, settlement agreement, or otherwise at the direction of a government entity in relation to a violation of law. 26 U.S.C. § 162(f)(1); 26 C.F.R. § 1.162-21(a). These payments shall not constitute restitution, remediation, or amounts paid to come into compliance with any law that was violated. 26 U.S.C. § 162(f)(2); 26 C.F.R. § 1.162-21(b).

112. 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).

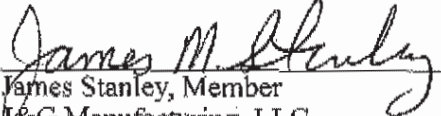
113. Failure to comply with providing IRS Form W-9 or Tax Identification Number (“TIN”), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1.

114. 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 wise.milton@epa.gov, within 30 days after the effective date of this Consent Agreement and Final Order, 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 this order; and
 - ii. Provide EPA’s Cincinnati Finance Center with Respondent’s TIN, via email, within five days of Respondent’s issuance and receipt of the TIN.

WE HEREBY AGREE TO THIS:

**FOR RESPONDENT:
J&G MANUFACTURING, LLC**


James Stanley, Member
J&G Manufacturing, LLC
421 Top O Pinnacle Drive
Clayton, Georgia 30525

7/29/24
Date

Glenn Asaff, Member
J&G Manufacturing, LLC
8028 San Simeon Way
Naples, Florida 34109


Michael Boucher, Partner
Steptoe LLP
1330 Connecticut Avenue, NW
Washington, D.C. 20036

WE HEREBY AGREE TO THIS:

**FOR RESPONDENT:
J&G MANUFACTURING, LLC**

James Stanley, Member
J&G Manufacturing, LLC
421 Top O Pinnacle Drive
Clayton, Georgia 30525

7/28/2024
Date



Glenn Asaff, Member
J&G Manufacturing, LLC
8028 San Simeon Way
Naples, Florida 34109

Michael Boucher, Partner
Steptoe LLP
1330 Connecticut Avenue, NW
Washington, D.C. 20036

WE HEREBY AGREE TO THIS:

**FOR RESPONDENT:
J&G MANUFACTURING, LLC**

James Stanley, Member
J&G Manufacturing, LLC
421 Top O Pinnacle Drive
Clayton, Georgia 30525

Date

Glenn Asaff, Member
J&G Manufacturing, LLC
8028 San Simeon Way
Naples, Florida 34109



7/28/24

Michael Boucher, Partner
Steptoe LLP
1330 Connecticut Avenue, NW
Washington, D.C. 20036

WE HEREBY AGREE TO THIS:

**FOR COMPLAINANT:
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**GREGORY
SULLIVAN**

Digitally signed by
GREGORY SULLIVAN
Date: 2024.08.01 10:21:54
-04'00'

Gregory Sullivan, Director
Waste & Chemical Enforcement Division
Office of Civil Enforcement
U.S. Environmental Protection Agency

**CHRISTINA
COBB**

Digitally signed by CHRISTINA
COBB
Date: 2024.07.29 13:38:40
-04'00'

o/b/o Haley C. Todd, Attorney-Advisor
Pesticides & Tanks Enforcement Branch
Waste & Chemical Enforcement Division
Office of Civil Enforcement
U.S. Environmental Protection Agency

CERTIFICATE OF SERVICE

I certify that copies of the foregoing “Consent Agreement” and “Final Order,” in the matter of J&G Manufacturing, LLC, Docket No. FIFRA-HQ-2023-5013, were sent to the following persons in the manner indicated:

By E-mail:

Glenn Asaff, Chief Financial Officer
J&G Manufacturing, LLC
8028 San Simeon Way
Naples, Florida 34109
asaffglenn@gmail.com

James Stanley, Chief Executive Officer
J&G Manufacturing, LLC
421 Top O Pinnacle Drive
Clayton, Georgia 30525
gtjim1972@gmail.com

Michael Boucher, Partner
Steptoe LLP
1330 Connecticut Avenue, NW
Washington, D.C. 20036
mboucher@steptoe.com

Haley C. Todd, Attorney-Advisor
Waste & Chemical Enforcement Division
Office of Civil Enforcement
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (Mail Code 2249A)
Washington, D.C. 20460
todd.haley@epa.gov

Kimberly Tonkovich, Life Scientist
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street Southwest
Atlanta, Georgia 30303
tonkovich.kimberly@epa.gov

Dated: Sep 26, 2024

Emilio Cortes

Emilio Cortes
Clerk of the Board