

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 9
75 Hawthorne St
San Francisco, CA 94105**

** FILED **
08AUG2019 - 02:40PM
U.S.EPA - Region 09

IN THE MATTER OF)
)
Abtech Industries, Inc) Docket No. FIFRA-09-2019-0061
4110 N Scottsdale Rd, Ste 235)
Scottsdale, AZ 85251) EXPEDITED SETTLEMENT
) AGREEMENT AND FINAL ORDER
Respondent.)

EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER

1. The U.S. Environmental Protection Agency (“EPA”), Region IX, through the duly delegated Manager of the Toxics Section of the Enforcement and Compliance Assurance Division (“Complainant”), alleges that **Abtech Industries, Inc.** (“Respondent”) failed to comply with Section 7(c)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 136e(c)(1), and its implementing regulations at 40 C.F.R. § 167.85.

2. Section 7(c)(1) of FIFRA, 7 U.S.C. § 136e(c)(1), requires any producer operating a registered pesticide producing establishment to inform EPA of the types and amounts of pesticides and, if applicable, active ingredients used in producing pesticides, which it is producing, which it has produced during the past year, and which it has sold or distributed during the past year. The information required by this paragraph shall be kept current and submitted to the Administrator annually as required by such regulations as the Administrator may prescribe.

3. Pursuant to 40 C.F.R. § 167.85(d), a producer operating a registered pesticide producing establishment must submit an initial report to EPA no later than 30 days after the first registration of each establishment the producer operates and thereafter complete and submit an annual pesticide production report on or before March 1 of each year, even if the producer has produced no pesticidal product for that reporting year.

Respondent has failed to comply with Section 7(c)(1) of FIFRA, 7 U.S.C. § 136e(c)(1), and the regulations at 40 C.F.R. § 167.85(d) by failing to complete and submit its annual pesticide production report for the 2018 reporting year for the facility located at 3610 E Southern Ave # 2 Phoenix, AZ 85040 (86256-AZ-1) by **March 1, 2019**.

4. Respondent previously failed to submit an annual pesticide production report for the facility for production year 2014 by March 1, 2015, for which Respondent was issued a Notice of Warning on April 30, 2015.

5. Complainant and Respondent agree that settlement of this matter for a civil penalty of \$300.00 (Three Hundred Dollars) is in the public interest.

6. Complainant is authorized to enter into this Expedited Settlement Agreement (“Agreement”) for the assessment of a civil penalty that simultaneously commences and concludes this matter pursuant to Section 14(a) of FIFRA, 7 U.S.C. § 136l(a) and 40 C.F.R. §§22.13(b) and 22.18(b).

7. In signing this Agreement, Respondent: (a) admits that Respondent is subject to FIFRA; (b) admits that EPA has jurisdiction over Respondent and Respondent’s conduct as alleged herein; (c) neither admits nor denies the factual allegations contained herein; (d) consents to any conditions specified in the Agreement and to the assessment of the civil penalty; and (e) waives any right to contest the allegations contained herein or appeal the attached Final Order.

8. By its signature below, Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that it has now submitted its 2018 annual pesticide production report; it is presently in compliance with all requirements of FIFRA, 7 U.S.C. 136 *et seq.*; and it has submitted proof of payment of the civil penalty assessed above with this Agreement.

9. No portion of the civil penalty or interest paid by Respondent pursuant to this Agreement shall be claimed by Respondent or any other person as a deduction from federal, state, or local income taxes.

10. In accordance with 40 C.F.R. § 22.18(c), this Agreement only resolves Respondent’s liability for federal civil penalties for the violation and facts specifically alleged in the Agreement. EPA reserves all of its rights to take enforcement action against Respondent for any other past, present, or future violations of FIFRA, any other federal statute or regulation, or this Agreement.

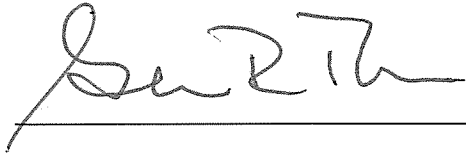
11. Each party shall bear its own costs and fees, if any.

12. The undersigned representatives of Respondent and Complainant each certifies that he or she is fully authorized to enter into this Agreement and to bind the party that he or she represents.

13. This Agreement is binding upon Respondent and its successors and assigns and, in accordance with 40 C.F.R. § 22.31(b), is effective upon the filing of the Agreement and the Final Order attached to the Agreement.

IT IS SO AGREED.

FOR RESPONDENT:



Date:

7/15/19

Name (Print):

Glenn R. Rink

Title (Print):

PRESIDENT

FOR COMPLAINANT:



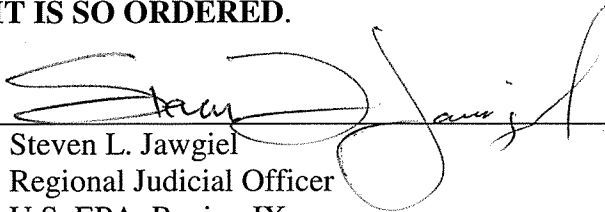
Date:

7/23/19

Douglas K. McDaniel
Manager
Toxics Section, Enforcement and Compliance
Assurance Division
U.S. Environmental Protection Agency, Region 9

Complainant and Respondent, having entered into the foregoing Expedited Settlement Agreement, this Agreement shall become effective upon filing.

IT IS SO ORDERED.



Steven L. Jawgiel
Regional Judicial Officer
U.S. EPA, Region IX

Date: 08/05/19

CERTIFICATE OF SERVICE

I certify that the original and one copy of the fully executed Expedited Settlement Agreement and Final Order, (**Docket No FIFRA-09-2019- 0061**) was filed with the Regional Hearing Clerk, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, and that a true and correct copy of the same was sent to the following parties:

A copy was mailed via CERTIFIED MAIL to:

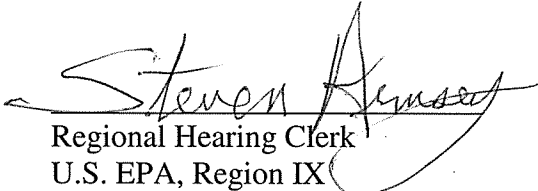
Glenn R. Rink
President
Abtech Industries, Inc.
4110 N Scottsdale Rd, Ste 235
Scottsdale, AZ 85251

CERTIFIED MAIL NUMBER: 7015 3010 0000 3883 5369

An additional copy was hand-delivered to the following U.S. EPA case attorney:

Carol Bussey, Esq
Office of Regional Counsel
U.S. EPA, Region IX
75 Hawthorne Street
San Francisco, CA 94105

Aug-8, 2019
Date


Regional Hearing Clerk
U.S. EPA, Region IX