



UNITED STATES
 ENVIRONMENTAL PROTECTION AGENCY 10/29 PM 12:46
 BEFORE THE ADMINISTRATOR ENVIRONMENTAL PROTECTION
 AGENCY-REGION VII
 REGIONAL HEARING CLERK

IN THE MATTER OF)
)
 ADVANCED PRODUCTS TECHNOLOGY, INC.,) DOCKET NO. FIFRA-07-2008-0036
)
)
)
)
 RESPONDENT)

ORDER GRANTING COMPLAINANT'S MOTION TO
 CONSOLIDATE MATTERS IN PART AND DENYING IN PART

On October 2, 2009, Complainant filed a Motion for Leave to Amend the Complaint and to Consolidate Matters.^{1/} Respondent has not filed a response.^{2/} Complainant's Motion For Leave to File Opening Prehearing Exchange Out of Time filed October 28, 2009 is Granted.

Complainant seeks to consolidate the above-cited matter (In the Matter of Advanced Products Technology, Inc., ("Advanced Products"), Docket No. FIFRA-07-2008-0036) with three other cases: In the Matter of FRM Chem, Inc. ("FRM"), FIFRA-07-2008-0035, In the Matter of Synisys, Inc., ("Synisys"), FIFRA-07-2009-0041, and In the Matter of Custom Compounders, Inc., ("Custom Compounders") FIFRA-07-2009-0042.

Section 22.12(a) of the Rules of Practice, 40 C.F.R. § 22.12(a), governs consolidation of matters at issue in two or more proceedings. Specifically, Section 22.12(a) of the Rules of Practice provides as follows:

^{1/} In an accompanying Order in the Matter of FRM Chem, Inc., Docket No. FIFRA-07-2008-0035, Complainant's Motion to Amend the Complaint was granted.

^{2/} Any party who fails to timely respond to a written motion waives any objection to the granting of the motion. 40 C.F.R. § 22.16(b).

The Presiding Officer or the Environmental Appeals Board may consolidate any or all matters at issue in two or more proceedings subject to these Consolidated Rules of Practice where: there exist common parties or common questions of fact or law; consolidation would expedite and simplify consideration of the issues; and consolidation would not adversely affect the rights of parties engaged in otherwise separate proceedings.

40 C.F.R. § 22.12(a).

In support of its motion, Complainant states that FRM, Advanced Products, Synisys, and Custom Compounders are all run by the same corporate officers, directors, and supervisors. All four Respondents share the same business address. Complainant further claims that the cases are related to the sale of one or both of the FRM-produced unregistered pesticides, to several common costumers, and therefore, the matters will involve many of the same witnesses and documents. Accordingly, Complainant argues that the cases should be consolidated in order to expedite and simplify consideration of the issues. Respondent has not filed a response objecting to the Motion to Consolidate. See 40 C.F.R. § 22.16(b). For good cause shown, the FRM and Advanced Products matters are consolidated and the Motion to Consolidate is GRANTED in part.

No cases have been received by the Office of Administrative Law Judges in the Matter of Synisys, Inc., FIFRA-07-2009-0041 or in the Matter of Custom Compounders, Inc., FIFRA-07-2009-0042. Therefore, the Synisys and Custom Compounders matters cannot be consolidated with FRM and Advanced Products at this time. Accordingly, Complainant's Motion to Consolidate is DENIED in part.



Barbara A. Gunning
Administrative Law Judge

Dated: October 28, 2009
Washington, DC

In the Matter of *Advanced Products Technology, Inc.*, Respondent.
Docket No. FIFRA-07-2008-0036

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Order Granting Complainant's Motion to Consolidate Matters in Part and Denying in Part**, dated October 28, 2009, was sent this day in the following manner to the addressees listed below.



Mary Angeles
Legal Staff Assistant

Original and One Copy by Facsimile and Pouch Mail to:

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Copy by Facsimile / Regular Mail / and Certified Return Receipt Mail to:

Ann P. Kastendieck
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Copy by Regular Mail to:

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Dated: October 29, 2009
Washington, D.C.

