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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

MAY 17 2017

EPA REGION VIII
HEARING CLERK

IN THE MATTER OF:)	
)	Docket No. FIFRA-08-2017-0005
Bond Technology Systems, Inc.)	
9030 W. Sahara Ave. #505)	COMPLAINT AND NOTICE OF
Las Vegas, NV 89117)	OPPORTUNITY FOR HEARING
)	PROCEEDING UNDER the Federal
d/b/a:)	Insecticide, Fungicide, and Rodenticide
)	Act (FIFRA), 7 U.S.C. § 136j
CHEMTECH, Inc.)	
P.O. Box 3180)	
3700 South Hoyt Ave.)	
Muncie, IN 47307)	
)	
Respondents.)	

I. INTRODUCTION

In this Complaint and Notice of Opportunity for Hearing (Complaint), the U.S. Environmental Protection Agency (EPA) proposes to assess a civil administrative penalty against Bond Technology Systems, Inc. and CHEMTECH, Inc. (Respondents), as more fully described below.

II. JURISDICTIONAL ALLEGATIONS

1. This Complaint is issued under the authority vested in the Administrator of the EPA by section 14(a) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), 7 U.S.C. § 136l(a). The undersigned EPA officials has been duly authorized to institute this action.
2. This proceeding is subject to the EPA's *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 Code of Federal Regulations (C.F.R.) part 22 (Consolidated Rules of Practice), a copy of which is being provided to Respondent with this Complaint.
3. The EPA has determined that this matter, is appropriate for an administrative penalty assessment, as authorized by section FIFRA section 14(a)(1), 7 U.S.C. § 136l(a)(1).

III. LEGAL AND FACTUAL ALLEGATIONS

4. Respondent, CHEMTECH, Inc. is incorporated in the State of Indiana at P.O. Box 3180, 3700 South Hoyt Ave., Muncie, IN 47307. The registered agent for Respondent, CHEMTECH, Inc., is Jon Moll Defur, Voran, LLP, located at 400 South Walnut St., Muncie, IN 47305.
5. Respondent, Bond Technology Systems, Inc., is incorporated in the State of Nevada at 9030 W. Sahara Ave, #505, Las Vegas, NV 89117. The registered agent for Respondent, Bond Technology Systems, Inc. is the Corporate Service Center, Inc., located at 5605 Riggins Ct., Ste. 200, Reno, NV 89502.
6. Respondent, CHEMTECH, Inc., is the manufacturing subsidiary of Respondent, Bond Technology Systems, Inc.
7. Respondents are each a "person" within the meaning of section 2(s) of FIFRA, 7 U.S.C. section 136(s) and subject to the requirements of the statute and/or regulations.
8. At all times relevant to the alleged violations, the Respondent was a "distributor/seller" as defined by section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), of a "pesticide" defined in FIFRA section 2(u), 7 U.S.C. § 136(u), and a "producer" as defined by section 2(w) of FIFRA, 7 U.S.C. § 136(w).
9. Respondent, CHEMTECH, Inc., is a "registrant" within the meaning of section 2 of FIFRA, 7 U.S.C. 136(y), with an EPA registration number of 70246-1.
10. Respondent, CHEMTECH, Inc., is the registrant of copper sulfate pentahydrate CT-100.
11. Copper sulfate pentahydrate CT-100 is a "pesticide" within the meaning of section 2 of FIFRA, 7 U.S.C. 136(u).
12. By statute, "[t]he term '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" FIFRA section 2(gg), 7 U.S.C. § 136 (gg).
13. Under FIFRA section 3(a), it is "unlawful for any person in any State to distribute or sell to any person-(A) any pesticide that is not registered under 136a ... or whose registration has been canceled"
14. In a letter dated July 16, 2009, Debra Edwards, Ph.D., Director of the EPA's Office of Pesticide Programs, informed the basic registrant, Chemtech, Inc. that the CT-100 pesticide product registration was canceled for non-payment of the annual registration maintenance fee due on January 15, 2009. See, FIFRA section 4(i)(5)(G), 7 U.S.C. section 136a-1(i)(5)(G).
15. The July 16, 2009 letter required Respondent, Chemtech, to distribute and sell existing stocks of the cancelled product by January 15, 2010.

16. Respondents sold CT-100 on or about May 17, 2012, and October 22, 2012, to Spa Performance and Supply, LLC, 9733 South Mount Jordan Road, Sandy, Utah 84092.
17. Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), states "it shall be unlawful for any person in any State to distribute or sell to any person any pesticide that is not registered under section 136a of this title or whose registration has been cancelled or suspended, except to the extent that distribution or sale otherwise has been authorized by the Administrator under this subchapter."

VIOLATIONS OF LAW

COUNTS 1 and 2

18. Respondents' sale of CT-100 on or about May 17, 2012, and October 22, 2012, to Spa Performance and Supply, LLC, constituted two counts of sale of an unregistered pesticide.

IV. PROPOSED PENALTY

19. Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), and 40 C.F.R. part 19, authorize the EPA to impose administrative penalties of up to \$7,500 per violation.
20. In proposing this penalty amount, the EPA has considered the applicable statutory factors at Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), the appropriateness of the assessed penalty to the size of business of Respondents, the effect on Respondents' ability to continue in business, and the gravity of the violation.
21. The EPA proposes to assess an administrative penalty of \$16,502, against Respondents.

V. ANSWER AND RIGHT TO REQUEST A HEARING

22. Pursuant to 40 C.F.R. § 22.15(a), Respondents may file an answer in order to contest any material fact upon which this Complaint is based, contend that the proposed penalty is inappropriate, or contend that it is entitled to judgment as a matter of law.
23. Any such answer to the Complaint must be filed with the Regional Hearing Clerk within thirty (30) days of the Effective Date of this Complaint at the following address:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 8
1595 Wynkoop Street
Denver, Colorado 80202-1129

24. A copy of the answer and every other document filed in this action must be mailed to the EPA enforcement attorney for this matter at the following address:

Brenda L. Morris
Legal Enforcement Program, 8ENF-L
U.S. Environmental Protection Agency, Region 8
1595 Wynkoop Street
Denver, Colorado 80202-1129

25. Pursuant to 40 C.F.R. § 22.15(b), Respondents' answer shall clearly and directly admit, deny, or explain each of the factual allegations contained in this Complaint with respect to which Respondents have any knowledge, or clearly state that Respondents have no knowledge as to particular factual allegations in the Complaint. If Respondents state in their answer that they have no knowledge of a particular factual allegation, the allegation shall be deemed denied. Respondents' answer shall also state the circumstances or arguments for any defense Respondents wish to assert, challenges to any factual allegation in the Complaint, and any basis Respondents may have to oppose the Complaint's proposed penalty.
26. Pursuant to 40 C.F.R. § 22.15(d), Respondents' failure to admit, deny, or explain any factual allegation in its answer constitutes an admission of that allegation.
27. Respondents have the right to request a hearing in its answer. Pursuant to 40 C.F.R. § 22.15(c), Respondents have the right to request a hearing upon any issue raised by the Complaint and answer, including any fact alleged in this Complaint, the appropriateness of the proposed penalty, and/or to assert that it is entitled to judgment as a matter of law. Even if Respondents do not explicitly request a hearing in their answer, the Presiding Officer assigned to this case may hold such a hearing if Respondents' answer raises issues appropriate for adjudication. The procedures for any such hearing and for all proceedings in this action are set out in the Consolidated Rules of Practice.

VI. FAILURE TO FILE AN ANSWER

28. If Respondents fail to file an answer as further specified above, Respondents may be found to be in default. Default constitutes an admission of all facts alleged in this Complaint and a waiver of Respondents' right to a hearing on EPA's factual allegations. In order to avoid default in this matter, Respondents must, within thirty (30) days of the Effective Date of this Complaint, either: (1) settle this matter with the EPA or (2) file both an original and one copy of a written answer to this Complaint with the Regional Hearing Clerk at the address specified above.
29. Failure to file a written answer within thirty (30) days may result in the issuance of a default order imposing the penalties herein without further proceedings.
30. If Respondents fail to pay the entire penalty assessed in any default order by the due date, the United States may file a civil judicial action to collect the assessed penalty and any

applicable interest, handling fees, and additional penalties pursuant to the Federal Claims Collection Act, 31 U.S.C. § 3701, et seq. or any other applicable law

VII. SETTLEMENT CONFERENCE

31. Regardless of whether Respondents file an answer or requests a hearing, Respondents may confer with EPA staff concerning the alleged violations and the amount of any penalty. Such a conference provides Respondents with an opportunity to respond informally to the allegations in this Complaint, to submit any additional information to the EPA that may be relevant to this matter, and to explore any opportunities for settling this matter.
32. A settlement conference does not, however, affect Respondents' obligation to file a written answer within thirty (30) days of the Effective Date of the Complaint, nor does it waive Respondents' right to request a hearing. Respondents and the EPA may simultaneously pursue the adjudicatory hearing process and possible settlement of this matter. Any request for settlement negotiations should be directed to the enforcement attorney named above, who can also be reached by telephone at 303-312-6891.

RESOLUTION OF THIS PROCEEDING WITHOUT HEARING OR CONFERENCE

33. Respondents may resolve this proceeding at any time by paying the penalty amount proposed in this Complaint in full pursuant to 40 C.F.R. § 22.18(a). Such payment need not contain any response to, or admission of, the allegations in this Complaint. Such payment would waive Respondents' rights to contest the allegations in this Complaint and to appeal any final order resulting from this Complaint.
34. If such payment is made within thirty (30) calendar days of the Effective Date of this Complaint, Respondents need not file an answer. Respondents may obtain a thirty-day extension to pay the proposed penalty in full without filing an answer by complying with the requirements of 40 C.F.R. § 22.18(a)(2).
35. The payment shall be made by remitting a check or making a wire transfer or online payment. The check or other payment shall designate the name and docket number of this case (shown on the first page of this Complaint), be in the amount stated under the heading "Proposed Penalty" above, and be payable to "Treasurer, United States of America."

If remitted by regular U.S. mail:

U.S. Environmental Protection Agency
P.O. Box 979077
St. Louis, Missouri 63197-9000

If remitted by any overnight commercial carrier:

U.S. Bank
Government Lockbox No. 979077
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, Missouri 63101

Contact: Craig Steffen, 513-487-2091, steffen.craig@epa.gov

If remitted by wire transfer: Any wire transfer must be sent directly to the Federal Reserve Bank in New York City using the following information:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, New York 10045
Beneficiary: US Environmental Protection Agency

If remitted through the Automated Clearing House (ACH) for receiving US currency:

U.S. Treasury REX / Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking
Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, Maryland 20737
Contacts: REX (Remittance Express): 866-234-5681

If remitted online with a debit card or credit card: No user name, password, or account number is necessary for this option. Online payment can be accessed via WWW.PAY.GOV, entering SFO 1.1 in the form search box on the left side of the screen, opening the form, and following the directions on the screen.

The instructions above are also provided on the following websites:

<https://www.epa.gov/financial/makepayment>

<https://www.epa.gov/financial/additional-instructions-making-payments-epa>

36. At the time of payment, a copy of the check or notification of wire transfer or online payment shall be sent to the EPA Region 8 Regional Hearing Clerk and the enforcement attorney named above (at the addresses provided above). A transmittal letter identifying the case title and docket number must accompany the remittance and each of the copies of the check or notification.

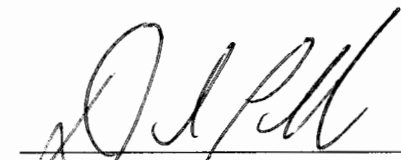
VIII. CONTINUING OBLIGATION TO COMPLY

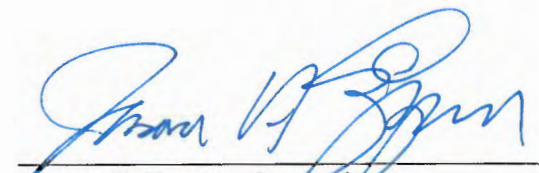
37. Neither assessment nor payment of the administrative penalty shall affect Respondents' continuing obligation to comply with FIFRA or any other federal, state, or local law.

IX. EFFECTIVE DATE

38. The "Effective Date" of this Complaint is the date of service. The date of service is the date the Respondents or Respondents' authorized representative is personally served with this Complaint or signs a return mail receipt or other written verification of delivery, in accordance with the provisions of 40 C.F.R. §§ 22.5(b) and 22.7(c).

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8, Office of Enforcement, Compliance
and Environmental Justice, Complainant**

Date: 5/17/17 By: 
David Cobb, Supervisor
Technical Enforcement Program

Date: 5/17/17 By: 
James H. Eppers, Supervisor
Legal Enforcement Program

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the original and one true and correct copy of the COMPLAINT AND NOTICE OF OPPORTUNITY FOR HEARING with all Attachments was hand-carried to the Regional Hearing Clerk:

Melissa Haniewicz, Region 8 Hearing Clerk
U.S. Environmental Protection Agency
1595 Wynkoop Street
Denver, Colorado 80202-1129

And that a true copy of the same was sent via CERTIFIED MAIL/RETURN RECEIPT REQUESTED to

Jon Moll Defur, Voran, LLP
Registered Agent for CHEMTECH, Inc.
400 South Walnut St.
Muncie, IN 47305.

And

Corporate Service Center, Inc.
Registered Agent for Bond Technology Systems, Inc.
5605 Riggins Ct., Ste. 200
Reno, NV 89502.

May 17th, 2017
Date

Joan Detty
Joan Detty



U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

Small Business Programs

www.epa.gov/smallbusiness
EPA's Office of Small Business Programs (OSBP) advocates and fosters opportunities for direct and indirect partnerships, contracts, and sub-agreements for small businesses and socio-economically disadvantaged businesses.

EPA's Asbestos Small Business Ombudsman

www.epa.gov/sbo or 1-800-368-5888
The EPA Asbestos and Small Business Ombudsman (ASBO) serves as a conduit for small businesses to access EPA and facilitates communications between the small business community and the Agency.

EPA's Compliance Assistance Homepage

www2.epa.gov/compliance
This page is a gateway industry and statute-specific environmental resources, from extensive web-based information to hotlines and compliance assistance specialists.

EPA's Compliance Assistance Centers

www.assistancecenters.net
EPA's Compliance Assistance Centers provide information targeted to industries with many small businesses. They were developed in partnership with industry, universities and other federal and state agencies.

Agriculture

www.epa.gov/agriculture/

Automotive Recycling

www.ecarcenter.org

Automotive Service and Repair

ccar-greenlink.org/ or 1-888-GRN-LINK

Chemical Manufacturing

www.chemalliance.org

Construction

www.cicacenter.org or 1-734-995-4911

Education

www.campuserc.org

Food Processing

www.fpeac.org

Healthcare

www.hercenter.org

Local Government

www.lgean.org

Metal Finishing

www.nmfrc.org

Paints and Coatings

www.paintcenter.org

Printing

www.pneac.org

Ports

www.portcompliance.org

Transportation

www.tercenter.org

U.S. Border Compliance and Import/Export Issues

www.bordercenter.org

EPA Hotlines, Helplines and Clearinghouses

www2.epa.gov/home/epa-hotlines

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Some examples are:

Clean Air Technology Center (CATC) Info-line

www.epa.gov/ttn/catc or 1-919-541-0800

Superfund, TRI, EPCRA, RMP and Oil Information Center

www.epa.gov/superfund/contacts/infocenter/index.htm or 1-800-424-9346

EPA Imported Vehicles and Engines Public Helpline

www.epa.gov/otaq/imports or 734-214-4100

National Pesticide Information Center

www.npic.orst.edu/ or 1-800-858-7378

National Response Center

Hotline to report oil and hazardous substance spills - www.nrc.uscg.mil or 1-800-424-8802

Pollution Prevention Information Clearinghouse (PPIC) -

www.epa.gov/optintr/ppic or 1-202-566-0799

Safe Drinking Water Hotline -

www.epa.gov/drink/hotline/index.cfm or 1-800-426-4791

Small Business Resources

Stratospheric Ozone Protection Hotline

www.epa.gov/ozone/comments.htm or 1-800-296-1996

Toxic Substances Control Act (TSCA) Hotline

tscs-hotline@epa.gov or 1-202-554-1404

Small Entity Compliance Guides

<http://www.epa.gov/sbrefa/compliance-guides.html>

EPA publishes a Small Entity Compliance Guide (SECG) for every rule for which the Agency has prepared a final regulatory flexibility analysis, in accordance with Section 604 of the Regulatory Flexibility Act (RFA).

Regional Small Business Liaisons

<http://www.epa.gov/sbo/rsbl.htm>

The U.S. Environmental Protection Agency (EPA) Regional Small Business Liaison (RSBL) is the primary regional contact and often the expert on small business assistance, advocacy, and outreach. The RSBL is the regional voice for the EPA Asbestos and Small Business Ombudsman (ASBO).

State Resource Locators

www.envcap.org/statetools

The Locators provide state-specific contacts, regulations and resources covering the major environmental laws.

State Small Business Environmental Assistance Programs (SBEAPs)

www.epa.gov/sbo/507program.htm

State SBEAPs help small businesses and assistance providers understand environmental requirements and sustainable business practices through workshops, trainings and site visits.

EPA's Tribal Portal

www.epa.gov/tribalportal/

The Portal provides access to information on environmental issues, laws, and resources related to federally recognized tribes.

EPA Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has two such policies that may apply to small businesses:

EPA's Small Business Compliance Policy

www2.epa.gov/enforcement/small-businesses-and-enforcement

This Policy offers small businesses special incentives to come into compliance voluntarily.

EPA's Audit Policy

www2.epa.gov/compliance/epas-audit-policy

The Policy provides incentives to all businesses that voluntarily discover, promptly disclose and expeditiously correct their noncompliance.

Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established a SBREFA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System designation, number of employees or annual receipts, as defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

Your Duty to Comply

If you receive compliance assistance or submit a comment to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.

§ 21.13

approve or disapprove the State issued statement, in accordance with the requirements of § 21.5.

(2) The Regional Administrator will periodically review State program performance. In the event of State program deficiencies the Regional Administrator will notify the State of such deficiencies.

(3) During that period that any State's program is classified as deficient, statements issued by a State shall also be sent to the Regional Administrator for review. The Regional Administrator shall notify the State, the applicant, and the SBA of any determination subsequently made, in accordance with § 21.5, on any such statement.

(i) If within 60 days after notice of such deficiencies has been provided, the State has not taken corrective efforts, and if the deficiencies significantly affect the conduct of the program, the Regional Administrator, after sufficient notice has been provided to the Regional Director of SBA, shall withdraw the approval of the State program.

(ii) Any State whose program is withdrawn and whose deficiencies have been corrected may later reapply as provided in § 21.12(a).

(g) Funds appropriated under section 106 of the Act may be utilized by a State agency authorized to receive such funds in conducting this program.

§ 21.13 Effect of certification upon authority to enforce applicable standards.

The certification by EPA or a State for SBA Loan purposes in no way constitutes a determination by EPA or the State that the facilities certified (a) will be constructed within the time specified by an applicable standard or (b) will be constructed and installed in accordance with the plans and specifications submitted in the application, will be operated and maintained properly, or will be applied to process wastes which are the same as described in the application. The certification in no way constitutes a waiver by EPA or a State of its authority to take appropriate enforcement action against the owner or operator of such facilities for violations of an applicable standard.

40 CFR Ch. I (7-1-10 Edition)

PART 22—CONSOLIDATED RULES OF PRACTICE GOVERNING THE ADMINISTRATIVE ASSESSMENT OF CIVIL PENALTIES AND THE REVOCATION/TERMINATION OR SUSPENSION OF PERMITS

Subpart A—General

- Sec.
- 22.1 Scope of this part.
 - 22.2 Use of number and gender.
 - 22.3 Definitions.
 - 22.4 Powers and duties of the Environmental Appeals Board, Regional Judicial Officer and Presiding Officer; disqualification, withdrawal, and reassignment.
 - 22.5 Filing, service, and form of all filed documents; business confidentiality claims.
 - 22.6 Filing and service of rulings, orders and decisions.
 - 22.7 Computation and extension of time.
 - 22.8 *Ex parte* discussion of proceeding.
 - 22.9 Examination of documents filed.

Subpart B—Parties and Appearances

- 22.10 Appearances.
- 22.11 Intervention and non-party briefs.
- 22.12 Consolidation and severance.

Subpart C—Prehearing Procedures

- 22.13 Commencement of a proceeding.
- 22.14 Complaint.
- 22.15 Answer to the complaint.
- 22.16 Motions.
- 22.17 Default.
- 22.18 Quick resolution; settlement; alternative dispute resolution.
- 22.19 Prehearing information exchange; prehearing conference; other discovery.
- 22.20 Accelerated decision; decision to dismiss.

Subpart D—Hearing Procedures

- 22.21 Assignment of Presiding Officer; scheduling the hearing.
- 22.22 Evidence.
- 22.23 Objections and offers of proof.
- 22.24 Burden of presentation; burden of persuasion; preponderance of the evidence standard.
- 22.25 Filing the transcript.
- 22.26 Proposed findings, conclusions, and order.

Subpart E—Initial Decision and Motion to Reopen a Hearing

- 22.27 Initial decision.
- 22.28 Motion to reopen a hearing.