



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

SEP 18 2009

REPLY TO THE ATTENTION OF:
LC-8J

CERTIFIED MAIL

Receipt No. 7001 0320 0005 8920 0326

Mr. Carl Tanner
Chief Executive Officer
Liphatech, Inc.
3600 West Elm Street
Milwaukee, Wisconsin 53209

Re: Notice of Intent to File Administrative Complaint against Liphatech, Inc.

Dear Mr. Tanner:

The U.S. Environmental Protection Agency, Region 5 plans to file an administrative complaint for civil penalties against Liphatech, Inc. (you). We will allege that you violated the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), 7 U.S.C. §§ 136j(a)(2)(E) and 136j(a)(1)(B), by advertising "Rozol," EPA Registration Number 7173-244, without providing the restricted use classification given to the product under section 3 of FIFRA, and by making claims as part of the distribution and sale of "Rozol," EPA Registration Number 7173-244, which significantly differ from the statement required as part of the product's registration under section 3 of FIFRA. Based on information currently available to us, we plan to propose a penalty of \$1,280,500 in the complaint.

FIFRA governs the regulation of pesticides in the United States. Under FIFRA, all pesticides must be registered by EPA before they may be sold or distributed in commerce. FIFRA sets an overall risk/benefit standard for pesticide registration, requiring that pesticides perform their intended function, when used according to labeling directions, without posing unreasonable risks of adverse effects on human health or the environment. In making pesticide registration decisions, EPA is required by law to take into account the economic, social, and environmental costs and benefits of pesticide uses.

This letter is not a demand to pay a penalty. We will not ask you to pay a penalty until we file the complaint or a final order. Before filing the complaint, we are giving you the opportunity to present any information that you believe we should consider. Relevant information might include evidence that you did not violate the law; evidence that you relied on compliance assistance from EPA or a state agency; evidence that we identified the wrong party; or financial data bearing on your ability to pay a penalty.



If you believe that you will be unable to pay a \$1,280,500 penalty because of financial reasons, please send us certified, complete financial statements including balance sheets, income statements and all notes to the financial statements, and your company's signed income tax returns with all schedules and amendments, for the past three years.

You may assert a claim of business confidentiality under 40 C.F.R. part 2, subpart B, for any portion of the information you submit to us. Information subject to a business confidentiality claim is available to the public only to the extent allowed by 40 C.F.R. part 2, subpart B. If you fail to assert a business confidentiality claim, EPA may make all submitted information available, without further notice, to any member of the public who requests it.

We may use any information you submit in support of an administrative, civil, or criminal action.

Within ten calendar days after you receive this letter, please send your response to:

Kevin Chow (C-14J)
Associate Regional Counsel
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

We plan to file the complaint against you 14 calendar days after you receive this letter unless you give us information that the complaint is not substantially justified.

If you have any questions, please telephone Mr. Chow at (312) 353-6181.

Thank you for your prompt attention to this matter.

Sincerely,



Mardi Klevs
Chief
Chemicals Management Branch
Land and Chemicals Division