

use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number OPP-00569. Electronic comments on this document may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection, Administrative practice and procedure, Agricultural commodities, pesticides and pests.

Dated: February 3, 1999.

Susan H. Wayland,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 99-2951 Filed 2-4-99; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[OPP-00542B; FRL-6060-7]

Pesticides; Science Policy Issues Related to the Food Quality Protection Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: EPA is announcing the availability of the revised version of the pesticide science policy document originally entitled "Guidance for Identifying Pesticide Chemicals That Have a Common Mechanism of Toxicity, for Use in Assessing the Cumulative Toxic Effects of Pesticides." This document was made available as a draft document on August 6, 1998, for public comment (63 FR 42031) (FRL-5797-7). The title of the document has been changed to "Guidance for Identifying Pesticide Chemicals and Other Substances That Have a Common Mechanism of Toxicity." The revised guidance document describes the approach that EPA will use for identifying and categorizing pesticide chemicals and other substances that cause a common toxic effect by a common mechanism, for purposes of assessing the cumulative toxic effects of such substances. Interested parties may request a copy of the Agency's revised guidance document and responses to public comments as set forth in Unit I. of this document. This notice is the fifth in a series of science policy issues related to the Tolerance Reassessment Advisory Committee (TRAC).

FOR FURTHER INFORMATION CONTACT: For questions concerning the revised document "Guidance for Identifying Pesticide Chemicals and Other Substances That Have a Common Mechanism of Toxicity," contact by mail: Dr. Stephen C. DeVito, Office of Pesticide Programs, Health Effects Division (7509C), Environmental Protection Agency, 401 M St., SW, Washington, DC 20460; telephone number: (703) 308-9584; fax number (703) 308-7157; e-mail: devito.steve@epamail.epa.gov .

SUPPLEMENTARY INFORMATION:

I. General Information

A. How Can I Get Additional Information or Copies of This Document or Other Documents?

1. *Electronically.* You may obtain electronic copies of this document and the science policy paper at <http://www.epa.gov/pesticides/>. On the Office of Pesticide Program Home Page select "TRAC" and then look up the entry for this document. You can also go directly to the listings at the EPA Home page at the **Federal Register** — Environmental Documents entry for this document under "Laws and Regulations" (<http://www.epa.gov/fedrgstr/>) to obtain this notice and the science policy paper.

2. *Fax on Demand.* You may request to receive a faxed copy of this document, as well as supporting information, by using a faxphone to call (202) 401-0527 and selecting item 6055 for "Guidance for Identifying Pesticide Chemicals and Other Substances That Have a Common Mechanism of Toxicity." You may also follow the automated menu.

3. *In person or by phone.* If you have any questions or need additional information about this action, you may contact the appropriate technical person identified in the "FOR FURTHER INFORMATION CONTACT" section of this document. In addition, the official record for the science policy paper listed in the SUMMARY section of this document, including the public versions, has been established under the docket control number OPP-00542. A detailed summary of the comments and of the Agency's response to the comments is available in the same docket file. A public version of each record, including printed, paper versions of any electronic comments, which does not include any information claimed as Confidential Business Information (CBI), is available for inspection in Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal

holidays. The Public Information and Records Integrity Branch telephone number is 703-305-5805.

II. Background

On August 3, 1996, the Food Quality Protection Act of 1996 (FQPA) was signed into law. Effective upon signature, the FQPA significantly amended the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA). Among other changes, FQPA established a stringent health-based standard ("a reasonable certainty of no harm") for pesticide residues in foods to assure protection from unacceptable pesticide exposure; provided heightened health protections for infants and children from pesticide risks; required expedited review of new, safer pesticides; created incentives for the development and maintenance of effective crop protection tools for farmers; required reassessment of existing tolerances over a 10-year period; and required periodic re-evaluation of pesticide registrations and tolerances to ensure that scientific data supporting pesticide registrations will remain up-to-date in the future.

Subsequently, the Agency established the Food Safety Advisory Committee (FSAC) as a subcommittee of the National Advisory Council for Environmental Policy and Technology (NACEPT) to assist in soliciting input from stakeholders and to provide input to EPA on some of the broad policy choices facing the Agency and on strategic direction for the Office of Pesticide Programs. The Agency has used the interim approaches developed through discussions with FSAC to make regulatory decisions that met FQPA's standard, but that could be revisited if additional information became available or as the science evolved. As EPA's approach to implementing the scientific provisions of FQPA has evolved, the Agency has sought independent review and public participation, often through presentation of many of the science policy issues to the FIFRA Scientific Advisory Panel (SAP), a group of independent, outside experts who provide peer review and scientific advice to EPA's Office of Pesticide Programs (OPP).

In addition, as directed by Vice President Albert Gore, EPA has been working with the U.S. Department of Agriculture (USDA) and another subcommittee of NACEPT, the Tolerance Reassessment Advisory Committee (TRAC), chaired by the EPA Deputy Administrator and the USDA Deputy Secretary, to address FQPA issues and implementation. TRAC

comprises more than 50 representatives of affected user, producer, consumer, public health, environmental, states and other interested groups. The TRAC has met five times as a full committee from May 27 through September 16, 1998.

The Agency has been working with the TRAC to ensure that its science policies, risk assessments of individual pesticides, and process for decision making are transparent and open to public participation. An important product of these consultations with TRAC is the development of a framework for addressing key science policy issues. The Agency decided that the FQPA implementation process would benefit from initiating notice and comment on the major science policy issues.

The TRAC identified nine science policy issue areas they believe were key to implementation of FQPA and tolerance reassessment. The framework calls for EPA to provide one or more documents for comment on each of the nine issues by announcing their availability in the **Federal Register**. In addition to comments received in response to these **Federal Register** notices, EPA will consider comments received during the TRAC meetings. Each of these issues is evolving and in a different stage of refinement. Accordingly, as the issues are further refined by EPA in consultation with USDA and others, they may also be presented to the SAP.

In accordance with the framework described in a separate notice published in the **Federal Register** of October 29, 1998 (63 FR 58038) (FRL-6041-5), EPA is issuing a series of draft documents concerning nine science policy issues identified by the TRAC related to the implementation of FQPA.

III. Summary of Revised Science Policy Guidance Document

This **Federal Register** notice announces the availability of a revised version of the EPA pesticide science policy guidance document that has been retitled "Guidance for Identifying Pesticide Chemicals and Other Substances That Have a Common Mechanism of Toxicity." The guidance document describes the approach that EPA will use for identifying and categorizing pesticide chemicals and other substances that cause a common toxic effect by a common mechanism, for purposes of assessing the cumulative toxic effects of such substances. Specifically, the guidance document describes:

1. EPA's interpretation of common mechanism of toxicity with respect to

making a determination of safety under FFDDCA as amended by FQPA.

2. The specific steps that need to be taken for identifying mechanisms of toxicity of pesticides and other substances that cause a common toxic effect.

3. The types of data (and their sources) that are needed for doing so.

4. How these data are to be used in reaching conclusions regarding commonality of mechanisms of toxicity.

5. Criteria the Agency will use for categorizing pesticides and other substances for purposes of conducting cumulative risk assessments.

The Agency plans to use this guidance as the initial step in its process to assess the possibility of cumulative toxicity to human health that may be caused by pesticides and other substances that are toxic from a common mechanism. The Agency is currently developing guidance for conducting cumulative risk assessments that it will use to characterize the potential for cumulative toxicity to human health that may result from exposure to pesticides and other substances that have a common mechanism of toxicity. That guidance will be made available for public comment in June, 1999.

IV. Summary of Agency's Response to Public Comments

In the **Federal Register** of August 6, 1998 (63 FR 42031)(FRL-5797-7), EPA announced the availability of a draft version of the document described in Unit III. of this document and solicited public comment. The original public comment period ended on September 6, 1998, but was extended to October 8, 1998, at 63 FR 47290, September 4, 1998 (FRL-6028-7). The Agency received comments from 16 different organizations. The Agency would like to thank these organizations for critically reviewing the document, and for providing recommendations to improve the science policy described therein. All comments were considered by the Agency in revising the document. The comments and the Agency's responses to these comments are briefly summarized below.

Many of the public comments were similar in content, and pertained to general issues dealing with grouping chemicals for purposes of cumulative risk assessment, or specific sections within the draft document. To facilitate review and consideration of the comments for purposes of revising the document, the Agency grouped the comments in accordance to nature of the comment, or issue or section of the document with which they addressed.

Hence, comments were grouped as follows: Purpose and introduction of the guidance document; exposure issues; consideration of substances other than pesticides; definitions of terms; and assessing cumulative toxicity. Following is a brief summary of the more significant comments received in these areas, along with EPA's general responses. A more detailed summary of the comments and the Agency's response to the comments is available as described in Unit I. of this document.

A. Purpose and Introduction of the Guidance Document

Several commentors appear to have misunderstood the purpose of the document. These commentors were of the impression that the primary purpose of the document is to describe the approach EPA will use to assess cumulative toxicity and risk from pesticides that have a common mechanism of toxicity. However, the purpose of the document, as stated in the draft version, is to describe the process that EPA will use for identifying pesticides and other substances that cause a common toxic effect by a common mechanism of toxicity.

B. Exposure Issues

A number of commentors raised the issue of exposure. One commentor suggested that grouping of chemicals should be based only on causing a common toxic effect by a common mechanism, excluding exposure as a criterion for grouping. Other commentors suggested that EPA should do an exposure assessment first and use exposure as a basis for grouping. The Agency will not use exposure as a criterion for grouping chemicals that cause a common toxic effect by a common mechanism. Exposure will be considered, however, during the assessment and characterization of cumulative effects of pesticides that have a common mechanism of toxicity.

Several commentors stated that there is a lack of detail or discussion on how the Agency plans to assess exposure when conducting cumulative risk assessments on chemicals that have been grouped by common mechanism of toxicity. Some commentors stated that the document needs to be expanded to include more detail on how the Agency will conduct cumulative risk assessments on pesticides that have a common mechanism of toxicity. Two commentors suggested that the guidance document should be revised to include examples on how the Agency will: Apply the common mechanism guidelines; assess cumulative toxicity; and conduct cumulative risk

assessments. The Agency's response to these comments is as follows. First, the Agency will make available in the near future specific examples of how it will apply its guidance for identifying pesticide chemicals that have a common mechanism of toxicity. Secondly, the primary purpose of the document is to describe the approach that EPA will use to identify pesticides that have a common mechanism of toxicity, and not how the Agency will assess exposure to such pesticides and the cumulative risks that they may pose. The Agency is currently preparing a document that will describe the approach it will use to conduct cumulative risk assessments. That document will provide details on exposure analyses.

Some commentors stated that EPA should not restrict cumulative risk assessments to only those pesticides within a common mechanism group for which there is concomitant (i.e., simultaneous) exposure (as stated in the draft version), whereas other commentors stated that the Agency should restrict cumulative risk assessments to only those pesticides within a group for which there is concomitant exposure. The Agency agrees that cumulative toxicity may result from exposures that are not concomitant, and cumulative risk assessments performed by the Agency on pesticides within a common mechanism group should not be restricted to only those for which there is concomitant exposure. In addition to concomitant exposure, the Agency will also consider other factors that may affect the potential for two or more chemicals that cause a common toxic effect by a common mechanism to cause cumulative toxicity.

C. Consideration of Substances Other than Pesticides

One commentator suggested that the guidance document needs to be expanded to include guidance on how the Agency will conduct cumulative risk assessments on pesticides that are not toxic via a common mechanism of toxicity. The Agency did not include such guidance because it is beyond the scope of the document. Some commentors pointed out that the focus of the guidance document is only on identifying pesticides that have a common mechanism of toxicity, and not on identifying other (i.e., non-pesticide) substances that have a mechanism of toxicity common with that of a given pesticide or pesticides. The Agency agrees that the focus of the draft document is on identifying and grouping pesticide substances that have a common mechanism of toxicity.

Although the Agency intends to use the approach described in the document to identify pesticide substances and other substances that cause a common toxic effect by a common mechanism, this intent was not made clear in the draft version. The Agency has changed the title of the document and has made other editorial changes throughout the document that broaden its scope to include substances not used as pesticides. The Agency wishes to make clear that it will include other substances that are toxic from a mechanism common with that of a given pesticide or pesticides in a cumulative risk assessment.

D. Definitions of Terms

A number of commentors questioned the Agency's definitions of certain terms used in the document, and had opposing opinions on how these terms should be defined. For example, several commentors questioned the Agency's definitions of "mechanism of toxicity" and "common mechanism of toxicity." Some commentors believe that the Agency's definitions for these terms are either too broad, unclear, or need to be made more simple and rigorous. Other commentors believe that the Agency's definitions are too narrow. Another commentator believes that the Agency's definition is clear and appropriate. The Agency reviewed its definitions of the terms listed in Section II ("Definitions of Specific Terms...") of the document, and believes that its definitions of the terms "mechanism of toxicity" and "common mechanism of toxicity" are clear and consistent with the intent of FQPA. However, the Agency has included additional discussion in the revised version in Section III that adds further clarification to these terms. One commentator disagreed with the Agency's definition of "cumulative toxic effect." This commentator stated that there does not need to be an overall increase in toxicity to be cumulative, and suggested that the Agency remove the part of its definition that states there is an overall increase in toxicity. The Agency agrees with the commentator, and has clarified its original definition of "cumulative toxic effect" in the revised version of the document.

E. Assessing Cumulative Toxicity.

Some of the commentors had comments pertaining to Section IV of the document: "Policies for Assessing the Cumulative Toxic Effects Posed by Two or More Pesticides That Are Toxic By a Common Mechanism." One commentator wanted the Agency to clarify this section. Several commentors questioned the example that poses a

hypothetical pharmacokinetic interaction between two substances and describes how EPA will consider such an interaction in its evaluation of cumulative toxicity. The Agency has revised this section of the document. As mentioned above, the Agency is currently developing a document that will describe in detail and provide examples of how the Agency will accumulate toxicity and assess cumulative risks posed by pesticides that are toxic from a common mechanism. The document will discuss the policies, practices and factors the Agency will use or consider in the assessment of cumulative toxicity.

V. Policies Not Rules

The draft science policy document discussed in this notice is intended to provide guidance to EPA personnel and decision-makers, and to the public. As a guidance document and not a rule, the policy in this guidance is not binding on either EPA or any outside parties. Although this guidance provides a starting point for EPA pesticide risk assessments, EPA will depart from its policy where the facts or circumstances warrant. In such cases, EPA will explain why a different course was taken. Similarly, outside parties remain free to assert that a policy is not appropriate for a specific pesticide or that the circumstances surrounding a specific risk assessment demonstrate that a policy should be abandoned.

The "revised" guidance is not an unalterable document. Once a "revised" guidance document is issued, EPA will continue to treat it as guidance, not a rule. Accordingly, on a case-by-case basis EPA will decide whether it is appropriate to depart from the guidance or to modify the overall approach in the guidance.

VI. Contents of Docket

Document that are referenced in this notice will be inserted in the docket under the docket control number OPP-00542. In addition, the documents referenced in the framework notice, which published in the **Federal Register** on October 29, 1998 (63 FR 58038) have also been inserted in the docket under docket control number OPP-00557.

List of Subjects

Environmental protection, Administrative practice and procedure, Agricultural commodities, pesticides and pests.

Dated: January 29, 1999.

Susan H. Wayland,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 99-2781 Filed 2-4-99; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-3230-6]

Proposed Agreement Pursuant to 122(g)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act for the MacGillis & Gibbs / Bell Lumber & Pole Site

AGENCY: Environmental Protection Agency ('EPA').

ACTION: Notice; Request for public comment.

SUMMARY: In accordance with 122(i)(1) of the Comprehensive Environmental Response, Compensation and Liability Act of 1984, as amended ("CERCLA"), notification is hereby given of a proposed administrative agreement concerning the MacGillis & Gibbs / Bell Lumber & Pole Superfund Site at 440 Fifth Avenue N.W. in New Brighton, Minnesota (the "Site"). EPA proposes to enter into this agreement under the authority of 122(g)(1)(B) of CERCLA. The proposed agreement has been executed by Hypro Corporation ("Hypro").

EPA listed the Site on the National Priorities List in 1984 after initial investigations revealed the presence of hazardous substances, including wastes associated with pentachlorophenol and creosote-based wood treating processes at the Site. EPA selected a final remedy for the Site in 1994, which included a groundwater extraction and treatment phase. Since then, EPA has incurred response costs mitigating an imminent and substantial endangerment to human health or the environment present or threatened by hazardous substances present at or near the Site, including hazardous substances migrating with an aquifer to the east of the Site. Hypro owns real property to the east of the Site and situated above an aquifer contaminated with hazardous substances associated with the Site.

Hypro has represented to EPA that it did not generate, treat, store or dispose of any hazardous substances at the Site and did not transport any hazardous substances to the Site, and has not permitted the contamination or contributed to it. Under the proposed agreement, Hypro will grant access to its

real property to the EPA and, upon assignment, the State of Minnesota, for the purpose of installing, operating and maintaining an extraction well cluster and related equipment for use in connection with the groundwater phase remedy at the Site. Hypro waives any claims against the Superfund for reimbursement of costs and for any potential claims under the Constitution for diminution of its property value resulting from the presence of the groundwater extraction equipment. EPA agrees to give Hypro protection from third-party claims under CERCLA for contribution and a covenant not to sue, subject to standard reopeners.

For thirty days following the date of publication of this notice, the Environmental Protection Agency will receive written comments relating to this proposed agreement. EPA will consider all comments received and may decide not to enter this proposed agreement if comments disclose facts or considerations which indicate that the proposed agreement is inappropriate, improper or inadequate.

DATES: Comments on the proposed agreement must be received by EPA on or before March 8, 1999.

ADDRESSES: Comments should be addressed to the Docket Clerk, U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604-3590, and should refer to: In the Matter of Hypro Corporation, New Brighton, Minnesota, U.S. EPA Docket No. V-W-99-C-524.

FOR FURTHER INFORMATION CONTACT:

Thomas M. Williams, U.S. Environmental Protection Agency, Office of Regional Counsel, C-14J, 77 West Jackson Boulevard, Chicago, Illinois, 60604-3590, (312) 886-0814.

A copy of the proposed administrative settlement agreement may be obtained in person or by mail from the EPA's Region 5 Office of Regional Counsel, 77 West Jackson Boulevard, Chicago, Illinois, 60604-3590. Additional background information relating to the settlement is available for review at the EPA's Region 5 Office of Regional Counsel.

Authority: The Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. Sections 9601-9675.

William E. Munro,

Director, Superfund Division, Region 5.

[FR Doc. 99-2790 Filed 2-4-99; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-6226-9]

Clean Water Act Class II: Proposed Administrative Penalty Assessment and Opportunity To Comment Regarding Northeast Public Sewer District, Fenton, Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed administrative penalty assessment and opportunity to comment regarding Northeast Public Sewer District, Fenton, Missouri.

SUMMARY: EPA is providing notice of opportunity to comment on the proposed assessment.

Under 33 U.S.C. 1319(g), EPA is authorized to issue orders assessing civil penalties for various violations of the Act. EPA may issue such orders after filing a Complaint commencing either a Class I or Class II penalty proceeding. EPA provides public notice of the proposed assessment pursuant to 33 U.S.C. 1319(g).

Class II proceedings are conducted under EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 CFR part 22. The procedures by which the public may submit written comment on a proposed Class II order or participate in a Class II proceeding, and the procedures by which a respondent may request a hearing, are set forth in the Consolidated Rules. The deadline for submitting public comment on a proposed Class II order is thirty (30) days after issuance of public notice.

On December 31, 1998, EPA commenced the following Class II proceeding for the assessment of penalties by filing with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101, (913) 551-7630, the following complaint:

In the Matter of, the Northeast Public Sewer District, City of Fenton, Missouri; EPA Docket No. CWA-VII-99-0003.

The Complaint proposes a penalty of Five Thousand Dollars (\$5,000) for discharge of sludge to Saline Creek in violation of the National Pollutant Discharge Elimination System (NPDES) permit and Sections 301(a) and 402 of the Clean Water Act.

FOR FURTHER INFORMATION CONTACT:

Persons wishing to receive a copy of EPA's Consolidated Rules, review the Complaint or other documents filed in this proceeding, comment upon the proposed penalty assessment, or