

pursuant to sections 4(g)(2)(B) and 3(c)(2)(B) of FIFRA which required the registrants of the products containing 2-benzyl-4-chlorophenol used as the active ingredient to develop and submit certain data. These data/information were determined to be necessary to satisfy reregistration data requirements of section 4(g). Failure to comply with the requirements of a Phase 5 Reregistration Eligibility Document Data Call-In-Notice is a basis for suspension under section 3(c)(2)(B) of FIFRA. You received this notice on November 18, 1996, as evidenced by the U.S. Postal Service return receipt.

The Agency received on February 21, 1997, the 90-day response to the 2-Benzyl-4-chlorophenol Data Call-In for EPA Registration Number 63163-1. The response which included the "Requirements Status and Registrant's Response" form dated February 12, 1997, indicated KC Laboratories' commitment to generate and submit all product chemistry, acute toxicity and efficacy data required by the 2-benzyl-4-chlorophenol, RED, Product Specific Data Call-In Notice by dates required by the Notice.

The 8-month response including all the required data set forth in the 2-Benzyl-4-chlorophenol Data Call-In was required to be submitted to the Agency by July 13, 1997. In an Agency letter dated April 27, 1999, KC Laboratories was given 30 days from its receipt of the letter to submit the 8-month response and required data. KC Laboratories received this letter on May 3, 1999, as evidenced by the U.S. Postal Service return receipt. To date, the Agency has not received the product specific data (8-month response).

To date October 1, 1999, the Agency has not received the required 8-month response. Based on the 1996 2-Benzyl-4-chlorophenol Data Call-In, KC Laboratories is not in compliance; therefore, the Agency is issuing this Notice of Intent to Suspend.

## VI. Conclusions

EPA has issued Notices of Intent to Suspend on the dates indicated. Any further information regarding these Notices may be obtained from the contact person noted above.

## List of Subjects

Environmental protection.

Dated: September 18, 2000.

**Richard Colbert,**

*Director, Agriculture and Ecosystems Division, Office of Compliance.*

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## ENVIRONMENTAL PROTECTION AGENCY

[OPP-60055; FRL-6743-8]

### Intent to Suspend Certain Pesticide Registrations

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of issuance of Notices of Intent to Suspend.

**SUMMARY:** This Notice, pursuant to section 6(f)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq.*, announces that EPA has issued Notices of Intent to Suspend pursuant to sections 3(c)(2)(B) and 4 of FIFRA. The Notices were issued following issuance of Section 4 Reregistration Requirements Notices by the Agency and the failure of registrants subject to the Section 4 Reregistration Requirements Notices to take appropriate steps to secure the data required to be submitted to the Agency. This Notice includes the text of a Notice of Intent to Suspend, absent specific chemical, product, or factual information. Table A of this Notice further identifies the registrants to whom the Notices of Intent to Suspend were issued, the date each Notice of Intent to Suspend was issued, the active ingredient(s) involved, and the EPA registration numbers and names of the registered product(s) which are affected by the Notices of Intent to Suspend. Moreover, Table B of this Notice identifies the basis upon which the Notices of Intent to Suspend were issued. Finally, matters pertaining to the timing of requests for hearing are specified in the Notices of Intent to Suspend and are governed by the deadlines specified in section 3(c)(2)(B). As required by section 6(f)(2), the Notices of Intent to Suspend were sent by certified mail, return receipt requested, to each affected registrant at its address of record.

**FOR FURTHER INFORMATION CONTACT:** Harold Day, Office of Compliance (2225A), Agriculture and Ecosystems Division, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460, (202) 564-4133.

### SUPPLEMENTARY INFORMATION:

#### I. Does this Action Apply to Me

This action is directed to the public in general. Although this action may be of particular interest to persons who produce or use pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action

to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

#### II. Text of a Notice of Intent to Suspend

The text of a Notice of Intent to Suspend, absent specific chemical, product, or factual information, follows:

**United States Environmental Protection Agency**

**Office of Prevention, Pesticides and Toxic Substances**

Washington, DC 20460

Certified Mail

*Return Receipt Requested*

**SUBJECT:** Suspension of Registration of Pesticide Product(s) Containing Dichlobenil for Failure to Comply with the Dichlobenil Section 4 Phase 5 Reregistration Eligibility Document Data Call-In Notice Dated October 1998

Dear Sir/Madam:

This letter gives you notice that the pesticide product registrations listed in Attachment I will be suspended 30 days from your receipt of this letter unless you take steps within that time to prevent this Notice from automatically becoming a final and effective order of suspension. The Agency's authority for suspending the registrations of your products is section 3(c)(2)(B) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Upon becoming a final and effective order of suspension, any violation of the order will be an unlawful act under section 12(a)(2)(f) of FIFRA.

You are receiving this Notice of Intent to Suspend because you have failed to comply with the terms of the Phase 5 Reregistration Eligibility Document Data Call-In Notice imposed pursuant to section 4(g)(2)(b) and section (3)(2)(B) of FIFRA.

The specific basis for issuance of this Notice is stated in the Explanatory Appendix (Attachment III) to this Notice. The affected products and the requirements which you failed to satisfy are listed and described in the following three attachments:

Attachment I Suspension Report—Product List

Attachment II Suspension Report—Requirement List

Attachment III Suspension Report—Explanatory Appendix

The suspension of the registration of each product listed in Attachment I will become final unless at least one of the following actions is completed.

1. You may avoid suspension under this Notice if you or another person adversely affected by this Notice properly request a hearing within 30 days of your receipt of this Notice. If you request a hearing, it will be conducted in accordance with the

requirements of section 6(d) of FIFRA and the Agency's procedural regulations in 40 CFR part 164.

Section 3(c)(2)(B), however, provides that the only allowable issues which may be addressed at the hearing are whether you have failed to take the actions which are the bases of this Notice and whether the Agency's decision regarding the disposition of existing stocks is consistent with FIFRA. Therefore, no substantive allegation or legal argument concerning other issues, including but not limited to the Agency's original decision to require the submission of data or other information, the need for or utility of any of the required data or other information or deadlines imposed, and the risks and benefits associated with continued registration of the affected product, may be considered in the proceeding. The Administrative Law Judge shall by order dismiss any objections which have no bearing on the allowable issues which may be considered in the proceeding.

Section 3(c)(2)(B)(iv) of FIFRA provides that any hearing must be held and a determination issued within 75 days after receipt of a hearing request. This 75-day period may not be extended unless all parties in the proceeding stipulate to such an extension. If a hearing is properly requested, the Agency will issue a final order at the conclusion of the hearing governing the suspension of your products.

A request for a hearing pursuant to this Notice must (1) include specific objections which pertain to the allowable issues which may be heard at the hearing, (2) identify the registrations for which a hearing is requested, and (3) set forth all necessary supporting facts pertaining to any of the objections which you have identified in your request for a hearing. If a hearing is requested by any person other than the registrant, that person must also state specifically why he asserts that he would be adversely affected by the suspension action described in this Notice. Three copies of the request must be submitted to: Hearing Clerk, 1900, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and an additional copy should be sent to the signatory listed below. The request must be received by the Hearing Clerk by the 30th day from your receipt of this Notice in order to be legally effective. The 30-day time limit is established by FIFRA and cannot be extended for any reason. Failure to meet the 30-day time limit will result in automatic suspension of your registration(s) by operation of law and, under such

circumstances, the suspension of the registration for your affected product(s) will be final and effective at the close of business 30 days after your receipt of this Notice and will not be subject to further administrative review.

The Agency's Rules of Practice at 40 CFR 164.7 forbid anyone who may take part in deciding this case, at any stage of the proceeding, from discussing the merits of the proceeding *ex parte* with any party or with any person who has been connected with the preparation or presentation of the proceeding as an advocate or in any investigative or expert capacity, or with any of their representatives. Accordingly, the following EPA offices, and the staffs thereof, are designated as judicial staff to perform the judicial function of EPA in any administrative hearings on this Notice of Intent to Suspend: The Office of the Administrative Law Judges, the Office of the Judicial Officer, the Administrator, the Deputy Administrator, and the members of the staff in the immediate offices of the Administrator and Deputy Administrator. None of the persons designated as the judicial staff shall have any *ex parte* communication with trial staff or any other interested person not employed by EPA on the merits of any of the issues involved in this proceeding, without fully complying with the applicable regulations.

2. You may also avoid suspension if, within 30 days of your receipt of this Notice, the Agency determines that you have taken appropriate steps to comply with the Section 4 Phase 5 Reregistration Eligibility Document Data Call-In Notice requirements. In order to avoid suspension under this option, you must satisfactorily comply with Attachment II, Requirement List, for each product by submitting all required supporting data/information described in Attachment II and in the Explanatory Appendix (Attachment III) to the following address (preferably by certified mail):

Office of Compliance (2225A), Agriculture and Ecosystems Division, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

For you to avoid automatic suspension under this Notice, the Agency must also determine within the applicable 30-day period that you have satisfied the requirements that are the bases of this Notice and so notify you in writing. You should submit the necessary data/information as quickly as possible for there to be any chance the Agency will be able to make the necessary determination in time to avoid suspension of your product(s).

The suspension of the registration(s) of your company's product(s) pursuant to this Notice will be rescinded when the Agency determines you have complied fully with the requirements which were the bases of this Notice. Such compliance may only be achieved by submission of the data/information described in the attachments to the signatory below.

Your product will remain suspended, however, until the Agency determines you are in compliance with the requirements which are the bases of this Notice and so informs you in writing.

After the suspension becomes final and effective, the registrant subject to this Notice, including all supplemental registrants of product(s) listed in Attachment I, may not legally distribute, sell, use, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person, the product(s) listed in Attachment I.

Persons other than the registrant subject to this Notice, as defined in the preceding sentence, may continue to distribute, sell, use, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person, the product(s) listed in Attachment I.

Nothing in this Notice authorizes any person to distribute, sell, use, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person, the product(s) listed in Attachment I in any manner which would have been unlawful prior to the suspension.

If the registrations of your products listed in Attachment I are currently suspended as a result of failure to comply with another Section 4 Data Requirements Notice or Section 3(c)(2)(B) Data Call-In Notice, this Notice, when it becomes a final and effective order of suspension, will be in addition to any existing suspension, i.e., all requirements which are the bases of the suspension must be satisfied before the registration will be reinstated.

You are reminded that it is your responsibility as the basic registrant to notify all supplementary registered distributors of your basic registered product that this suspension action also applies to their supplementary registered products and that you may be held liable for violations committed by your distributors. If you have any questions about the requirements and procedures set forth in this suspension notice or in the subject section 4 Data Requirements Notice, please contact Francisca Liem at (202) 564-2365.

Sincerely yours,

Director, Agriculture and Ecosystems  
Division, Office of Compliance

Attachments:

Attachment I—Product List

Attachment II—Requirement List

Attachment III—Explanatory Appendix

**III. Registrants Receiving and Affected  
by Notices of Intent to Suspend; Date of  
Issuance; Active Ingredient and  
Products Affected**

The following is a list of products for  
which a letter of notification has been  
sent:

TABLE A.—LIST OF PRODUCTS

Registrant Affected	EPA Registration Number	Active Ingredient	Name of Product	Date Issued
Toby's Chemical Co. Inc.	06815300001	Dichlobenil	Dichlojell Root Killer Cream	8/10/00
Voluntary Purchasing Group, Inc.	00740100395	Dichlobenil	American Brand Casoron Granules	8/10/00

**IV. Basis for Issuance of Notice of Intent; Requirement List**

The following companies failed to submit the following requirement data or information:

TABLE B.—LIST OF REQUIREMENTS

Active Ingredient	Registrant Affected	Requirement Name	Original Due—Date
Dichlobenil	Toby's Chemical Co. Inc.	Chemical Identity (Guideline Reference No: 61-1)	7/1/99
		Beginning Material and Manufacturing Process (Guideline Reference No: 61-2(a))	7/1/99
		Discussion of Impurities (Guideline Reference No: 61-2(b))	7/1/99
		Preliminary Analysis of Product Samples (Guideline Reference No: 62-1)	7/1/99
		Certification of Ingredient Limits (Guideline Reference No: 62-2)	7/1/99
		Analytical Method to Verify Certified Limits (Guideline Reference No: 62-3)	7/1/99
		Color (Guideline Reference No: 63-2)	7/1/99
		Physical State (Guideline Reference No: 63-3)	7/1/99
		Density, Bulk Density, or Specific Gravity (Guideline Reference No: 63-7)	7/1/99
		pH (Guideline Reference No: 63-12)	7/1/99
		Stability (Guideline Reference No: 63-13)	7/1/99
		Oxidizing/Reducing Action (Guideline Reference No: 63-14)	7/1/99
		Flammability (Guideline Reference No: 63-15)	7/1/99
		Explosibility (Guideline Reference No: 63-16)	7/1/99
		Storage Stability (Guideline Reference No: 63-17)	7/1/99
		Viscosity (Guideline Reference No: 63-18)	7/1/99
		Miscibility (Guideline Reference No: 63-19)	7/1/99
		Corrosion Characteristics (Guideline Reference No: 63-20)	7/1/99
		Dielectric Breakdown Voltage (Guideline Reference No: 63-21)	7/1/99
		Dichlobenil	Voluntary Purchasing Group, Inc.
Acute Dermal Toxicity—Rabbit/Rat (Guideline Reference No: 81-2)	7/1/99		
Acute Inhalation Toxicity—Rat (Guideline Reference No: 81-3)	7/1/99		
Primary Eye Irritation—Rabbit (Guideline Reference No: 81-4)	7/1/99		
Primary Dermal Irritation (Guideline Reference No: 81-5)	7/1/99		
Dermal Sensitization (Guideline Reference No: 81-6)	7/1/99		
90-Day Response	7/1/99		
Confidential Statement of Formula (CSF) Form	7/1/99		
8-Month Response	7/1/99		
Chemical Identity (Guideline Reference No: 61-1)	7/1/99		
Beginning Material and Manufacturing Process (Guideline Reference No: 61-2(a))	7/1/99		
Discussion of Impurities (Guideline Reference No: 61-2(b))	7/1/99		
Preliminary Analysis of Product Samples (Guideline Reference No: 62-1)	7/1/99		
Certification of Ingredient Limits (Guideline Reference No: 62-2)	7/1/99		
Analytical Method to Verify Certified Limits (Guideline Reference No: 62-3)	7/1/99		
Color (Guideline Reference No: 63-2)	7/1/99		
Physical State (Guideline Reference No: 63-3)	7/1/99		

TABLE B.—LIST OF REQUIREMENTS—Continued

Active Ingredient	Registrant Affected	Requirement Name	Original Due-Date
		Density, Bulk Density, or Specific Gravity (Guideline Reference No: 63-7)	7/1/99
		pH (Guideline Reference No: 63-12)	7/1/99
		Stability (Guideline Reference No: 63-13)	7/1/99
		Oxidizing/Reducing Action (Guideline Reference No: 63-14)	7/1/99
		Flammability (Guideline Reference No: 63-15)	7/1/99
		Explosibility (Guideline Reference No: 63-16)	7/1/99
		Storage Stability (Guideline Reference No: 63-17)	7/1/99
		Viscosity (Guideline Reference No: 63-18)	7/1/99
		Miscibility (Guideline Reference No: 63-19)	7/1/99
		Corrosion Characteristics (Guideline Reference No: 63-20)	7/1/99
		Dielectric Breakdown Voltage (Guideline Reference No: 63-21)	7/1/99
		Acute Oral Toxicity—Rat (Guideline Reference No: 81-1)	7/1/99
		Acute Dermal Toxicity—Rabbit/Rat (Guideline Reference No: 81-2)	7/1/99
		Acute Inhalation Toxicity—Rat (Guideline Reference No: 81-3)	7/1/99
		Primary Eye Irritation—Rabbit (Guideline Reference No: 81-4)	7/1/99
		Primary Dermal Irritation (Guideline Reference No: 81-5)	7/1/99
		Dermal Sensitization (Guideline Reference No: 81-6)	7/1/99
		90-Day Response	7/1/99
		Confidential Statement of Formula (CSF) Form	7/1/99
		8-Month Response	7/1/99

### V. Attachment III Suspension Report—Explanatory Appendix

A discussion of the basis for the Notices of Intent to Suspend follows:

#### Dichlobenil

##### A. Toby Chemical Co.

In October 1998, the Agency issued the Phase 5 Reregistration Eligibility Document Data Call-In Notice imposed pursuant to sections 4(g)(2)(B) and 3(c)(2)(B) of FIFRA which required the registrants of products containing Dichlobenil used as an active ingredient to develop and submit certain data. These data/information were determined to be necessary to satisfy reregistration data requirements of section 4(g). Failure to comply with the requirements of a Phase 5 Registration Eligibility Document Call-In Notice is a basis for suspension under section 3(c)(2)(b) of FIFRA. You received this notice on November 2, 1998, as evidenced by the U.S. Postal Service green card return receipt. This Data Call-In Notice required the registrant to submit a 90-day response indicating their intent to submit the required data and the 8-month response submitting the required data.

On May 10, 1999, Brazos Associates, Inc., agent for General Chemical Co., notified the Agency that the product Dichlojell (EPA Registration No. 68153-1), transferred from Toby Chemical Co. to General Chemical Co. Brazos Associates indicated in the May 10, 1999 letter that General Chemical Co. has elected to let this product go into suspension rather than develop and

submit the required product chemistry and acute toxicity data required to support its product's reregistration with the Agency. However, since no official request has been received by the Agency from Brazos Associates to affectuate a transfer of the registration to General Chemical Co., and, hence, no registration transfer has been completed by the Agency, Toby Chemical Co. is still considered the registrant of record for the registration.

Since Toby Chemical Co. has not submitted the 90-day or 8-month response, nor the required data by the July 1, 1999, due date, the Agency is issuing this Notice of Intent to Suspend.

##### B. Voluntary Purchasing Group, Inc.

In October 1988, the Agency issued a Phase 5 Reregistration Eligibility Document Data Call-In Notice imposed pursuant to sections 4(g)(2)(B) and 3(c)(2)(B) of FIFRA which required the registrants of products containing Dichlobenil used as an active ingredient to develop and submit certain data. These data/information were determined to be necessary to satisfy reregistration data requirements of section 4(g). Failure to comply with the requirements of a Phase 5 Reregistration Eligibility Document Call-In Notice is a basis for suspension under section 3(c)(2)(B) of FIFRA. Voluntary Purchasing Group, Inc. received this document on October 29, 1998, as evidenced by the U.S. Postal Service green card return receipt. This Data Call-In Notice required the registrant to submit a 90-response indicating their intent to submit the required data and

an 8-month response submitting the required data.

On March 12, 1999, Brazos Associates, Inc., agent for Voluntary Purchasing Group, Inc., requested that the Agency suspend the product, American Brands Casoron Granules (EPA Registration Number 7401-395). The registrant through its agent indicated that it was not submitting the product-specific data required to support the product's reregistration with the Agency.

Since neither the 90-day or 8-month responses, nor the required data were submitted by the July 1, 1999 due date, the Agency is issuing this Notice of Intent to Suspend.

### VI. Conclusions

EPA has issued Notices of Intent to Suspend on the dates indicated. Any further information regarding these Notices may be obtained from the contact person noted above.

#### List of Subjects

Environmental protection.

Dated: September 18, 2000.

#### Richard Colbert,

Director, Agriculture and Ecosystems Division, Office of Compliance.

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