

requirements of a state-approved bee protection program.

The Agency believes that label precautions should be supplemented by additional efforts to protect bees, and that state programs are appropriate to this purpose. EPA does not intend to set specific criteria or approve state bee protection programs. The PR Notice recommends that state pesticide regulatory agencies consider a variety of regulatory and non-regulatory measures to include in bee-protection efforts. EPA believes that state agencies are in the best position to understand the localized crop-pesticide combinations and other factors that pose the greatest risks to bees, and can implement appropriate measures to mitigate those risks under varying local and geographic conditions.

#### *B. What Questions/Issues Should You Consider?*

Commenters are free to raise any issue, but the following questions are of particular interest to the Agency, and comments on them are invited.

1. Should the precautionary labeling language in the new policy allow for an exception from bee precautions for wide-area public health spray programs? In a number of communications to the Agency, officials involved in public health programs have noted that strict interpretation of the current bee precautionary labeling could prevent effective wide-area pest control in an emergency situation. The Agency's proposed new labeling language could also be very restrictive of wide-area spraying, for example, if a state had no bee protection program, or could not operate the program during an emergency. The suggestion has been made that the label language include a clause to the effect that precautions apply "...except when applications are made to prevent or control a declared public health threat." The Agency requests comment on whether such an exception on the label is necessary or appropriate, and if it is appropriate, what authority could invoke the exception. Should an exception be applicable to treatments intended to prevent possible disease outbreaks, or limited to significant emergencies like the aftermath of flooding or a proven outbreak of human or animal disease?

2. Should the new policy described in the PR Notice allow a 24 hour period of toxicity statement on labels in the absence of data as a permanent option, or only temporarily until registrants submit residual toxicity data?

3. From the commenter's perspective as a pesticide user, bee keeper, state regulator, or other interested party,

would a specific time period of toxicity to bees on the label be more or less useful than the current policy which includes a label prohibition on applications while bees are visiting the treatment area?

4. Is the label condition that pesticides can be applied if the user participates in a state bee protection program likely to encourage bee-protection efforts? From the commenter's perspective, is such a condition more or less useful in achieving bee protection that the current label prohibition against application when bees are visiting the treatment area?

#### *C. What is the Scope of this PR Notice?*

The draft PR Notice discussed in this notice is intended to provide guidance to pesticide registrants, EPA personnel, state regulatory personnel, and to the public. As a guidance document, this policy is not binding on either EPA or any outside parties, and EPA may depart from the guidance where circumstances warrant and without prior notice. Registrants and applicants may propose alternatives to the recommended labeling statements described in the Notice and the Agency will assess them for appropriateness on a case-by-case basis. If a product does not meet the requirements of 40 CFR Part 156, the Agency may find the product to be misbranded. As stated above, the Agency believes that the statements outlined in the Notice should reduce the potential for adverse effects to the environment and are "appropriate" within the meaning of 40 CFR 156.10(h)(2)(ii)(E).

EPA will make available revised guidance after consideration of public comment. Public comment is not being solicited for the purpose of converting this guidance document into a binding rule. EPA will not be codifying this policy in the Code of Federal Regulations. EPA is soliciting public comment so that it can make fully informed decisions regarding the content of this guidance.

The revised guidance will not be an unalterable document. Once a revised guidance document is issued, EPA will continue to treat it as guidance. 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.

#### **List of Subjects**

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

Dated: November 9, 2000.

**Marcia Mulkey,**

*Director, Office of Pesticide Programs*

[FR Doc. 00-29815 Filed 11-21-00; 8:45 am]

**BILLING CODE 6560-50-S**

## **ENVIRONMENTAL PROTECTION AGENCY**

[OPP-00674; FRL-6736-9]

### **Pesticides; Elimination of Phenol Resistance Testing for Antimicrobial Disinfectant and Sanitizer Pesticides**

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

**ACTION:** Notice of availability.

**SUMMARY:** The Agency seeks public comment on a draft Pesticide Registration (PR) Notice titled "Elimination of Phenol Resistance Testing for Antimicrobial Disinfectant and Sanitizer Pesticides." This draft notice provides guidance to registrants concerning the discontinuation of phenol resistance testing as a part of efficacy testing for antimicrobial disinfectants and sanitizers.

**DATES:** Comments, identified by docket control number OPP-00674, must be received on or before January 8, 2001.

**ADDRESSES:** Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP-00674 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** Ibrahim Barsoum, Antimicrobials Division (7510C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308-6417; fax number: (703) 308-8481; e-mail address: barsoum.ibrahim@epa.gov.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. General Information**

###### *A. Does this Action Apply to Me?*

This action is directed to the public in general. Although this action may be of particular interest to those persons who manufacture or formulate pesticides. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS	Examples of potentially affected entities
Pesticide Producers	32532	Pesticide manufacturers Pesticide formulators

Since other entities may also be interested, 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 information in this notice, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

*B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?*

1. *Electronically.* You may obtain electronic copies of this document and the PR Notice from the Office of Pesticide Programs' Home Page at <http://www.epa.gov/pesticides/>. You can also go directly to the listings from the EPA Internet Home Page at <http://www.epa.gov/>. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>.

2. *Fax-on-demand.* You may request a faxed copy of the draft PR Notice titled "Elimination of Phenol Resistance Testing for Antimicrobial Disinfectant and Sanitizer Pesticides," by using a faxphone to call (202) 401-0527 and selecting item 6132. You may also follow the automated menu.

3. *In person.* The Agency has established an official record for this action under docket control number OPP-00674. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public

Information and Records Integrity Branch (PIRIB), 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 PIRIB telephone number is (703) 305-5805.

*C. How and to Whom Do I Submit Comments?*

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP-00674 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.

3. *Electronically.* You may submit your comments electronically by E-mail to: [opp-docket@epa.gov](mailto:opp-docket@epa.gov), or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 file format or ASCII file format. All comments in electronic form must be identified by docket control number OPP-00674. Electronic comments may also be filed online at many Federal Depository Libraries.

*D. How Should I Handle CBI That I Want to Submit to the Agency?*

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the

information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

*E. What Should I Consider as I Prepare My Comments for EPA?*

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice.
7. Make sure to submit your comments by the deadline in this notice.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

**II. Background**

*A. What Guidance Does this PR Notice Provide?*

The draft PR Notice announces the discontinuation of phenol resistance testing as a part of efficacy testing for antimicrobial disinfectants and sanitizers. When the PR Notice is issued in final form, the Agency will consider registering or reregistering antimicrobial disinfectant or sanitizer pesticides without supporting phenol resistance testing. All other data in support of registration or reregistration, including any required efficacy testing data, would also need to be submitted and then accepted by the Agency.

Phenol resistance testing is a standard that has traditionally been used to estimate the intrinsic resistance or sensitivity of some test bacteria to chemical disinfectants and sanitizers. For years, the Agency has been aware of the lack of standard and uniform resistance levels to phenol expressed by the test cultures used in the existing

Official Methods of Analysis of the Association of Official Analytical Chemists (AOAC) test methods. Historically, the inability to maintain and propagate test cultures that express standard and uniform levels of phenol resistance has been a recognized scientific problem which has persisted for at least 70 years. Furthermore, the inability of many reputable and competent testing facilities to achieve consistent test results with the phenol resistance standard has prompted both concern and action by the Agency.

On September 10, 1997, after internal scientific deliberation, the Agency placed before the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel (SAP) the following questions regarding phenol resistance:

What scientific direction should be taken regarding the lack of standard and uniform resistance levels to phenol of the test cultures used in the existing AOAC efficacy test methods? Should the Agency:

- Totally eliminate the phenol resistance requirement; or
- Modify the required phenol resistance patterns to provide a broader range of acceptable resistance; or
- Replace the phenol resistance requirements with some other procedures that assure hardness and equivalence to test cultures, such as standard, quantitative inoculum level?

Briefly, the SAP responded that there is no current relevance to requiring the phenol resistance test and, therefore, the phenol coefficient method should be eliminated and new protocols should be established for defining the conditions for culturing test microorganisms with suitable resistance levels to antimicrobials.

Subdivision G of the Pesticide Assessment Guidelines, part 91-1, describes the general product performance (efficacy) standards for disinfectants and sanitizers. Subsection (b)(3)(I) of part 91-1 refers to the AOAC standard tests that may be used to satisfy the data requirements of 40 CFR 158.640. In turn, these AOAC tests include references to phenol resistance testing.

The Agency concurs with the SAP and has engaged in considerable discussion and deliberation, internally and with members of the scientific and regulated communities, on how to best proceed. Given the inapplicability of a test organism's resistance to phenol when disinfectants or sanitizers are tested for their efficacy performance, the Agency will no longer require submission of testing to demonstrate compliance with AOAC specified levels

of expressed phenol resistance by test microorganisms during the efficacy evaluation of disinfectants or sanitizers. However, as an interim measure while method development research continues, the Agency generally will expect a minimum inoculum level of  $10^4$  colony forming units per carrier for all test microorganisms when the AOAC carrier based tests are used.

#### *B. PR Notices are Guidance Documents*

The draft PR Notice discussed in this notice is intended to provide guidance to EPA personnel and decision-makers and to pesticide registrants. This notice is not binding on either EPA or pesticide registrants, and EPA may depart from the guidance where circumstances warrant and without prior notice. Likewise, pesticide registrants may assert that the guidance is not appropriate or not applicable to a specific pesticide or situation.

#### **List of Subjects**

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

Dated: November 9, 2000.

**Marcia E. Mulkey,**

*Director, Office of Pesticide Programs.*

[FR Doc. 00-29895 Filed 11-21-00 8:45 a.m.]

**BILLING CODE 6560-50-S**

## **ENVIRONMENTAL PROTECTION AGENCY**

[FRL-6905-2]

### **Notice of Proposed Prospective Purchaser Agreement Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as Amended by the Superfund Amendments and Reauthorization Act**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice; Request for public comment.

**SUMMARY:** In accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, ("CERCLA"), 42 U.S.C. 9601-9675, notice is hereby given that a proposed prospective purchaser agreement ("Purchaser Agreement") associated with the Fischer & Porter Superfund Site in Warminster Township, Bucks County, Pennsylvania was executed by the Environmental Protection Agency

and the Department of Justice and is now subject to public comment, after which the United States may modify or withdraw its consent if comments received disclose facts or considerations which indicate that the Purchaser Agreement is inappropriate, improper, or inadequate. The Purchaser Agreement would resolve certain potential EPA claims under Sections 106 and 107 of CERCLA, 42 U.S.C. 9606, 9607, against Blue Marlin Associates ("Purchasers"). The settlement would require the Purchasers to, among other things, reimburse the Environmental Protection Agency \$15,000.00 for response costs incurred and to be incurred at the Site.

For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the Purchaser Agreement. The Agency's response to any comments received will be available for public inspection at the U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103.

**DATES:** Comments must be submitted on or before December 22, 2000.

**AVAILABILITY:** The Purchaser Agreement and additional background information relating to the Purchaser Agreement are available for public inspection at the U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103. A copy of the Purchaser Agreement may be obtained from Suzanne Canning (3RC00), Regional Docket Clerk, U.S. Environmental Protection Agency, 1650 Arch Street, Philadelphia, PA 19103, or "Canning.Suzanne@epamail.epa.gov". Comments should reference the "Fischer & Porter Superfund Site, Prospective Purchaser Agreement" and "EPA Docket No. CERC-PPA-2000-0007," and should be forwarded to Elizabeth Lukens at the address below.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth B Lukens (3RC44), Senior Assistant Regional Counsel, U.S. Environmental Protection Agency, 1650 Arch Street, Philadelphia, PA 19103, Phone: (215) 814-2661.

Dated: November 15, 2000.

**Thomas C. Voltaggio,**

*Acting Regional Administrator, U.S. Environmental Protection Agency, Region III.*

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