

official Air Docket since the October 1992 enactment of the WIPP LWA.

Dated: November 18, 2008.

Elizabeth Cotsworth,

Director, Office of Radiation and Indoor Air.
[FR Doc. E8-28124 Filed 11-25-08; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2008-0387; FRL-8365-9]

Intent to Suspend Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of issuance of Notice of Intent to Suspend; Suspension Order.

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 a Notice of Intent to Suspend pursuant to sections 3(c)(2)(B) and 4 of FIFRA. The Notice was issued following issuance of a Section 4 Reregistration Data Requirements Notice by the Agency and the failure of the registrant subject to the Section 4 Reregistration Data Requirements Notice 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 1 of this Notice further identifies the registrant to whom the Notice of Intent to Suspend was issued, the date the 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 Notice of Intent to Suspend. Moreover, Table 2 of this Notice identifies the basis upon which the Notice of Intent to Suspend was issued. Finally, matters pertaining to the timing of requests for hearing are specified in the Notice 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 Notice of Intent to Suspend was sent by certified mail, return receipt requested, to the affected registrant at its address of record. The Notice of Intent to Suspend described in this Notice was received by the registrant and the products have been suspended by operation of law. The Notice of Intent to Suspend has become an effective suspension order.

FOR FURTHER INFORMATION CONTACT: Bonnie Adler, Special Review and

Reregistration Division, 7508P, Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-8523; fax number: (703) 308-8005; e-mail address: adler.bonnie@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 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**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPP-2008-0387. Publicly available docket materials are available either in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the **Federal Register** listings at <http://www.epa.gov/fedrgstr>.

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 _____ for Failure to Comply with the Section 4 Phase 5 Reregistration Eligibility Decision Data Call-In Notice

Dear Sir/Madam:

This letter gives you notice that the pesticide product registration(s) 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)(j) 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 Decision Data Call-In Notice imposed pursuant to section 4(g)(2)(B) and section 3(c)(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 product(s) and the requirement(s) 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, any allegations of errors or unfairness in any proceedings before an arbitrator, 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 product(s).

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 Avenue, 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 Environmental Appeals Board, 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 3(c)(2)(B) Data Call-In Notice. 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 Pesticide Programs
Special Review and Reregistration Division
(7508P)

U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, 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 registration(s) for your product(s) listed in Attachment I are currently suspended as a result of failure to comply with another section 3(c)(2)(B) Data Call-In Notice or Section 4 Data Requirements 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 3(c)(2)(B) Data Call-In Notice, please contact Linda S. Propst at (703) 308-8165.

III. Registrant 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 1.—LIST OF PRODUCTS

| Registrant Affected | EPA Registration Number | Active Ingredient | Product Name | Date Issued |
|---------------------|-------------------------|-------------------|---|-------------|
| The Scotts Company | 538-160 | MCPA | Turf Builder Plus 2 W/S For Grass | 4/3/08* |
| The Scotts Company | 538-218 | MCPA | Scott's Lawn Pro Lawn Weed Control Plus | 4/3/08* |
| The Scotts Company | 538-222 | MCPA | Scott's Lawn Pro Weed N' Feed | 4/3/08* |

* The Notice was received by The Scotts Company on April 14, 2008, as evidenced by the signed and dated U.S. Postal Service return receipt. The Notice of Intent to Suspend has since become an effective order of suspension as of May 14, 2008, as the registrant has neither requested a hearing nor brought its affected registrations into compliance within the statutory time period.

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

The Scotts Company failed to submit the following required data or information.

TABLE 2.—LIST OF REQUIREMENTS

| OPPTS Harmonized Guideline # | Requirement Name | Test Substance | Due Date |
|------------------------------|--|------------------------|--|
| 830.1550 | Product Identity and Composition | TGAI, MP, EP | November 15, 2006 |
| 830.1600 | Description of Materials Used to Produce the Product | TGAI, MP, EP | November 15, 2006 |
| 830.1620 | Description of Production Process | TGAI | November 15, 2006 |
| 830.1650 | Description of Formulation Process | MP, EP | November 15, 2006 |
| 830.1670 | Discussion of Formation Impurities | TGAI | November 15, 2006 |
| 830.1700 | Preliminary Analysis | TGAI | November 15, 2006 |
| 830.1750 | Certified Limits | TGAI, MP, EP | November 15, 2006 |
| 830.1800 | Enforcement Analytical Method | TGAI, MP, EP | November 15, 2006 |
| 830.6302 | Color | TGAI, MP, EP | November 15, 2006 |
| 830.6303 | Physical State | TGAI, MP, EP | November 15, 2006 |
| 830.6304 | Odor | TGAI, MP, EP | November 15, 2006 |
| 830.6313 | Stability to Sunlight, Normal and Elevated Temperatures, Metals and Metal Ions | TGAI | November 15, 2006 |
| 830.6314 | Oxidation/Reduction: Chemical Incompatibility | MP, EP | November 15, 2006 |
| 830.6315 | Flammability/Flame Extension | MP, EP | November 15, 2006 |
| 830.6316 | Explosibility | MP, EP | November 15, 2006 |
| 830.6317 | Storage Stability of Product | MP, EP | November 15, 2006 |
| 830.6319 | Miscibility | MP, EP | November 15, 2006 |
| 830.6320 | Corrosion Characteristics | MP, EP | November 15, 2006 |
| 830.6321 | Dielectric Breakdown Voltage | EP | November 15, 2006 |
| 830.7000 830.7100 | pH of Water Solution or Suspensions Viscosity | TGAI, MP, EP MP, EP | November 15, 2006 November 15, 2006 |
| 830.7200 | Melting Point/Melting Range (only required if product is a solid) | TGAI | November 15, 2006 |
| 830.7220 | Boiling Point/Boiling Range (only required if product is a liquid) | TGAI | November 15, 2006 |
| 830.7300 | Density/Relative Density | TGAI, MP, EP | November 15, 2006 |
| 870.1100 | Acute Oral Toxicity | TGAI, MP, EP | November 15, 2006 |
| 870.1200 | Acute Dermal Toxicity | TGAI, MP, EP | November 15, 2006 |
| 870.1300 | Acute Inhalation Toxicity | TGAI, MP, EP | November 15, 2006 |
| 870.2400 | Acute Eye Irritation | TGAI, MP, EP | November 15, 2006 |
| 870.2500 | Acute Dermal Irritation | TGAI, MP, EP | November 15, 2006 |
| 870.2600 | Skin Sensitization | TGAI, MP, EP | November 15, 2006 |

EP = End Use Product
MP = Manufacturing Product
TGAI = Technical Grade Active Ingredient

V. Attachment III Suspension Report—Explanatory Appendix

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

On March 3, 2006, the Agency issued the Phase 5 Reregistration Eligibility Decision (RED) Data Call-In Notice pursuant to sections 4(g)(2)(B) of FIFRA which required registrants of products containing MCPA used as an active ingredient to develop and submit certain data. The data/information was determined to be necessary to satisfy the reregistration requirements of section 4(g) of FIFRA. Failure to comply with the requirements of a Phase 5 Reregistration Eligibility Decision Product Data Call-In Notice (PDCI) is a basis for suspension under section 3(c)(2)(B) of FIFRA.

The Scotts Company (Scotts) received the MCPA RED on March 6, 2006 (as evidenced by the signed and dated U.S. Postal Service domestic return receipt card). They did not respond to the PDCI with the required 90-day PDCI response for any of the three products, nor with the required 8-month responses with the required data. A letter from Linda Propst to Sheila Kendrick of Scotts was sent on November 14, 2006, which indicated that the Agency had not received the required data by the established due dates. It also stated that if data were not submitted within 15 days, a Notice of Intent to Suspend would be initiated. The return receipt for that letter was postmarked on November 20, 2006. On March 20, 2007, a second letter from Linda Propst to Sheila Kendrick of Scotts was sent indicating that data had still not been received and a Notice of Intent to Suspend will be forthcoming if data were not received in 10 days. The return receipt for that letter was postmarked on March 27, 2007. That letter was our second and final attempt to obtain the necessary documentation to support these products.

Since neither the required 90-day nor 8-month responses have been submitted for the MCPA PDCI, this Notice of Intent to Suspend is being issued.

VI. Conclusions

EPA issued a Notice of Intent to Suspend on the date indicated and the Notice of Intent to Suspend was received by the registrant on April 14, 2008. The Notice of Intent to Suspend became an effective suspension order on May 14, 2008. Any further information regarding this Notice or the suspension order may be obtained from the contact person noted above.

List of Subjects

Environmental protection.

Dated: November 13, 2008.

Steven Bradbury

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. E8-28128 Filed 11-25-08; 8:45 am]

BILLING CODE 6560-50-S

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within ten days of the date this notice appears in the **Federal Register**. Copies of agreements are available through the Commission's Web site (<http://www.fmc.gov>) or contacting the Office of Agreements at (202)-523-5793 or tradeanalysis@fmc.gov.

Agreement No.: 011962-006.

Title: Consolidated Chassis

Management Pool Agreement.

Parties: The Ocean Carrier Equipment Management Association and its member lines; the Association's subsidiary Consolidated Chassis Management LLC and its affiliates; China Shipping Container Lines Co., Ltd.; Companhia Libra de Navegacao; Compania Libra de Navegacion Uruguay; Matson Navigation Co.; Mediterranean Shipping Co., S.A.; Midwest Consolidated Chassis Pool LLC; Norasia Container Lines Limited; Westwood Shipping Lines; and Zim Integrated Shipping Services Ltd.

Filing Party: Jeffrey F. Lawrence, Esq.; Sher & Blackwell LLP; 1850 M Street, NW; Suite 900; Washington, DC 20036.

Synopsis: The amendment would add the Chicago Ohio Valley Consolidated Chassis Pool LLC as a party to the agreement.

Agreement No.: 012056.

Title: WWL/EUKOR Joint Operating Agreement.

Parties: EUKOR Car Carriers, Inc. and Wallenius Wilhelmsen Logistics AS.

Filing Party: Wayne R. Rohde, Esq.; Sher & Blackwell, LLP; 1850 M Street NW Suite 900; Washington, DC 20036.

Synopsis: The agreement would authorize the parties to engage in a broad range of operational and commercial cooperation in the U.S. foreign commerce.

Agreement No.: 012057.

Title: CMA CGM /Maersk Line Space Charter, Sailing and Cooperative Working Agreement Asia to USEC and PNW-Suez/PNW & Panama Loops.

Parties: A.P. Moller-Maersk A/S, and CMA CGM S.A.

Filing Party: Wayne R. Rohde, Esq.; Sher and Blackwell LLP; 1850 M Street, NW Suite 900; Washington, DC 20036.

Synopsis: The agreement authorizes the parties to share vessel space in the trades between the U.S. East and West Coasts and Asia.

Agreement No.: 200866-006.

Title: Lease and Operating Agreement between Broward County and King Ocean Service de Venezuela, S.A. and King Ocean Services, Ltd.

Parties: Broward County, King Ocean Service de Venezuela, S.A., and King Ocean Services, Ltd.

Filing Party: Candace J. Running; Broward County Board of County Commissioners; Office of the County Attorney; 1850 Eller Drive, Suite 502; Fort Lauderdale, FL 33316.

Synopsis: The amendment changes the location of Lessee's existing container terminal facility from Midport to Southport, Port Everglades and extends the lease term for an additional one year period.

Agreement No.: 201170-002.

Title: The Los Angeles and Long Beach Port Infrastructure and Environmental Programs Cooperative Working Agreement.

Parties: Port of Los Angeles and Port of Long Beach.

Filing Party: C. Jonathan Benner, Esq.; Troutman Sanders, LLP; 401 9th Street Suite 1000; Washington, DC 20004-2134.

Synopsis: The amendment confirms that the parties' authority to adopt joint measures regarding the terms and conditions of a concession does not extend to measures that require employee status for drivers of Drayage Trucks or permit or exclude independent owner-operator drivers from providing or operating Drayage Trucks in either Port.

Agreement No.: 201196-002.

Title: Los Angeles and Long Beach Marine Terminal Agreement.

Parties: City of Los Angeles and City of Long Beach.

Filing Party: Matthew J. Thomas, Esq.; Troutman Sanders LLP; 401 9th Street NW Suite 1000; Washington, DC 20004.

Synopsis: The amendment confirms that the parties' authority to adopt joint measures regarding terms and conditions of a concession does not extend to measures that require employee status for drivers of Drayage Trucks or permit or exclude independent owner-operator drivers from providing or operating Drayage Trucks in either Port.

By Order of the Federal Maritime Commission.