

may be found on the SAB Web site at <http://www.epa.gov/sab>.

**SUPPLEMENTARY INFORMATION:** Pursuant to the Federal Advisory Committee Act, 5 U.S.C., App. 2 (FACA), notice is hereby given that the SAB Committee on Science Integration for Decision Making will hold a public teleconference to complete its work plan for an evaluative study of EPA scientific assessment practices for decision making. The SAB was established pursuant to 42 U.S.C. 4365 to provide independent scientific and technical advice to the Administrator on the technical basis for Agency positions and regulations. The SAB is a Federal Advisory Committee chartered under FACA. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

Background: The Committee for Science Integration for Decision Making met on June 9–10, 2009 in Washington, DC to begin its work on this study (see 74 FR 23187). Additional information on the study and the meeting may be found on the SAB Web site at [http://yosemite.epa.gov/sab/sabproduct.nsf/fedrgrstr\\_activites/Science%20Integration?OpenDocument](http://yosemite.epa.gov/sab/sabproduct.nsf/fedrgrstr_activites/Science%20Integration?OpenDocument). EPA uses many kinds of scientific assessments for policy analysis and decision making. In a study published in 2000, the SAB found that an integrated approach to scientific assessment and decision making was needed to effectively address new and complex environmental problems (see the SAB's report, *Toward Integrated Environmental Decision-Making* on the SAB Web site at <http://www.epa.gov/sab>). Previous studies by the National Research Council (NRC) also recommended improvements to EPA scientific assessment practices. In its 2008 report, *Science and Decisions: Advancing Risk Assessment* (National Academies Press, Washington, DC), the NRC recommended improvements in EPA's risk assessment processes to address the complexities of current problems and improve the utility of assessments in decision making. The SAB is undertaking a new study at the request of the EPA Administrator to evaluate the extent to which scientific assessment practices are integrated into and for EPA's environmental decision-making processes. The study will build upon the findings of the previous SAB and NRC studies, and recommend actions that EPA could take to improve the integration of scientific assessments for decision making. The purpose of this teleconference is to complete the Committee's study plan.

Availability of Meeting Materials: The teleconference agenda and other material in support of this teleconference are posted on the SAB Web site at <http://www.epa.gov/sab>.

Procedures for Providing Public Input: Interested members of the public may submit relevant written or oral information on the topic of this advisory activity, and/or the group conducting the activity, for the SAB to consider during the advisory process.

*Oral Statements:* In general, individuals or groups requesting an oral presentation at a public teleconference will be limited to three minutes per speaker, with no more than a total of one hour for all speakers. Interested parties should contact Mr. Miller, DFO, in writing (preferably via e-mail) at the contact information noted above, by September 14, 2009 be placed on a list of public speakers for the meeting.

*Written Statements:* Written statements should be received in the SAB Staff Office by September 14, 2009 so that the information may be made available to the SAB Panel members for their consideration. Written statements should be supplied to the DFO in the following formats: one hard copy with original signature, and one electronic copy via e-mail (acceptable file format: Adobe Acrobat PDF, WordPerfect, MS Word, MS PowerPoint, or Rich Text files in IBM-PC/Windows 98/2000/XP format). Submitters are requested to provide two versions of each document submitted with and without signatures, because the SAB Staff Office does not publish documents with signatures on its Web sites.

Accessibility: For information on access or services for individuals with disabilities, please contact Mr. Miller at the phone number or e-mail address noted above, preferably at least ten days prior to the meeting to give EPA as much time as possible to process your request.

Dated: August 20, 2009.

**Anthony F. Maciorowski,**

*Deputy Director, EPA Science Advisory Board Staff Office.*

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**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2008-0162; FRL-8430-7]

### Pesticide Product Registration Approval

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

**ACTION:** Notice.

**SUMMARY:** This notice announces Agency approval of an application to register the pesticide product NEXY containing an active ingredient not included in any previously registered products pursuant to the provisions of section 3(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

**FOR FURTHER INFORMATION CONTACT:** Jeannine Kausch, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 347-8920; e-mail address: [kausch.jeannine@epa.gov](mailto:kausch.jeannine@epa.gov).

### SUPPLEMENTARY INFORMATION:

#### I. General Information

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

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. 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-2008-0162. 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.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label, the list of data references, the data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are also available for public inspection. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001. Such requests should: Identify the product name and registration number and specify the data or information desired.

A paper copy of the fact sheet, which provides more detail on this registration, may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Rd., Springfield, VA 22161.

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. Did EPA Approve the Application?

The Agency approved the application after considering all required data on risks associated with the proposed use of *Candida oleophila* Strain O, and information on social, economic, and environmental benefits to be derived from use. Specifically, the Agency has considered the nature of the chemical and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations which show that *Candida oleophila* Strain O, when used in accordance with widespread and commonly recognized practice, will not generally cause unreasonable adverse effects to human health or the environment.

## III. Approved Application

EPA issued a notice, published in the **Federal Register** of March 28, 2008 (73 FR 16676) (FRL-8355-5), which announced that SynTech Global, LLC, P.O. Box 640, Hockessin, DE 19707 on behalf of BioNext sprl, Passage des déportés, 2, B-5030 Gembloux, Belgium, had submitted an application to register the pesticide product, NEXY, biofungicide (EPA File Symbol 84863-R), containing *Candida oleophila* Strain O at 57%. This product was not previously registered.

The Agency received one public comment in response to the March 28, 2008 notice. A private citizen expressed opposition to *Candida oleophila* Strain O's introduction into the United States in light of the “thousands of chemicals already out there” and implied a concern about the effects of “toxic chemicals” on human health or the environment. Pursuant to its authority under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), the Agency conducted a rigorous assessment of *Candida oleophila* Strain O, as described in Unit II, and concluded that it is not expected to cause any unreasonable adverse effects to human health or the environment.

Further, *Candida oleophila* Strain O is not considered a conventional pesticide. Conventional pesticides generally consist of synthetic materials, may affect a broad spectrum of non-target organisms, and may be inherently more toxic. *Candida oleophila* Strain O, however, is a naturally occurring yeast isolated from golden delicious apples and found on various food commodities, and has been classified as a microbial pesticide. *Candida oleophila* Strain O is intended for use as an antagonist to specifically control the fungal pathogens gray mold (*Botrytis cinerea*) and blue mold (*Penicillium expansum*), which cause post-harvest decay on apples and pears. The mode of action for *Candida oleophila* Strain O is primarily through competition for nutrients and pre-colonization of plant wound sites, and use of *Candida oleophila* Strain O may result in decreased conventional pesticide applications to apples pears after harvest. Additional information about *Candida oleophila* Strain O and the Agency's assessment of this microbial active ingredient can be found in the Biopesticides Registration Action Document (BRAD) on the Biopesticides and Pollution Prevention Division (BPPD) website: <http://www.epa.gov/pesticides/biopesticides>.

The application was approved on June 1, 2009, as NEXY (EPA Registration Number 84863-1) for post-harvest control of gray mold (*Botrytis cinerea*) and blue mold (*Penicillium expansum*) on apples and pears.

## List of Subjects

Environmental protection, Chemicals, Pests and pesticides.

Dated: August 18, 2009.

**Sheryl K. Reilly,**

*Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.*

[FR Doc. E9-20717 Filed 8-26-09; 8:45 a.m.]

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL-8950-5]

### Proposed Consent Decree, Clean Air Act Citizen Suit

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

**ACTION:** Notice of proposed consent decree; request for public comment.

**SUMMARY:** In accordance with section 113(g) of the Clean Air Act, as amended (“CAA” or “Act”), 42 U.S.C. 7413(g), notice is hereby given of a proposed consent decree, to address a lawsuit filed by Sierra Club in the U.S. District Court for the Eastern District of Kentucky: *Sierra Club v. Johnson*, No. 2:09-CV-00085-WOB (E. D. KY). On September 5, 2008, Sierra Club filed suit to compel the Administrator to issue or deny the CAA title V operating permit for the Hugh L. Spurlock Generating Station (Spurlock Station), operated by the East Kentucky Power Cooperative, Inc. Sierra Club later amended the complaint to include a claim to compel the Administrator to respond to a petition dated April 28, 2008, seeking EPA's objection to a revised CAA title V operating permit issued by the Kentucky Division of Air Quality (KDAQ) for the Spurlock Station. Under the terms of the proposed consent decree, EPA has agreed to respond to the third claim contained in Sierra Club's petition (regarding MACT determinations) by no later than September 21, 2009, and to respond to the remaining claims contained in the petition by no later than November 30, 2009. The consent decree allows Sierra Club sixty (60) days following entry of the decree by the Court to file a motion for costs of litigation (including attorneys' fees).

**DATES:** Written comments on the proposed consent decree must be received by *September 28, 2009*.

**ADDRESSES:** Submit your comments, identified by Docket ID number EPA-HQ-OGC-2009-0657, online at <http://www.regulations.gov> (EPA's preferred method); by e-mail to [oei.docket@epa.gov](mailto:oei.docket@epa.gov); mailed to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T,