

## REGIONAL BROWNFIELDS COORDINATORS—Continued

Region	States	Address & phone number
EPA Region 10, Susan Morales .....	AK, ID, OR, WA .....	1200 Sixth Avenue, Suite 900, Mailstop: ECL-112, Seattle, Washington 98101, Phone (206) 553-7299, Fax (206) 553-0124.

*Statutory and Executive Order Reviews:* Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a “significant regulatory action” and is therefore not subject to OMB review. Because this grant action is not subject to notice and comment requirements under the Administrative Procedures Act or any other statute, it is not subject to the Regulatory Flexibility Act (5 U.S.C. Section 601 et.) or Sections 202 and 205 of the Unfunded Mandates Reform Act of 1999 (UMRA) (Pub. L. 104-4). In addition, this action does not significantly or uniquely affect small governments. Although this action does not generally create new binding legal requirements, where it does, such requirements do not substantially and directly affect Tribes under Executive Order 13175 (63 FR 67249, November 9, 2000). Although this grant action does not have significant Federalism implications under Executive Order 13132 (64 FR 43255, August 10, 1999), EPA consulted with states in the development of these grant guidelines. This action is not subject to Executive Order 13211, “Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866. This action does not involve technical standards; thus, the requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. Section 272 note) do not apply. This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Section 3501 *et seq.*). The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before certain actions may take effect, the agency promulgating the action must submit a report, which includes a copy of the action, to each House of the Congress and to the Comptroller General of the United States. Since this grant action, when finalized, will contain legally binding requirements, it is subject to the Congressional Review Act, and EPA will submit its final action in its report to Congress under the Act.

Dated: November 12, 2008.

**David R. Lloyd,**

*Director, Office of Brownfields and Land Revitalization, Office of Solid Waste and Emergency Response.*

[FR Doc. E8-27473 Filed 11-18-08; 8:45 am]

**BILLING CODE 6560-50-P**

### ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2008-0650; FRL-8386-4]

#### Petition for Rulemaking Requesting EPA Regulate Nanoscale Silver Products as Pesticides; Notice of Availability

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

**ACTION:** Notice.

**SUMMARY:** This notice makes available for public review and comment a petition for rulemaking and collateral relief filed by the International Center for Technology Assessment (ICTA) and others. In general, the petition requests that the Agency classify nanoscale silver as a pesticide, require formal pesticide registration of all products containing nanoscale silver, analyze the potential human health and environmental risks of nanoscale silver, take regulatory actions under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) against existing products that contain nanoscale silver, and take other regulatory actions under FIFRA as appropriate for nanoscale silver products. The Agency has determined that the petition raises issues that potentially affect private and public sector stakeholders. Through this notice, EPA is asking for public comment on the petition.

**DATES:** Comments must be received on or before January 20, 2009.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA-HQ-OPP-2008-0650, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

- *Mail:* Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

- *Delivery:* OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility’s normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305-5805.

*Instructions:* Direct your comments to docket ID number EPA-HQ-OPP-2008-0650. EPA’s policy is that all comments received will be included in the docket without change and may be made available on-line at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [regulations.gov](http://www.regulations.gov) or e-mail. The [regulations.gov](http://www.regulations.gov) website is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the docket are listed in the docket index available at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material,

is not placed on the Internet and will be publicly available only in hard copy form. 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 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.

**FOR FURTHER INFORMATION CONTACT:** Nathanael R. Martin, Field and External Affairs Division, Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-6475; fax number: (703) 305-5884; e-mail address: [martin.nathanael@epa.gov](mailto:martin.nathanael@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 a business engaged in the manufacturing of pesticides and other agricultural chemicals. Potentially affected entities may include, but are not limited to:

- Pesticide and other agricultural chemical manufacturing (NAICS 325320), e.g., businesses engaged in the manufacture of pesticides.
- Antimicrobial pesticides (NAICS 32561)

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, please contact Betty Shackelford, Associate Director, Antimicrobials Division of the Office of Pesticide Programs at (703) 308-6411 or via email, [shackelford.betty@epa.gov](mailto:shackelford.betty@epa.gov)

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

1. *Submitting CBI.* Do not submit this information to EPA through [www.regulations.gov](http://www.regulations.gov) or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the

disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes 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 docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

- i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).
- ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- iv. Describe any assumptions and provide any technical information and/or data that you used.
- v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- vi. Provide specific examples to illustrate your concerns and suggest alternatives.
- vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- viii. Make sure to submit your comments by the comment period deadline identified.

**II. Summary of the Petition**

The following entities are listed as petitioners in the "*Petition for Rulemaking Requesting EPA Regulate Nano-Silver Products as Pesticides*":

1. International Center for Technology Assessment (CTA)
2. Center for Food Safety (CFS)
3. Beyond Pesticides
4. Friends of the Earth (FOE)
5. Greenpeace
6. Action Group on Erosion, Technology and Concentration
7. Center for Environmental Health (CEH)
8. Silicon Valley Toxics Coalition (SVTC)
9. Institute for Agriculture and Trade Policy (IATP)
10. Clean Production Action (CPA)
11. Food & Water Watch
12. Loka Institute
13. Center for the Study of Responsive Law (CSRL)

14. Consumers Union  
The petitioners note the rapid increase in the number of products containing manufactured or engineered nanoscale materials. They further point out that scientists have identified that nanoscale materials can have fundamentally different properties from the non-nanoscale or bulk forms of the same compounds, and that these unique properties may pose new environmental and human health risks. Additionally, the petitioners review EPA's procedural history with respect to nanotechnology and conclude that the Agency has not provided adequate regulatory oversight for this emerging technology.

Due to the rapid commercialization of nanotechnology, potential environmental and health concerns, and perceived lack of regulatory oversight, the petitioners request that the EPA undertake the following actions:

1. Classify nanoscale silver as a pesticide and require manufacturers to register nanoscale silver products as pesticides pursuant to Federal Insecticide Fungicide and Rodenticide Acts (FIFRA). Furthermore, in reference to nanoscale silver, petitioners request that EPA clarify that pesticidal intent and public health claims can be both implicit and explicit, and that manufacturers cannot avoid pesticide classification (and registration under FIFRA) simply by stripping their products of labeling.
2. Determine that nanoscale pesticides, such as nanoscale silver pesticides, are new pesticidal substances that require new pesticide registration under FIFRA, with accompanying toxicity testing and risk assessment specific to nanoscale materials.

3. Assess the potential human health and environmental risks of nanoscale silver pursuant to EPA's statutory obligations under FIFRA, the Food Quality Protection Act (FQPA), the Endangered Species Act (ESA), and the National Environmental Policy Act (NEPA). The petitioners recommend that EPA analyze existing scientific studies on the environmental health and safety of nanoscale silver; assess the potential impacts of nanoscale silver on children and infants; ensure the protection of threatened and endangered species in connection with any EPA actions involving nanoscale silver; and assess the environment impacts of any Agency actions involving nanoscale silver, including completing a programmatic environmental impact statement.

4. Take immediate statutory and regulatory action to prohibit the sale of nanoscale silver products, classifying

these products as illegal pesticide products with unapproved health benefit claims. In this regard, the petition claims that the nanoscale silver products currently on the market are in clear violation of FIFRA. The petition recommends that EPA pursue enforcement actions against and issue enforcement penalties to those manufacturers and/or distributors currently selling nanoscale silver products.

### III. What Action is the Agency Taking?

Through this notice, the Agency is making the petition submitted by ICTA *et al.* available for review and is asking for public comment on the same. Any public comment received on this petition before the issuance of this notice will be reviewed and listed in the electronic docket. Following the review of the petition and any comments received in response to this notice, EPA will decide how best to respond to the petition. The petition is available on EPA's Electronic Docket at <http://www.regulations.gov>. To locate this information on the homepage of EPA's Electronic Docket, select "Quick Search" and type the OPP docket ID number EPA-HQ-OPP-2008-0650. Once the search has located the docket, clicking on "Docket ID" will bring up a list of all documents in the docket related to the petition.

#### List of Subjects

Environmental protection, pesticides and pests, nanotechnology.

Dated: November 5, 2008.

**Debra Edwards,**

*Director, Office of Pesticide Programs.*

[FR Doc. E8-27204 Filed 11-18-08; 8:45 am]

BILLING CODE 6560-50-S

### ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2008-0416; FRL-8388-4]

#### Chromated Arsenicals, Pentachlorophenol, Creosote Reregistration Eligibility Decisions; Notice of Availability

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

**ACTION:** Notice.

**SUMMARY:** This notice announces the availability of EPA's Reregistration Eligibility Decision (REDs) for the pesticides chromated arsenicals (e.g.,

CCA), pentachlorophenol, and creosote, collectively referred to as "heavy duty wood preservatives." The Agency's risk assessments and other related documents also are available in the chromated arsenicals, pentachlorophenol, and creosote Dockets. The term heavy duty wood preservative is used to differentiate wood preservatives applied using specialized high pressure treatment cylinders (also called "retorts") from those applied using non-specialized methods (e.g., brush, dip). The three wood preservatives are used primarily for industrial purposes such as utility poles, pilings, and railroad ties. EPA has reviewed the heavy duty wood preservatives through the public participation process that the Agency uses to involve the public in developing pesticide reregistration and tolerance reassessment decisions. Through these programs, EPA is ensuring that all pesticides meet current health and safety standards.

**FOR FURTHER INFORMATION CONTACT:** For pesticide-specific information contact the Chemical Review Manager identified in the Table in Unit II. for the pesticide of interest.

For general information contact: Lance Wormell, Antimicrobials Division (7510P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 603-0523; fax number: (703) 308-6467; e-mail address: [wormell.lance@epa.gov](mailto:wormell.lance@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

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

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may 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 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-2008-0416. 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. Background

##### A. What Action is the Agency Taking?

Under section 4 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is reevaluating existing pesticides to ensure that they meet current scientific and regulatory standards. EPA has completed REDs for the pesticides, chromated arsenicals, pentachlorophenol, and creosote under section 4(g)(2)(A) of FIFRA. These heavy duty wood preservatives are applied using specialized high pressure treatment cylinders (also called "retorts") and treated products are used primarily for industrial purposes such as utility poles, pilings, and railroad ties. EPA has determined that the data base to support reregistration is substantially complete and that products containing chromated arsenicals, pentachlorophenol, and creosote are eligible for reregistration, provided the risks are mitigated either in the manner described in the REDs or by other means that achieve equivalent risk reduction. Upon submission of any required product specific data under section 4(g)(2)(B) of FIFRA and any necessary changes to the registration and labeling (either to address concerns identified in the REDs or as a result of product specific data), EPA will make final reregistration decisions under section 4(g)(2)(C) of FIFRA for products containing chromated arsenicals, pentachlorophenol, and creosote.