

brief description written by the docket staff.

## II. Request to Amend Registrations

### A. Background Information

The Reregistration Eligibility Decision (RED) for EPTC was completed in December 1999. At that time, EPA requested that Syngenta (formerly Zeneca Ag Products) submit field trial data for citrus. On March 21, 2000, Syngenta submitted a written request to EPA seeking to amend the registrations for EPTC, specifically requesting that EPA amend registrations to terminate the use of EPTC on citrus. On August 27, 2000, the registrant further submitted labeling amendments deleting citrus from each label on which

it appears. In addition, on February 15, 2002, Drexel Chemical Company requested a voluntary cancellation of citrus for its End-Use products containing EPTC.

### B. Requests for Voluntary Cancellation

Under section 6(f)(1)(A) of FIFRA, registrants may request, at any time, that their pesticide registrations be canceled or amended to terminate one or more pesticide uses. Section 6(f)(1)(B) of FIFRA requires that before acting on a request for voluntary cancellation, EPA must provide a 30-day public comment period on the request for voluntary cancellation. In addition, section 6(f)(1)(C) of FIFRA requires that EPA provide a 180-day comment period on a request for voluntary termination of

any minor agricultural use before granting the request, unless (1) the registrants request a waiver of the comment period, or (2) the Administrator determines that continued use of the pesticide would pose an unreasonable adverse effect on the environment. The registrants have requested that EPA waive the 180-day comment period. EPA is granting the registrants' request to waive the 180-day comment period. Therefore, EPA will provide a 30-day comment period on the proposed requests. EPA anticipates granting the cancellation request shortly after the end of the 30-day comment period for this notice. The registrations that will be affected by the deletion of citrus are listed in the following Table 1.

TABLE 1.—END-USE PRODUCT REGISTRATION AMENDMENT REQUEST

| Company                        | Reg. No   | Product Use                    |
|--------------------------------|-----------|--------------------------------|
| Syngenta Crop Protection, Inc. | 100-1023  | EPTAM Technical.               |
| Syngenta Crop Protection, Inc. | 100-1025  | EPTAM 7-E Selective Herbicide. |
| Drexel Chemical Company.       | 19713-101 | Drexel EPTC-7EC.               |

## III. What is the Agency's Authority for Taking this Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled. FIFRA section 6(f)(1) further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**, make reasonable efforts to inform persons who rely on the pesticide for minor agricultural uses, and provide a 30-day period in which the public may comment. Thereafter, the Administrator may approve such a request.

## IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for deletion of use must submit such withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**, postmarked before March 31, 2003. This written withdrawal of the request for deletion of use will apply only to the applicable FIFRA section 6(f)(1) request listed in this notice. If the use(s) have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling. The withdrawal request must also include a commitment to pay any reregistration fees due, and to fulfill any applicable unsatisfied data requirements.

## V. Provisions for Disposition of Existing Stocks

The registrants have submitted amendments to amend registrations to delete uses of EPTC identified in Table 1. Pursuant to section 6(f) of FIFRA, EPA expects to grant these requests for amendment upon the close of the comment period. The effective date of this amendment will be the date of the cancellation order. The orders effecting this requested amendment will generally permit a registrant to sell or distribute existing stocks for 1 year after the date the amendment request was received. This policy is in accordance with the Agency's statement of policy as prescribed in the **Federal Register** of June 26, 1991 (56 FR 29362) (FRL-3846-4). Exceptions to this general rule will be made if a product poses a risk concern, or is in noncompliance with reregistration requirements, or is subject to a Data Call-In. In all cases, product-specific disposition dates will be given in the cancellation orders.

## VI. Future Tolerance Revocations

EPA anticipates drafting a future **Federal Register** notice proposing revocation of this tolerance on commodities which no longer have registered uses of EPTC. In this notice, EPA seeks comment as to whether any individuals or groups want to support continuation of these tolerances.

## List of Subjects

Environmental protection, Pesticides and pests.

Dated: February 6, 2003.

**Lois Rossi,**

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

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**BILLING CODE 6560-50-S**

## ENVIRONMENTAL PROTECTION AGENCY

[OPP-2003-0040; FRL-7292-1]

## Intent to Suspend Certain Pesticide Registrations

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

**ACTION:** Notice of issuance of notice 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 issued a Notice of Intent to Suspend pursuant to section 3(c)(2)(B) of FIFRA and that the Notice of Intent to Suspend has since become an effective suspension order. The Notice of Intent to Suspend was issued following issuance of the 1991 Thiram Data Call-In Notice (DCI). The DCI required registrants of products containing thiram used as an active ingredient to

develop and submit certain data. These data were determined to be necessary to maintain the continued registration of affected products. Failure to comply with the data requirements of a DCI is a basis for suspension under section 3(c)(2)(B) of FIFRA. Prochimie International, Inc. holds the registration of a technical thiram product (EPA Registration Number 8236-2) and is therefore subject to the requirements of the 1991 DCI. Prochimie's technical thiram product is currently registered only for nonresidential turf use. This Notice includes the text of the Notice of Intent to Suspend which was issued to Prochimie on November 27, 2002. The text identifies the registrant involved, the active ingredient involved, the EPA Registration Number, the name of the affected product, and the basis upon which the Notice of Intent to Suspend was issued. As required by section 6(f)(2), the Notice of Intent to Suspend was sent by certified mail, return receipt requested to Prochimie, Inc. at its address of record. The Notice of Intent to Suspend was received on December 4, 2002, by the registrant and became an effective suspension order on January 4, 2003.

**DATES:** The Notice of Intent to Suspend became an effective suspension order January 4, 2003.

**FOR FURTHER INFORMATION CONTACT:** Harold Day, Agriculture Division, 2225A, Office of Enforcement and Compliance Assurance, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: 202-564-4133; fax number: 202-564-0029; e-mail address: day.harold@epa.gov.

#### **SUPPLEMENTARY INFORMATION:**

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

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

You may be potentially affected by this action if you hold EPA registrations for products that contain thiram. Potentially affected entities may include, but are not limited to pesticide registrants. Other types of entities not listed in this unit could also be affected. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in the 1991 Thiram Data Call-In and FIFRA regulations, specifically section 3(c)(2)(B). 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 an official public docket for this action under docket identification (ID) number OPP-2003-0040. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket 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/>.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select "search," then key in the appropriate docket ID number.

##### **II. What Action is the Agency Taking?**

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 issued a Notice of Intent to Suspend pursuant to section 3(c)(2)(B) of FIFRA to Prochimie International, Inc. The Notice of Intent to Suspend was issued on November 27, 2002, and was received on December 4, 2002, by the registrant, Prochimie International, Inc., as evidenced by the U.S. Postal Service return receipt. No request for a hearing was received within the required statutory time frame and the Notice of Intent to Suspend became an effective suspension order on January 4, 2003, which was 30 days following the date of

receipt of the Notice of Intent to Suspend by the registrant.

##### **III. Text of the Notice to Suspend**

The text of the Notice of Intent to Suspend issued to Prochimie International, Inc. follows:  
United States Environmental Protection Agency  
Office of Prevention, Pesticides and Toxic Substances  
Washington, DC 20460

November 27, 2002

Certified Mail  
Return Receipt Requested

Ms. Mary Ann Roston  
Prochimie International, Inc.  
5 Waterside Crossing  
Windsor, CT 06095

SUBJECT: Suspension of Registration of Pesticide Product(s) Containing Thiram for Failure to Comply with the Thiram Data Call-In Notice Dated September 16, 1991.

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 3(c)(2)(B) Data Call-In Notice. 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

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 Compliance (2225A)  
Agriculture Division  
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 Frances Liem at (202) 564-2365.

Sincerely yours,

Director, Agriculture Division, Office of Compliance.

Attachment I Suspension Report – Product List

Attachment II Suspension Report – Requirement List

Attachment III Suspension Report – Explanatory Appendix

#### IV. Registrant Receiving and Affected by Notice of Intent to Suspend

Prochimie International, Inc. was sent a letter of notification for the following product.

TABLE A.—PRODUCT LIST

| EPA Registration Number | Product Name     |
|-------------------------|------------------|
| 8236–2                  | Thiram Technical |

#### V. Basis for Issuance of Notice of Intent; Requirement List

Prochimie International, Inc. failed to submit the following required data or information.

TABLE B.—REQUIREMENT LIST

| Guideline Reference Number | Requirement Name                  | Due Date |
|----------------------------|-----------------------------------|----------|
| 71-4(b)                    | Avian reproduction-duck           | 9/16/93  |
| 72-3(a)                    | Estuarine/marine toxicity-fish    | 9/16/92  |
| 72-3(b)                    | Estuarine/marine toxicity-mollusk | 9/16/92  |
| 72-3(c)                    | Estuarine/marine toxicity-shrimp  | 9/16/92  |
| 82-2                       | 21-Day dermal toxicity rabbit/rat | 9/16/93  |
| 83-4                       | 2-Generation reproduction-rat     | 9/16/95  |
| 85-1                       | General metabolism                | 9/16/93  |
| 122-2                      | Aquatic plant growth              | 9/16/92  |
| 161-1                      | Hydrolysis                        | 12/16/91 |
| 161-2                      | Photodegradation-water            | 12/16/91 |
| 162-1                      | Aerobic soil metabolism           | 9/16/93  |
| 163-1                      | Leaching/adsorption/desorption    | 9/16/92  |
| 164-1                      | Terrestrial field dissipation     | 9/16/93  |
| 165-4                      | Bioaccumulation in fish           | 9/16/92  |

## VI. Attachment III Suspension Report—Explanatory Appendix

This Explanatory Appendix provides a discussion of the basis for the Notice of Intent to Suspend issued herewith.

On September 16, 1991, EPA issued a Data Call-In ("1991 DCI") to all registrants of products containing thiram under the authority of FIFRA section 3(c)(2)(B). The 1991 DCI required registrants of products containing thiram used as an active ingredient to develop and submit certain data. These data were determined to be necessary to maintain the continued registration of affected products. Failure to comply with the data requirements of a DCI is a basis for suspension under section 3(c)(2)(B) of FIFRA. Prochimie holds the registration of a technical thiram product (EPA Registration Number 8236-2) and is therefore subject to the requirements of the 1991 DCI. Prochimie's technical thiram product is currently registered only for nonresidential turf use. The following describes Prochimie's noncompliance with the 1991 DCI and FIFRA section 3(c)(2)(B) for failing to meet certain data requirements in the 1991 DCI applicable to products registered for nonresidential turf use. These data requirements are identified in Appendix II to this Notice.

In its required 90-day response to the 1991 DCI, Prochimie indicated that it elected Option 2 provided in the 1991 DCI as the method for complying with the DCI. In a letter dated June 6, 2001, Prochimie emphasized that it selected only Option 2 for complying with the 1991 DCI and did not select Option 3 (i.e., an offer to pay). Selection of Option 2 indicates that the registrant has entered into a cost share agreement with one or more registrants to

jointly develop data required under the 1991 DCI. To qualify for Option 2, the 1991 DCI requires that the registrant provide the name of the party who would be submitting the data. In addition, the registrant must provide documentary evidence that a cost share agreement has been formed. Such evidence can be a letter offering to cost share and a letter accepting such offer, or a written statement by the parties that an agreement exists. Prochimie's 90-day response indicated that it was a member of Thiram Task Force I and that Task Force I would be submitting the data required by the 1991 DCI.

In a letter dated April 20, 1992, EPA notified Prochimie that its 90-day response was insufficient, because there were data requirements in the 1991 DCI that Task Force I had not committed to satisfy. In response, Prochimie provided EPA with a letter dated April 28, 1992, in which Prochimie informed Mr. Jerome C. Rockwell, the chairman of both Thiram Task Force I and Thiram Task Force II, that Prochimie "will participate and cost share in the *Thiram Task Force* [emphasis added] submitting information for the EPA Thiram Data Call-In requirements regarding turf use of Thiram only." In subsequent correspondence with the Agency, Prochimie stated that, although not a member of Task Force II, Prochimie had agreed to participate in all Task Force II studies necessary to support nonresidential turf use of thiram.

However, Prochimie has not provided any evidence, nor does the Agency have any other indication, that Thiram Task Forces I and II, either individually or jointly, have generated or committed to generate all studies necessary to satisfy the 1991 DCI requirements for nonresidential turf use. Task Force I was formed in 1985, by a consortium of registrants of products containing thiram, including Prochimie, for

the purpose of acquiring or developing data required by a previous DCI issued in 1984 ("1984 DCI"). Although the 1991 DCI restated some of the data requirements contained in the 1984 DCI that were still outstanding, it required additional data that were not included in the 1984 DCI. Prior to its dissolution on July 31, 1992, Task Force I did not commit to satisfying any of the new data requirements in the 1991 DCI that were not imposed earlier by the 1984 DCI. Similarly, Thiram Task Force II was established in May 1989 for the development of data necessary to support primarily food use of thiram, which does not include nonresidential turf use. To date, there are data requirements applicable to nonresidential turf use under the 1991 DCI which neither Task Force I nor Task Force II have satisfied or committed to satisfy. Prochimie has not independently submitted studies or provided evidence that it has agreed to cost share with any other party for developing data to satisfy these data requirements or selected any other option to address such data requirements. Accordingly, Prochimie is in noncompliance with these requirements. These data requirements are identified in Appendix II to this Notice and are as follows: EPA Guideline Nos. 72-3(a), 72-3(b), and 72-3(c), 82-2, and 165-4.

Furthermore, Prochimie failed to submit evidence required by the 1991 DCI that a cost share agreement had been reached between Task Force II and Prochimie. As mentioned above, Prochimie's April 28, 1992 letter to Mr. Rockwell stated that Prochimie "will participate and cost share in the *Thiram Task Force* [emphasis added] submitting information for the EPA Thiram Data Call-In requirements regarding turf use of Thiram only." Because Mr. Rockwell was the chairman of both Task Force I and Task Force II, it is not clear whether Prochimie's letter

intended to restate its commitment to cost share with Task Force I or to make an offer to cost share with Task Force II. In any case, Prochimie's letter at most shows that Prochimie made an offer to cost share, which was an option it emphasized that it had not selected. Prochimie did not provide any evidence that it had selected the option of offer to pay or that any such offer had been accepted. In order to support the option Prochimie selected to address the data requirements, it must provide evidence that any such offer had been accepted. Prochimie did not do that. Although Prochimie paid Task Force II for the use of several specific studies which are not involved in this Notice, those payments do not provide any evidence that a cost share agreement has been reached with respect to any other studies required by the 1991 DCI for nonresidential turf use that Task Force II submitted or has committed to submit. In fact, Mr. Rockwell, the chairman of Task Force II, stated in an affidavit dated May 2, 2000, that "No written offer-to-pay or any offer to jointly develop any data as required by and identified in the 1991 DCI has ever been received by Thiram Task Force II... from Prochimie." Since Task Force II does not believe that it has ever received an offer to cost share from Prochimie, it is unlikely that a cost share agreement has been reached between Prochimie and Task Force II. Without adequate proof of such an agreement, Prochimie may not claim an ownership interest in Task Force II's data for which Prochimie has not paid and hence may not claim that such data satisfies Prochimie's obligations. Consequently, the Agency considers that Prochimie is in noncompliance with certain data requirements for nonresidential turf use imposed by the 1991 DCI irrespective of Task Force II's actions to address those data requirements. Those data requirements are identified in Appendix II to this Notice and are as follows: EPA Guideline Nos. 71-4(b), 83-4, 85-1, and 122-2.

Moreover, prior to its dissolution, Task Force I failed to satisfy certain 1984 DCI data requirements for nonresidential turf use that were also imposed by the 1991 DCI. Because Prochimie was a member of Task Force I and has not independently submitted data or otherwise addressed these requirements, Prochimie is in noncompliance with these requirements. These data requirements are identified in Appendix II to this Notice and are as follows: EPA Guideline Nos. 161-1, 161-2, 162-1, 163-1, and 164-1.

In a letter dated December 21, 1998, EPA informed Prochimie that the data required under the 1991 DCI were long overdue and that Prochimie had satisfied only those data requirements that had been satisfied by Task Force I prior to its dissolution. In a letter dated January 12, 1999, Prochimie informed EPA that "Prochimie cost shared/co-owned several studies submitted by Task Force II." However, Prochimie did not provide the evidence required by the 1991 DCI that Prochimie and Task Force II have agreed to cost share in the development of any other data required by the 1991 DCI for nonresidential turf use. Prochimie's letter also restated Prochimie's commitment to satisfy certain data requirements that neither

Task Forces committed to fulfill. However, Prochimie did not submit any studies or proof required by the 1991 DCI of a cost share agreement with any party obligated to satisfy these data requirements.

In a letter dated June 29, 1999, Prochimie requested data waivers (or determination of nonapplicability or no need for additional data) for, among others, the following data requirements: Guideline Nos. 82-2, 83-4, 122-2, 161-1, 161-2, 163-1, and 164-1, and 165-4. After careful consideration of Prochimie's requests, EPA denied the request for waiver of the above mentioned data requirements in letters dated May 21, 2001 and August 31, 2001.

In a letter dated August 31, 2001, EPA informed Prochimie of its failure to demonstrate that it had taken appropriate steps to secure data required by the 1991 DCI. In an attachment to the letter, EPA identified all of the data requirements for nonresidential turf use under the 1991 DCI and the names of the parties who submitted studies for those requirements. As shown in that attachment, UCB Chemicals Corporation, Inc. ("UCB"), not Task Force I or II, satisfied a number of data requirements under the 1991 DCI for nonresidential turf use. The letter notified Prochimie of the Agency's intent to issue a Notice of Intent to Suspend Prochimie's technical thiram registration unless, within 30 calendar days of its receipt of the letter, EPA received from Prochimie certain required data or proof of an agreement or offer to cost share with UCB. In its October 4, 2001 response, Prochimie did not provide any of the data/information that the Agency required, but instead requested a re-evaluation of the Agency's determination not to waive certain environmental fate studies, clarification of applicable existing data, and a determination of data requirements applicable to the nonresidential turf use.

To date, Prochimie has failed to take appropriate steps to secure certain data required by the 1991 DCI applicable to nonresidential turf use and remains in noncompliance with those data requirements, which are set forth in Appendix II to this Notice. Accordingly, the Agency is issuing this Notice of Intent to Suspend.

#### V. What is the Agency's Authority for Taking this Action?

The Agency's authority for taking this action is section 6(f)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq.*

#### List of Subjects

Environmental protection.

Dated: February 4, 2003.

**Richard Colbert,**

*Director, Agriculture Division, Office of Compliance, Office of Enforcement and Compliance Assurance.*

[FR Doc. 03-4776 Filed 2-27-03; 8:45 am]

**BILLING CODE 6560-50-S**

## ENVIRONMENTAL PROTECTION AGENCY

[OPP-2003-0006; FRL-7288-9]

### Cymoxanil; Notice of Filing a Pesticide Petition to Establish a Tolerance for a Certain Pesticide Chemical in or on Food

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

**ACTION:** Notice.

**SUMMARY:** This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

**DATES:** Comments, identified by docket ID number OPP-2003-0006, must be received on or before March 31, 2003.

**ADDRESSES:** Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**.

#### FOR FURTHER INFORMATION CONTACT:

Mary L. Waller, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-9354; e-mail address: waller.mary@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 111)
- Animal production (NAICS 112)
- Food manufacturing (NAICS 311)
- Pesticide manufacturing (NAICS 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. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in OPP-2003-0006. If you have any questions regarding the applicability of