

fence posts based on the lack of exposure to children and the higher cost of the alternative products. These comments were received from the wood preservative, chromium, lumber, and agricultural industries, as well as private citizens, businesses, and town officials of Corpus Christi. With respect to exposure to children, the commenters stated their belief that there is little exposure to children from agricultural fencing (as compared to a deck or playground constructed of CCA treated wood) because agricultural fences are generally far away from residences and because children typically do not play on a fence as they would a deck or playground. In addition, the commenters stated that the exclusion of CCA-treated wood for agricultural fence posts from the label would cause an adverse economical impact on the agricultural, lumber, and wood treatment industries due to the higher cost of the alternative treatment products. The commenters stated that the wood treatment plants, the agricultural industry, and the chromium industry may suffer considerable financial and market damage due to the cost of converting wood preserving plants currently treating with CCA to an alternative chemical (estimated cost ranges from \$75,000 to \$125,000), and the costs of the alternative treatment products (estimated to be 10–15% higher than CCA products at the retail level and 30% higher than CCA products for the agricultural industry). The commenters stated their belief that as a result of the above stated concerns, there will be loss of employment within the industries concerned. The Agency also received a number of comments regarding the use of CCA to treat wood used for permanent wood foundations. The comments received indicated a need to retain this important use and that it posed little opportunity for residential exposure.

*Agency's response.* The Agency is currently separately from this voluntary cancellation/use termination action, reviewing the exposure and risk (as well as the benefits) of all uses of CCA through its reregistration process. In light of the issues raised by commenters with regard to agricultural fence post and permanent wood foundation uses, EPA believes it is appropriate to evaluate the commenters' concerns during that review. For example, fence posts treated according to AWP Standard C16 are for agricultural purposes only. This particular type of fence post is used by many farmers and ranchers for barbed and other wire fencing. The distribution channels,

aesthetics, size, round shape, and random diameter of that type of fence post effectively limit its use for specific agricultural purposes, and make it inappropriate for residential applications. The Agency has determined, based on available information and field investigations, that agricultural fence posts are not sold into the residential market. On the other hand, wood treated for fence posts according to AWP Standard C5 is sold at the retail level for residential fencing and can be used for other residential applications as well.

Rather than delay acceptance of other portions of the voluntary cancellation/use termination requests until the reregistration review is complete, EPA has decided to accept the requests for voluntary cancellation/use termination for the other uses and defer any action with respect to requests to terminate agricultural fence post and permanent wood foundation uses until the Agency has evaluated those uses through the reregistration process. If at any time during the reregistration review the Agency determines it has sufficient information to take an action, that is, to either accept or refuse the requests for use termination of those uses, the Agency will take appropriate action. EPA believes this temporary deferral of action is consistent with the principle to phase out CCA for residential uses.

#### *B. Concerns With the Possible Adverse Economic Impact on the Chromium Industry and Corpus Christi, Texas*

*Comments.* Approximately 430 comments were received regarding the potential adverse economic effect from the proposed cancellation or termination of CCA products or treated wood uses on the chromic acid manufacturing plant in Corpus Christi, Texas. The residents of Corpus Christi have within their city limits a plant owned by Elementis Chromium L.P. (Elementis), the only major manufacturer of chromic acid in the United States. This chromic acid plant employs more than 100 residents of the Corpus Christi area and by its supply purchases and salaries, inputs about \$40 million per year into the economy of Corpus Christi. Elementis believes the projected 70% decrease in total sales of CCA-treated products 2 years after the amendment is accepted will have adverse economic consequences on the status of the plant operations and the city of Corpus Christi.

Also, the chromium industry and wood treatment industry requested EPA limit its action regarding the phase-out to only CCA-treated playground structures and decks at this time,

pending the outcome of the risk assessment being currently conducted by the Agency. It was requested that certain uses of CCA-treated wood, which were proposed for termination be allowed to continue. Specifically, the commenters requested that CCA-treated wood continue to be permitted for the following uses under the AWP Standard C2 (Lumber, Timber, Bridge Ties, Mine Ties for above-ground, soil and freshwater use), C5 (Fence Posts), C15 (Wood for Commercial-Residential Construction-Preservative Treatment by Pressure Processes), C16 (Agricultural Fence Posts and certain Wood used on Farms), and C22 (Permanent Wood Foundation Material).

*Agency's response.* By way of background, under FIFRA, a registration or "license" is issued to an applicant for a pesticide product once all necessary data requirements in support of the registration have been satisfied and the application has been found to be acceptable. In order to obtain a registration for a pesticide under FIFRA, an applicant for registration must demonstrate that the pesticide satisfies the statutory standard for registration. The standard requires, among other things, that the pesticide perform its intended function without causing unreasonable adverse effects on the environment. The term "unreasonable adverse effects on the environment" is defined, among other things, as "any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide."

Under the statute, a registrant may at any time voluntarily request cancellation of a particular pesticide registration or termination of certain uses for the registration. Upon receipt of such requests, the Agency acts upon the requests pursuant to section 6(f) of FIFRA by notifying the public and soliciting comments from the public on the requests received. The Agency reviews the comments and may, based upon the comments received and/or any information or knowledge it may have concerning the pesticide and its uses in the environment, accept or deny the request either in whole or part.

With regard to the comments received from the chromium industry and on behalf of residents of Corpus Christi, Texas, as stated earlier, at this time, the Agency is not acting upon certain use terminations proposed by the registrants. Specifically, the Agency is deferring action on two use terminations addressed in the comments, agricultural fence posts and permanent wood