

VI. Attachment III Suspension Report—Explanatory Appendix

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

A. Captan

On November 2, 1999, the Agency issued the Phase 5 Reregistration Eligibility Document Data Call-In Notice pursuant to sections 4(g)(2)(B) and 3(c)(2)(B) of FIFRA which required the registrants of products containing captan used as an active ingredient to develop and submit certain data. These data/information were determined to be necessary to satisfy reregistration requirements of section 4(g). Failure to comply with the requirements of a Phase 5 Reregistration Eligibility Document Data Call-In Notice is a basis for suspension under section 3(c)(2)(B) of FIFRA.

Voluntary Purchasing Group, Inc. received the Captan Reregistration Eligibility Document (RED) on November 20, 1999, as evidenced by a U.S. Postal Service domestic return receipt card. Therefore, the 90-day response was due on February 20, 2000, and the 8-month response was due on July 20, 2000. The company's 90-day response, dated April 18, 2000 was received by the Agency on April 18, 2000. The company agreed to satisfy the data requirements by developing and submitting the data to the Agency. It stated that the studies would be initiated within 2 weeks and it estimated that the studies would take approximately 5 months to complete.

By a letter dated February 8, 2001, the Agency informed Mr. Michael Jackson (Brazos Associates, Inc., Agent for Voluntary Purchasing Group) that Voluntary Purchasing Group's 8-month response was overdue. In a letter dated March 7, 2001, Brazos Associates, Inc. requested a time extension of an additional 4 months for submission of the product chemistry and acute toxicity studies. Additionally, the registrant asked for more time to submit the storage stability/corrosion data. The rationale for the time extension requests was based on problems that Brazos stated were being encountered with the test material and analytical procedures employed by Stillmeadow, Inc. (Laboratory). Brazos stated that these problems had delayed the development of studies, particularly the storage stability and corrosion characteristics studies. The Agency agreed to place these latter two studies on hold until Stillmeadow resolved problems with the analytical procedures. The registrant agreed to provide quarterly progress

reports. The 4-month time extension was granted in an Agency letter dated March 21, 2001.

The Agency received the 8-month response on November 16, 2001. Product specific data purporting to address product chemistry and acute toxicity guidelines were received. In the transmittal letter dated November 14, 2001, Brazos Associates noted that Stillmeadow was still experiencing problems with the test material for storage stability, corrosion characteristics, and enforcement analytical method studies. Therefore, Brazos Associates initiated a second set of these studies with Product Safety Labs to determine if it was a laboratory/company problem or actual problem with the analytical methods being utilized.

On January 31, 2003, the Agency completed the review of the product chemistry data submitted to support the reregistration of Voluntary Purchasing Group's captan product and found remaining deficiencies in the data that prevented the requirements from being satisfied. An Agency letter to Brazos Associates dated March 12, 2003 outlined the product chemistry deficiencies. Voluntary Purchasing Group was required to submit revised Confidential Statements of Formula, and product chemistry data for Guidelines 830.1750 Certified Limits, and 830.1800 Enforcement Analytical Method. Additionally, Voluntary Purchasing Group was also required to notify the Agency within 30 days of their receipt of the letter whether the storage stability and corrosion characteristics studies have been initiated and their expected completion dates. Brazos received the letter on behalf of Voluntary Purchasing Group on March 17, 2003.

On July 8, 2003, Ms. Karen Jones contacted Brazos Associates to determine if Voluntary Purchasing Group planned to submit the outstanding product chemistry data. Mr. Jackson of Brazos Associates indicated that Voluntary Purchasing Group did not plan to submit a response or data. Ms. Jones informed Mr. Jackson that the Agency would issue a Notice of Intent to Suspend (NOIS) for Voluntary Purchasing Group's failure to respond to the Agency's letter dated March 12, 2003 and to adequately satisfy the data requirements imposed by the Captan RED DCI.

To date, the Agency has not received required product chemistry data for Certification of Limits, Enforcement Analytical Method, or a Revised Confidential Statement of Formula. Additionally, the Agency has not received the required Storage Stability

and Corrosion Characteristics product chemistry data, nor required progress reports.

Because the registrant has not supplied the required data to support its captan product registration, this Notice of Intent to Suspend is being issued.

B. DCPA

On November 25, 1998, the Agency issued the Phase 5 Reregistration Eligibility Document (RED) Data Call-In Notice pursuant to sections 4(g)(2)(B) and 3(c)(2)(B) of FIFRA which required the registrants of products containing DCPA used as an active ingredient to develop and submit certain data. These data/information were determined to be necessary to satisfy reregistration requirements of section 4(g). Failure to comply with the requirements of a Phase 5 Reregistration Eligibility Document Data Call-In Notice (DCI) is a basis for suspension under section 3(c)(2)(B) of FIFRA.

An Agency letter dated June 4, 2001, was sent to all DCPA registrants. The letter modified the DCI and established new time frames for submitting the generic and product specific data required in the DCPA RED. Riverdale Chemical Company received the letter modifying the deadlines imposed by the DCPA RED on June 12, 2001, as evidenced by a U.S. Postal Service Domestic return receipt card. Therefore, Riverdale's 30-day response was due on July 12, 2001, and the 4-month response was due on October 12, 2001.

On August 15, 2001, Ms. Venus Eagle on behalf of the Agency contacted Mr. Sawyer, the Regulatory Affairs Manager at Riverdale Chemical Company, to inquire why Riverdale had not responded to the June 4, 2001 letter which Riverdale received on June 12, 2001. Riverdale was required to respond 30 days after its receipt of the letter, that is, by July 12, 2001. Mr. Sawyer stated that his colleagues had not decided whether they wanted to support the DCPA end-use products or not. Ms. Eagle stated he had in effect already had 30 additional days since the deadline of July 12, 2001 to inform the Agency of its decision. Mr. Sawyer then responded that the Agency could issue a NOIS in lieu of waiting for Riverdale's answer.

On September 7, 2001, three letters (dated September 6, 2001) were received (for EPA Registration Nos. 228-99, 228-157, and 228-222) stating that Riverdale planned to "respond positively to the reregistration" of the subject products and that it "will be sending in the necessary documentation to continue" the registrations. However, by the deadline of October 12, 2001, no product specific data had been