

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