

ENVIRONMENTAL PROTECTION AGENCY

[OPP-30000/60B; FRL-5385-7]

Cyanazine; Notice of Final Determination to Terminate Special Review of Cyanazine; Notice of Voluntary Cancellation and Cancellation Order of Cyanazine Product Registrations**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice of Final Determination to Terminate Special Review; Notice of Voluntary Cancellation.

SUMMARY: This Notice announces the conclusion of the Special Review of cyanazine and EPA's acceptance of requests for the voluntary cancellation of cyanazine registrations. EPA is concluding the Special Review because the registrants have agreed to voluntarily modify the terms and conditions of the cyanazine registrations so that use of the pesticide will not cause unreasonable adverse effects on the environment. The registrants have agreed to voluntarily amend their registrations and phase out cyanazine use by gradually reducing application rates, implementing additional protective use restrictions during the phaseout, and voluntarily cancelling cyanazine registrations effective December 31, 1999. EPA is accepting these voluntary cancellations of technical and end use pesticide products containing cyanazine pursuant to agreements by the registrants.

FOR FURTHER INFORMATION CONTACT: By mail: Joseph E. Bailey, Review Manager, Special Review and Reregistration Division (7508W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., S.W., Washington, DC 20460. Office location, telephone number, and e-mail address: Special Review Branch, 3rd Floor, Crystal Station, 2800 Jefferson Davis Highway, Arlington, VA 22202, Telephone: 703-308-8173, e-mail: bailey.joseph@epamail.epa.gov. For a copy of documents in the public docket, to request information concerning the Special Review, or to request indices to the Special Review public docket, contact the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., S.W., Washington, DC 20460, Telephone: 703-305-5805.

SUPPLEMENTARY INFORMATION:**I. Introduction****A. Regulatory Background**

This Notice of Final Determination concludes the Special Review of cyanazine which began in November 1994 when EPA issued the Notice of Initiation of Special Review of atrazine, simazine, and cyanazine (58 FR 60412, November 23, 1994) (FRL-4919-5). The Agency initiated the Special Review based upon concerns that cyanazine may pose a risk of inducing cancer in humans from dietary, occupational, and residential exposure.

When EPA initiated this Special Review, E.I. duPont de Nemours and Company ("DuPont") and Ciba Geigy Corporation ("Ciba") were the only registrants of cyanazine products. On August 2, 1995, DuPont voluntarily proposed to amend its cyanazine registrations to incrementally reduce cyanazine maximum application rates in 1997, 1998, and 1999, and to terminate the production of cyanazine for use in the United States by the end of 1999. DuPont proposed that after December 31, 1999, the registrant would not release for shipment any cyanazine formulated end use products for use in the United States. EPA would authorize distribution and sale through September 30, 2002, of any existing stocks of cyanazine formulated end use products that were released for shipment on or before December 31, 1999. It also would authorize use of these products in accordance with the product labels through December 31, 2002. DuPont would modify the labels of cyanazine formulated end use products released for shipment by the registrant after July 25, 1996, to specify the maximum application rates during the phaseout and to inform the public of the existing stocks provisions. It also would modify cyanazine labels to require use of application equipment with enclosed cabs for applicators beginning in 1998. Cyanazine technical products released for shipment by DuPont after July 25, 1996, would bear labels subjecting any end use products made from those technical products to the terms and conditions described in this paragraph. Finally, DuPont requested that EPA accept the voluntary cancellation of all registered DuPont cyanazine products effective on December 31, 1999. DuPont also waived any right to challenge EPA's final action on the Special Review or the terms and conditions upon EPA's final acceptance of the proposed amendments. On August 2, 1995, EPA accepted DuPont's proposal to amend the cyanazine registrations.

On November 8, 1995, EPA announced receipt of a request from Ciba to voluntarily cancel its only product containing cyanazine (60 FR 56333) (4984-1). The cancellation order for Ciba's sole product containing cyanazine was effective February 6, 1996.

After EPA initiated Special Review, Griffin Corporation ("Griffin") filed an application to register certain cyanazine pesticide products and subsequently agreed to the same terms and conditions of registration that were proposed by DuPont. EPA granted Griffin's applications and issued conditional registrations subject to those same terms and conditions.

On March 1, 1996, EPA issued a Notice of Preliminary Determination to Terminate Special Review and a Notice of Receipt of Requests for Voluntary Cancellation of cyanazine registrations (61 FR 8186) (5352-6). In this Notice, EPA explained that it was proposing to terminate the Special Review of cyanazine because, based upon the modified terms and conditions of the cyanazine registrations, the use of cyanazine will not cause any unreasonable adverse effects on the environment. The complete terms and conditions to amend cyanazine registrations that were agreed to by the registrants were provided in the Notice.

In the same Notice, EPA announced receipt of requests from DuPont and Griffin to voluntarily cancel their registrations pursuant to section 6(f) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. section 136d(f)). The requested voluntary cancellations would take effect on December 31, 1999.

The cyanazine product registrations that are subject to the modified terms and conditions of registrations as agreed to by DuPont and Griffin, including voluntary cancellation effective on December 31, 1999, are listed below by registration number and product name.

Registration No.	Product Name
352-470	DuPont Bladex (R)4L Herbicide
352-475	DuPont Cyanazine Technical
352-495	DuPont Bladex (R)90 DF Herbicide
352-500	DuPont Extrazine (R)II 4L Herbicide
352-577	DuPont Extrazine (R)II DF Herbicide
1812-364	Griffin Cyanazine Technical

Registration No.	Product Name
1812-365	Griffin Cynex DF
1812-366	Griffin Cynex 4L Herbicide Liquid
1812-367	Griffin Cynex Extra 4L
1812-368	Griffin Cynex Extra DF

B. Legal Background

1. *Summary of Special Review Process.* Special Review is a decision-making process designed to help EPA determine whether the Agency should initiate formal procedures, such as involuntary cancellation or suspension of a pesticide registration or the imposition of modified terms and conditions of registration because use of the pesticide may cause unreasonable adverse effects on the environment (40 CFR 154.1(a)).

EPA announces its decision to initiate the process by publishing a Notice of Special Review. EPA may initiate a Special Review if a pesticide use under the existing terms and conditions of registration meets or exceeds the risk criteria specified in the regulations at 40 CFR 154.7. In the initial Notice, EPA solicits comments concerning the risks and benefits of the uses that are subject to Special Review (40 CFR 154.25).

In response to the Notice of Special Review, the public may submit comments pertinent to whether the use of a pesticide product as currently registered meets or exceeds the risk criteria as currently registered; whether any additional restrictions on the use of the product, in accordance with a pending application or amendment, would cause it to meet or exceed the risk criteria; whether the risks caused by use of the product are unreasonable; and what regulatory action EPA should take (40 CFR 154.26).

The regulations governing Special Review contemplate that EPA may terminate the process if the pesticides' registrants are willing and able to voluntarily eliminate any unreasonable adverse effects without formal proceedings by voluntarily modifying the terms and conditions of registration or voluntarily cancelling registrations. Section 154.1(a) of the regulations states that the issuance of a Notice of Special Review means that the Agency expects to initiate a formal proceeding unless "the Agency's initial determination was erroneous, . . . the risks can be reduced to acceptable levels without the need for formal proceedings, or . . . the benefits of the pesticide's use outweigh the risks."

If EPA determines that the risks can be reduced to acceptable levels because the registrants are able and willing to modify the terms and conditions of registration, then it will issue a Notice of Preliminary Decision to Terminate Special Review. This Notice explains EPA's basis for concluding that the measures agreed to by the registrants will reduce risks to an acceptable level and responds to significant comments received in response to the initial Notice of Special Review. It also solicits public comments on EPA's position to terminate Special Review and its proposed resolution of risk concerns (59 FR 12188; March 27, 1995).

One of the risk reduction measures that a registrant may agree to is a voluntary cancellation under FIFRA section 6(f). This provision authorizes EPA to cancel a registration based upon the request of the registrant without regard for whether the pesticide poses an unreasonable risk of adverse effects. Other possible risk reduction measures that a registrant may agree to are modifications of the use of the pesticide that will reduce risk to an acceptable level, such as requiring the use of respirators or reducing the amount of pesticide that may be used. Registrants generally agree to incorporate such voluntary risk reduction measures into the terms and conditions of their registration to insure future compliance.

Sometimes registrants are unable or unwilling to voluntarily amend the existing terms and conditions of registration so that the products in question do not cause unreasonable adverse effects. If this occurs, the regulations contemplate that the Agency will issue a Notice of Preliminary Determination to Terminate Special Review and, among other things, will describe the regulatory measures that the Agency intends to initiate following termination of the process (40 CFR 154.31).

After the close of the comment period for a Notice of Preliminary Determination, EPA issues a Notice of Final Determination. This Notice includes the Agency's final determination and a discussion of the reasons for that determination, any comments submitted by the Secretary of Agriculture or the Scientific Advisory Panel, any significant public comments submitted in response to the Notice of Preliminary Determination, and instructions to registrants, applicants for registration, and other interested persons with respect to procedures that will be used to implement the final determination (40 CFR 154.33).

Following termination of Special Review, the Agency may either return

the pesticide to the regular registration process or initiate formal proceedings. These formal proceedings include cancellation under FIFRA section 6(b), suspension under FIFRA section 6(c), denial of a registration application under FIFRA section 3(c)(6), or change of classification under FIFRA section 3(d)(2). A more detailed description of the Special Review Process may be found at 40 CFR part 154 and 61 FR 8187-8.

2. *Voluntary Cancellation Process.* FIFRA section 6(f)(1)(D) authorizes the Administrator to approve or deny a request for voluntary cancellation (7 U.S.C. section 136d(f)(10)(D)). Unlike an involuntary cancellation under FIFRA section 6(b), FIFRA does not require the Administrator to make a finding that use of the pesticide may generally cause unreasonable adverse effects on the environment to approve a voluntary cancellation request. If a registrant wishes to voluntarily cancel its registration, it may do so at any time under section 6(f), by submitting a request to EPA (7 U.S.C. section 136d(f)(1)(A)). The statute also contains provisions governing the publication of a notice of such a request which ensures that users and others will have adequate notice of the voluntary cancellation and time to submit their own applications to assume the registrations (7 U.S.C. section 136d(f)(1)). FIFRA does not require EPA to conduct a hearing on whether a voluntary cancellation request should be granted.

II. Summary of Notice of Preliminary Determination

In the Preliminary Determination, EPA reviewed the risks and benefits of phasing out and eventually cancelling cyanazine registrations pursuant to the terms and conditions of registration agreed to by DuPont and Griffin. It concluded that the phaseout and cancellation will eventually reduce risk to zero when the product may no longer be used. Prior to cancellation, EPA noted that progressive restrictions on the maximum amount of cyanazine that may be applied per acre, combined with closed cab requirements and depletion of existing stocks will progressively reduce risk (61 FR at 8200).

EPA also discussed the benefits of cyanazine use under the terms and conditions of the phaseout and cancellation. It determined that the gradual phaseout will lessen the economic impact to growers who have used cyanazine when compared to an immediate cancellation. The phaseout should allow growers sufficient time to find suitable alternative weed control strategies to replace cyanazine, causing

little disruption to agricultural production. The phaseout also makes it unnecessary to recall and dispose of unused product because it provides advance notice of the ultimate cancellation and prohibition of use to distributors and growers.

Based upon the assessment of risks and benefits in light of the terms and conditions agreed to by DuPont and Griffin, EPA concluded that the use of cyanazine during the phaseout would not pose any unreasonable adverse effects.

III. Response to Public Comments

A. Analysis Required by Special Review Regulations

Griffin, citing 40 CFR 154.1(a), asserts that after EPA initiates Special Review it is prohibited from taking further steps to "cancel or alter a product registration if the record establishes that 'the Agency's initial determination was erroneous . . . or that the benefits of the pesticide's use outweigh the risks.'"

The Agency disagrees with Griffin's characterization of this Special Review regulation. The regulation, cited in part by the commenter, reads:

The purpose of the Special Review process is to help the Agency determine whether to initiate procedures to cancel, deny, or reclassify registration of a pesticide product because uses of that product may cause unreasonable adverse effects on the environment in accordance with section 3(c)(6) and 6 of [FIFRA]. The process is intended to ensure that the Agency assesses risks that may be posed by pesticides and the benefits of use of those pesticides in an open and responsive manner. The issuance of a Notice of Special Review means that the Agency has determined that one or more uses of a pesticide may pose significant risks and that, following completion of the Special Review process, the Agency expects to initiate formal proceedings seeking to cancel, deny, reclassify, or require modifications to the registration of the product(s) in question unless it has been shown during the Special Review that the Agency's initial determination was erroneous, that the risks can be reduced to acceptable levels without the need for formal proceedings, or that the benefits of the pesticide's use outweigh the risks (40 CFR 154.1(a)).

This provision describes the actions that EPA believes may be necessary after termination of Special Review depending upon the circumstances. It does not establish mandatory procedures that restrict the Agency's options once Special Review is initiated as the commenter seems to suggest. Rather it describes possible steps that the Agency may consider taking after it terminates Special Review.

The regulation describes the steps that EPA expects to initiate after termination

of Special Review as "formal proceedings" to "cancel, deny, reclassify, or require modifications" to product registrations. The regulation contemplates that "formal proceedings" likely would not be appropriate if the Agency determines that one of the following occurs: (1) The decision to initiate Special Review is erroneous, (2) the risks cannot be reduced to acceptable levels without a formal proceeding, or (3) the benefits outweigh the risks. Based upon this language, it is clear that the term "formal proceedings" means involuntary, EPA-initiated proceedings such as the issuance of a Notice of Intent to Cancel under FIFRA section 6(b) or the required modification of the terms and conditions of a registration and does not include other measures that the registrants agree to such as voluntary cancellations under FIFRA section 6(f) or voluntary modifications to product registrations. If any one of the three circumstances specified in the rule exists, then formal involuntary proceeding would be unnecessary because the risk/benefit balance would not justify such an action.

Griffin's assertion that the regulation prohibits EPA from taking steps to cancel or alter a registration if the Agency's initial risk determination is erroneous or if the benefits outweigh the risks would produce an absurd result. Both the statute and the regulations contemplate that registrants may address unreasonable risks by amending their registrations to reduce risk or even by requesting voluntary cancellation of their registrations. Griffin's interpretation would effectively prevent EPA from accepting such risk reduction measures once it has initiated Special Review and force it to initiate unnecessary measures such as a FIFRA section 6(b) cancellation. Such an interpretation of 154.1(a) is inconsistent with the meaning of the regulation and with congressional intent underlying FIFRA's voluntary cancellation provision.

EPA has determined that the risks posed by cyanazine can be reduced to acceptable levels without formal proceedings because of the voluntary cancellation and phaseout agreed to by both DuPont and Griffin. As a result, it does not need to initiate formal cancellation or other involuntary proceedings upon completion of the Special Review. Instead, EPA will return the cyanazine registrations to the regular registration process.

B. Applicability of Rulemaking Provisions of the Administrative Procedure Act (APA)

Griffin claims that the Special Review process constitutes rulemaking under the APA and that EPA must comply with the APA's notice and comment requirements when it conducts a Special Review. It also alleges that EPA violated APA rulemaking requirements in a number of instances by failing to provide background information that was not cited in any Special Review Notice and by failing to respond to comments on various aspects of the Agency's risk assessment and on alternative methods of addressing risks posed by cyanazine usage.

EPA has always taken the position that Special Review does not constitute APA rulemaking but instead is an informal information gathering mechanism for assessing whether the use of specific pesticides causes unreasonable adverse effects on the environment based upon the terms and conditions of registration. As noted in the regulations, Special Review is designed to help EPA decide whether to initiate a formal proceeding to cancel or reclassify an existing registration or deny an application for a registration (40 CFR 154.1(a)).

The APA imposes notice-and-comment requirements only upon "legislative" rules. *See generally Community Nutrition Institute v. Young*, 818 F.2d 943 (D.C. Cir. 1987). Legislative rules generally "create law," *Gibson Wine Co. v. Synder*, 194 F.2d 329, 331 (D.C. Cir. 1952) and "grant rights, impose obligations, or produce other significant effects on private interests." *Batterton v. Marshall*, 648 F.2d 694, 701-02 (D.C. Cir. 1980); see also *American Hospital Ass'n v. Bowen*, 834 F.2d 1037, 1045 (D.C. Cir. 1987). Courts also give some deference to an agency's characterization of its statement although that characterization is not determinative. *Community Nutrition*, 818 F.2d at 946.

Based upon these standards, it is clear that the Special Review process is not legislative rulemaking. Termination of Special Review does not itself grant a new right or create a new legal obligation. Following the termination of Special Review, EPA may affect private rights but only by taking further steps to initiate an involuntary adjudicative process or by implementing voluntary risk reduction measures. Accordingly, the Special Review process does not create a new law and thus, is not a legislative rule requiring notice and comment.

The Ninth Circuit rejected an argument similar to that proposed by Griffin in a challenge to EPA's consideration of permit applications for storm water discharges under the Clean Water Act. *Natural Resources Defense Council, Inc. v. EPA*, 966 F.2d 1292, 1309 (9th Cir. 1992). NRDC argued that EPA's decision to approve or disapprove a group application was a rule of "general applicability" and thus subject to APA's notice and comment requirements. *Id.* The court rejected this argument. It first observed that "rulemaking ordinarily involves 'broad judgments, legislative in nature rather than the resolution of a particular dispute of facts.'" *Id.* (citation omitted). The court held that EPA's decision on the permit application was "essentially a factual determination," not rulemaking, because it focused on a specific factual question regarding whether the application adequately identified a second group that would be subject to more extensive data requirements. *Id.* The court also explicitly noted that EPA was not engaged in rulemaking even though the decision on the permit applications might affect a large number of applicants.

The principal case that Griffin relies upon, *Waste Management, Inc. v. EPA*, 669 F. Supp. 536 (D.D.C. 1987), does not support the conclusion that Special Review constitutes rulemaking. In *Waste Management*, EPA was engaged in issuing a regulation governing ocean incineration. EPA decided to temporarily freeze all applications for ocean incineration permits until the final regulation was promulgated but it did not make any specific factual determinations regarding specific permit applications. The court held that this temporary freeze constituted APA rulemaking.

In contrast to the circumstances in *Waste Management*, EPA is utilizing the cyanazine Special Review to analyze the risks and benefits of cyanazine under the terms and conditions of registration. This analysis is preparatory either to initiating proceedings to address any unreasonable risk or implementing voluntary risk reduction measures and does not itself impose any limitations upon existing registrations. See, 40 CFR 154.1(a). Such preliminary factual determinations are not rulemaking under the APA.

C. Risk/Benefit Comments Beyond Scope of Agency Determination

1. *Scope of Agency determination.* A number of comments address matters beyond those at issue in the Agency's Final Determination. The regulations

governing Special Review do not require the Agency to consider such immaterial comments.

As EPA stated in the Notice of Preliminary Determination, the issue is whether the modified terms and conditions agreed to by the registrants "will eliminate any unreasonable adverse effects posed by cyanazine registrations" (61 FR at 8200). Where the registrants agree to modify the terms and conditions of registration, the controlling issue is whether the use of cyanazine pursuant to the modifications poses any unreasonable adverse effects. If EPA determines that use pursuant to the modified registrations continues to cause unreasonable adverse effects despite the modifications, then it terminates Special Review and initiates other involuntary mechanisms to address the risk. On the other hand, if EPA determines that the use pursuant to the modified registrations eliminates any unreasonable adverse effects, then additional involuntary proceedings are unnecessary and the Agency would terminate Special Review and return the registrations to the registration process.

The regulations specifically require EPA to respond in the Notice of Final Determination to "significant public comments submitted on the Notice of Preliminary Determination" (40 CFR 154.33(a)(3)). Significant comments concern a matter that is at issue in the proceeding or that is probative of a matter at issue; in other words, those that raise matters material to EPA's Preliminary Determination. At this point, the only issue is whether the modified terms and conditions agreed to by the registrants will eliminate any unreasonable adverse effects caused by the use of the products and the Agency will respond only to comments that address that issue.

This interpretation of § 154.33(a)(3), which governs responses to significant comments, is consistent with other Special Review regulations. As discussed in Unit III.A. of this document, the regulations contemplate that EPA will likely terminate Special Review and not impose any involuntary actions upon a pesticide registration if the registrant agrees to modify the terms and conditions of registration to reduce risk to an acceptable level.

Some of the comments indicate a fundamental misunderstanding of the nature of Special Review. EPA review focuses on the risks and benefits of a pesticide that result from the use of the pesticide under the terms and conditions of the existing registrations. At this point, the registrants have agreed to amend the terms and conditions that control the use of the pesticide and EPA

has accepted those amendments. Terms and conditions of registration that governed the use of cyanazine before EPA accepted the amendments no longer exist and therefore have no effect upon the risks and benefits associated with the use of cyanazine. Similarly, hypothetical alternative terms and conditions of registration suggested by commenters do not address the issue of the risks and benefits associated with the use of cyanazine under the modified terms and conditions agreed to by the registrants. Thus comments pertaining to previous terms and conditions of registration or to hypothetical alternative arrangements, and the risks or benefits associated with such terms and conditions, are immaterial to the Agency's decision to terminate the cyanazine Special Review.

2. *Specific comments.* Some commenters focus on issues that EPA raised in the initial Notice of Special Review and that concern the risks or benefits of cyanazine usage under the old terms and conditions of registrations that existed at the time Special Review was initiated. These issues do not address whether cyanazine usage poses any unreasonable adverse effects under the new terms and conditions agreed to by the registrants in 1995. For example, Griffin comments that EPA erroneously decided to initiate Special Review based upon a flawed risk assessment and provides a lengthy critique of that initial risk assessment. While such comments were material to the Agency's initial Notice of Special Review, they do not concern the issue now before the Agency - whether cyanazine poses any unreasonable adverse effects under the new terms and conditions of registration.

Griffin and other commenters claim that the benefits of cyanazine use may be higher than EPA first estimated in the Notice of Special Review, asserting that the Agency did not calculate the relative costs of cyanazine and alternative pesticides correctly and did not recognize that cyanazine is "significantly superior" to alternatives. These claims are immaterial to the Agency's decision to terminate Special Review. EPA has decided to terminate the process because the benefits of continued use under the new terms and conditions of registration outweigh the risks. At this point it is inconsequential whether the benefits outweigh the risks by a greater margin than EPA earlier calculated because greater benefits would only provide more support for the decision to terminate Special Review without initiating formal proceedings.

Some additional commenters discuss alternative terms and conditions of registrations that might yield an acceptable risk/benefit balance. At this point, however, such alternatives are immaterial because the agreed upon modifications already insure that cyanazine usage does not pose any unreasonable adverse effects. Given the registrants' agreement to these modifications, it is unnecessary for EPA to address these issues.

The comments directed towards the old terms and conditions of cyanazine registration appear to be directed at the decision of the registrants to voluntarily amend their cyanazine registrations rather than the Agency's decision to terminate Special Review. The termination of Special Review will not prevent interested persons from applying for registrations with terms and conditions different from those currently in effect. Such an application may be filed at any time, even after the current registrations are cancelled. If the application otherwise fulfills the prerequisites for registration, the Agency would consider the risks and benefits of use under the proposed terms and conditions and pursuant to FIFRA and the regulation including 40 CFR 154.35. An applicant may contest the decision to deny an application as specified in FIFRA section 3(c)(6).

D. Response to Material Risk/Benefit Comments

Griffin also addresses the economic impact of the phaseout and voluntary cancellations and concludes that "EPA's conclusions concerning the economic impact of the phase-out and registration cancellations likely are correct." In reaching this conclusion, the commenter relied in part upon the data that EPA used to determine cyanazine application rates as summarized in Table 5 of the Preliminary Determination. It also utilized additional application rate data that it obtained independently.

Based upon the information underlying Table 5, EPA agrees that its conclusions with respect to the economic impact of the modified terms and conditions of registration are correct. The Agency has not analyzed the additional data utilized by Griffin because the comment states that it supports rather than contradicts the Agency's preliminary economic determination.

E. Secretary of Agriculture and Scientific Advisory Panel

The Special Review regulations require the Agency to respond to any comments submitted by the Secretary of

Agriculture or the Scientific Advisory Panel (40 CFR 154.33(a)(2)) but neither submitted comments. The regulations require EPA to refer proposals to initiate involuntary proceedings such as a FIFRA section 6(b) cancellation to those bodies. The regulations, however, do not impose such a requirement where, as here, the registrants have accepted voluntary modifications of the terms and conditions of their registrations followed by voluntary cancellations.

IV. Decision Regarding Special Review

EPA has decided to terminate the cyanazine Special Review. This decision is based upon EPA's determination that the use of cyanazine on cotton, field and sweet corn, and sorghum in accordance with the voluntary cancellation and phaseout agreed to by the cyanazine registrants does not cause any unreasonable adverse effects.

The new terms and conditions of registration will gradually lower and then eliminate the risks caused by cyanazine. Maximum application rates will be reduced in 1997, 1998, and 1999, and applicators will be required to use closed cab equipment beginning in 1998. Risks will eventually be reduced to zero when the use prohibition takes effect in 2002. The requirement that cyanazine applicators use closed cabs to apply the pesticide beginning in 1998 also will reduce occupational exposure to the substance. While there will be some exposure to cyanazine during the phaseout, exposure and thus, risks will decline as application rates drop and existing stocks are depleted.

The phaseout of cyanazine will lessen the economic impact to growers who have used cyanazine to control weeds. The phaseout should allow growers sufficient time to replace cyanazine with alternative weed control practices so that there will be little disruption to agricultural production. Another likely benefit of the incremental phaseout is depletion of existing stocks of cyanazine so there will be little unused product to recall and dispose of after the cancellations take effect. Furthermore, the costs, time and uncertainties associated with an involuntary cancellation proceeding are avoided.

For all these reasons, EPA has decided that the implementation of the terms and conditions of the cyanazine voluntary cancellation and phaseout will prevent any unreasonable adverse effects which might otherwise be caused by the use of cyanazine on corn, cotton, and sorghum.

V. Decision Regarding Voluntary Cancellation and Use of Existing Stocks

A. Voluntary Cancellation/Cancellation Order

EPA accepts the voluntary cancellation of all cyanazine products as requested by the cyanazine registrants in accordance with FIFRA section 6(f). Both of the cyanazine registrants, DuPont and Griffin, have requested voluntary cancellations as terms and conditions of their registrations. EPA has not received any applications to assume the existing registrations of cyanazine under the new terms and conditions of registration. Consequently, EPA accepts the voluntary cancellations effective December 31, 1999 and orders the cancellations to take effect on January 1, 2000. Those products for which EPA accepts the voluntary cancellation are listed by product registration number and product name in Unit I.A. of this Notice. When the voluntary cancellations take effect on December 31, 1999, the Agency will issue an order confirming the cancellations.

B. Existing Stocks

For any cyanazine formulated end use products that are released for shipment by a registrant on or before December 31, 1999, EPA authorizes the continued sale and distribution of such products in the channels of trade in accordance with their labels through September 30, 2002. EPA authorizes the continued use of such existing stocks in accordance with their labels through December 31, 2002. EPA prohibits the use of cyanazine products after December 31, 2002. EPA is not establishing any existing stocks provisions for technical cyanazine products (DuPont Registration Number 352-475 and Griffin Registration Number 1812-364); however, any technical or formulated end use cyanazine product may be used pursuant to FIFRA sections 3 and 17.

VI. Availability of Public Docket

EPA established a public docket, OPP-30000/60, for the cyanazine Special Review. This public docket includes this Notice and any other Notices associated with the cyanazine Special Review and EPA's decision to terminate the cyanazine Special Review. This docket also contains documents not considered Confidential Business Information that are pertinent to the cyanazine Special Review and copies of written comments or other material submitted to EPA by any person outside the government in response to the cyanazine Special Review. The docket is available for inspection from 8 a.m. to

4:30 p.m., Monday through Friday, excluding legal holidays. The public docket is located in Rm. 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

List of Subjects

Environmental protection.

Dated: July 17, 1996.

Lynn R. Goldman,

*Assistant Administrator for Prevention,
Pollution and Toxic Substances.*

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