

from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label, the list of data references, the data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are also available for public inspection. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001. Such requests should: Identify the product name and registration number and specify the data or information desired.

A paper copy of the fact sheet, which provides more detail on this registration, may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Rd., Springfield, VA 22161.

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>.

II. Did EPA Approve the Application?

The Agency approved the application after considering all required data on risks associated with the proposed use of *Candida oleophila* Strain O, and information on social, economic, and environmental benefits to be derived from use. Specifically, the Agency has considered the nature of the chemical and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations which show that *Candida oleophila* Strain O, when used in accordance with widespread and commonly recognized practice, will not generally cause unreasonable adverse effects to human health or the environment.

III. Approved Application

EPA issued a notice, published in the **Federal Register** of March 28, 2008 (73 FR 16676) (FRL-8355-5), which announced that SynTech Global, LLC, P.O. Box 640, Hockessin, DE 19707 on behalf of BioNext sprl, Passage des déportés, 2, B-5030 Gembloux, Belgium, had submitted an application to register the pesticide product, NEXY, biofungicide (EPA File Symbol 84863-R), containing *Candida oleophila* Strain O at 57%. This product was not previously registered.

The Agency received one public comment in response to the March 28, 2008 notice. A private citizen expressed opposition to *Candida oleophila* Strain O's introduction into the United States in light of the “thousands of chemicals already out there” and implied a concern about the effects of “toxic chemicals” on human health or the environment. Pursuant to its authority under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), the Agency conducted a rigorous assessment of *Candida oleophila* Strain O, as described in Unit II, and concluded that it is not expected to cause any unreasonable adverse effects to human health or the environment.

Further, *Candida oleophila* Strain O is not considered a conventional pesticide. Conventional pesticides generally consist of synthetic materials, may affect a broad spectrum of non-target organisms, and may be inherently more toxic. *Candida oleophila* Strain O, however, is a naturally occurring yeast isolated from golden delicious apples and found on various food commodities, and has been classified as a microbial pesticide. *Candida oleophila* Strain O is intended for use as an antagonist to specifically control the fungal pathogens gray mold (*Botrytis cinerea*) and blue mold (*Penicillium expansum*), which cause post-harvest decay on apples and pears. The mode of action for *Candida oleophila* Strain O is primarily through competition for nutrients and pre-colonization of plant wound sites, and use of *Candida oleophila* Strain O may result in decreased conventional pesticide applications to apples pears after harvest. Additional information about *Candida oleophila* Strain O and the Agency's assessment of this microbial active ingredient can be found in the Biopesticides Registration Action Document (BRAD) on the Biopesticides and Pollution Prevention Division (BPPD) website: <http://www.epa.gov/pesticides/biopesticides>.

The application was approved on June 1, 2009, as NEXY (EPA Registration Number 84863-1) for post-harvest control of gray mold (*Botrytis cinerea*) and blue mold (*Penicillium expansum*) on apples and pears.

List of Subjects

Environmental protection, Chemicals, Pests and pesticides.

Dated: August 18, 2009.

Sheryl K. Reilly,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. E9-20717 Filed 8-26-09; 8:45 a.m.]

BILLING CODE 6560-50-S

ENVIRONMENTAL PROTECTION AGENCY

[FRL-8950-5]

Proposed Consent Decree, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed consent decree; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended (“CAA” or “Act”), 42 U.S.C. 7413(g), notice is hereby given of a proposed consent decree, to address a lawsuit filed by Sierra Club in the U.S. District Court for the Eastern District of Kentucky: *Sierra Club v. Johnson*, No. 2:09-CV-00085-WOB (E. D. KY). On September 5, 2008, Sierra Club filed suit to compel the Administrator to issue or deny the CAA title V operating permit for the Hugh L. Spurlock Generating Station (Spurlock Station), operated by the East Kentucky Power Cooperative, Inc. Sierra Club later amended the complaint to include a claim to compel the Administrator to respond to a petition dated April 28, 2008, seeking EPA's objection to a revised CAA title V operating permit issued by the Kentucky Division of Air Quality (KDAQ) for the Spurlock Station. Under the terms of the proposed consent decree, EPA has agreed to respond to the third claim contained in Sierra Club's petition (regarding MACT determinations) by no later than September 21, 2009, and to respond to the remaining claims contained in the petition by no later than November 30, 2009. The consent decree allows Sierra Club sixty (60) days following entry of the decree by the Court to file a motion for costs of litigation (including attorneys' fees).

DATES: Written comments on the proposed consent decree must be received by *September 28, 2009*.

ADDRESSES: Submit your comments, identified by Docket ID number EPA-HQ-OGC-2009-0657, online at <http://www.regulations.gov> (EPA's preferred method); by e-mail to oei.docket@epa.gov; mailed to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T,

1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD-ROM should be formatted in Word or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

FOR FURTHER INFORMATION CONTACT:

Kristi Smith, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone: (202) 564-3068; fax number (202) 564-5603; e-mail address: smith.kristi@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Additional Information About the Proposed Consent Decree

On August 30, 2008, pursuant to CAA section 505(b)(2), EPA issued an order objecting, in part, to the CAA title V operating permit issued by KDAQ for the Spurlock Station. On September 5, 2008, Sierra Club filed suit to compel the Administrator to issue or deny the CAA title V operating permit for the Spurlock Station, arguing that the Administrator had a non-discretionary duty to issue or deny the permit under CAA section 505(c). Sierra Club also sought, in the alternative, an order declaring that the Administrator was unreasonably delayed in taking action to issue or deny the permit. Prior to filing that case, on April 28, 2008, Sierra Club had submitted a petition to the Administrator of the Environmental Protection Agency pursuant to CAA section 505(b)(2), requesting that she object to the issuance of a revised title V operating permit by KDAQ for the Spurlock Station. Sierra Club has amended its complaint in the pending lawsuit to include a claim to compel the Administrator to respond to that petition.

Under the terms of the proposed consent decree, EPA shall grant or deny an objection based on the third claim in Sierra Club's petition (regarding MACT determinations for mercury and other hazardous air pollutants) by no later than September 21, 2009, and shall grant or deny an objection based on the petition's remaining claims by no later than November 30, 2009. The consent decree allows Sierra Club sixty (60) days following entry of the decree by the Court to file a motion for costs of litigation (including attorneys' fees). The consent decree becomes an order of

the Court upon entry, and, consistent with the terms of the consent decree, the case shall be dismissed with prejudice after EPA has fulfilled its obligations and Sierra Club's claims for litigation costs have been resolved.

For a period of thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the proposed consent decree from persons who were not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines, based on any comment which may be submitted, that consent to the consent decree should be withdrawn, the terms of the decree will be affirmed.

II. Additional Information About Commenting on the Proposed Consent Decree

A. How Can I Get A Copy Of the Consent Decree?

The official public docket for this action (identified by Docket ID No. EPA-HQ-OGC-2009-0657) contains a copy of the proposed consent decree. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OEI Docket is (202) 566-1752.

An electronic version of the public docket is available through <http://www.regulations.gov>. You may use the <http://www.regulations.gov> to submit or 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. Once in the system, select "search," then key in the appropriate docket identification number.

It is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing online at <http://www.regulations.gov> without change, unless the comment contains

copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in the electronic public docket. EPA's policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

B. How and To Whom Do I Submit Comments?

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment and with any disk or CD-ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Use of the <http://www.regulations.gov> Web site to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (e-mail) system is not an "anonymous access" system. If you send an e-mail comment directly to the Docket without going through <http://www.regulations.gov>, your e-mail address is automatically captured and included as part of the

comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: August 21, 2009.

Richard B. Ossias,

Associate General Counsel.

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ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2009-0619; FRL-8432-4]

Notice of Receipt of Requests for Amendments to Delete Uses in Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request for amendments by registrants to delete uses in certain pesticide registrations. 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 amended to delete one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any request in the **Federal Register**.

DATES: The deletions are effective by February 23, 2010 or September 28, 2009 for registrations for which the registrant requested a waiver of the 180-day comment period. The Agency will consider withdrawal requests postmarked no later than February 23, 2010 or September 28, 2009, whichever is applicable. Comments must be received on or before February 23, 2010 or September 28, 2009, for those

registrations where the 180-day comment period has been waived.

Users of these products who desire continued use on crops or sites being deleted should contact the applicable registrant on or before February 23, 2010 or September 28, 2009 for registrations for which the registrant requested a waiver of the 180-day comment period.

ADDRESSES: Submit your withdrawal request, identified by docket identification (ID) number EPA-HQ-OPP-2009-0619, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Mail:* Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

- *Delivery:* OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305-5805.

FOR FURTHER INFORMATION CONTACT: John Jamula, Information Technology and Resources Management Division (7502P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-6426; e-mail address: jamula.john@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to persons who produce or use pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, 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 a docket for this action under docket ID number EPA-HQ-OPP-2009-0619. Publicly available docket materials are available either in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility 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>.

II. What Action is the Agency Taking?

This notice announces receipt by the Agency of applications from registrants to delete uses in certain pesticide registrations. These registrations are listed in Table 1 of this unit by registration number, product name, active ingredient, and specific uses deleted:

TABLE 1.—REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDES

EPA Reg. No.	Product Name	Active Ingredient	Delete From Label
001001-00077	Protect DF	Mancozeb	Athletic Fields, Residential Lawns and Turf, and Pachysandra
009198-00196	Fertilizer with TGR Poa Annu Control	Paclobutrazol	Home/Residential Lawns
009198-00199	TGR Winter overseeding Enhancer	Paclobutrazol	Home/Residential Lawns
009198-00205	Anderson's Golf Products Turf Enhancer 2SC	Paclobutrazol	Home/Residential Lawns
009198-00215	The Anderson's Fertilizer with 0.25% Paclobutrazol	Paclobutrazol	Home/Residential Lawns