

## ENVIRONMENTAL PROTECTION AGENCY

[OPP-66300; FRL-6826-8]

### Notice of Receipt of Requests to Cancel Certain Chromated Copper Arsenate (CCA) Wood Preservative Products and Amend to Terminate Certain Uses of CCA Products

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** Pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of requests from registrants of affected chromated copper arsenate (CCA) products to cancel certain products and to amend to terminate certain uses of other CCA products. These requests were submitted to EPA in February 2002. EPA intends to grant these requests at the close of the comment period for this announcement unless the Agency receives substantive comments within the comment period that would merit its further review of these requests. Upon acceptance of these requests, any sale, distribution, or use of products listed in this notice will only be permitted if such distribution, sale, or use is consistent with the terms as described in this notice.

**DATES:** Comments must be received on or before March 25, 2002.

**ADDRESSES:** Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the

**SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP-66300 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** By mail: Bonaventure Akinlosotu, Antimicrobial Division (7510C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

Office location for commercial courier delivery, telephone number, and e-mail address: Rm. 308, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 605-0653; e-mail: akinlosotu.bonaventure@epa.gov.

**SUPPLEMENTARY INFORMATION:** This announcement consists of five parts. The first part contains general information. The second part addresses the registrants' requests for registration cancellations and amendments to terminate uses. The third part describes the action taken by this notice. The

fourth part describes the Agency's legal authority for the action announced in this notice. The fifth part proposes existing stocks provisions that the Agency intends to authorize.

#### I. General Information

##### A. Does this Action Apply to Me?

This action is directed to the public in general. You may be potentially affected by this action if you manufacture, sell, distribute, or use CCA products. The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule, for purposes of 5 U.S.C. 804(3). Since other entities may also be interested, 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 applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

##### B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at <http://www.epa.gov/>. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules" and then look up the entry for this document under the "Federal Register—Environmental Documents." You can also go directly to the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>.

2. *In person.* The Agency has established an official record for this action under docket control number OPP-66300. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public

Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.

##### C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP-66300 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: [opp-docket@epa.gov](mailto:opp-docket@epa.gov), or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP-66300. Electronic comments may also be filed online at many Federal Depository Libraries.

##### D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the

information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

*E. What Should I Consider as I Prepare My Comments for EPA?*

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice or collection activity.
7. Make sure to submit your comments by the deadline in this notice.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

## II. Background of the Receipt of Requests to Cancel and Amend Registrations to Delete Uses

As a result of current and projected market demand and the availability of new generation wood treatment products, the below identified four registrants of CCA products have requested EPA to cancel certain affected products and to amend to terminate uses of the other pesticide registrations of the products identified in this notice (Tables 1 and 2). The letter from Arch Wood Protection, Inc. was dated February 5, 2002; from Chemical Specialties, Inc., dated February 4, 2002; from Osmose, Inc., dated February 6, 2002; and from Phibro-Tech, Inc., dated February 6, 2002. Specifically, the Agency has received a request to cancel two products, and requests to amend other affected end-use and manufacturing-use registrations to terminate all uses of such products with the exception of the treatment of forest products that fall under the American Wood Preservers Association (AWPA)

standards listed as stated below in the text of the requested label amendments.

For affected manufacturing-use products, the label amendments would read as follows:

Effective December 31, 2003, this product may only be used (1) for formulation of the following end-use wood preservative products: ACZA or CCA labeled in accordance with the "Directions for Use" shown below, or (2) by persons other than the registrant, in combination with one or more other products to make: ACZA wood preservative; or CCA wood preservative that is used in accordance with the "Directions for Use" shown below.

Effective December 31, 2003, this product may only be used for preservative treatment of the following categories of forest products and in accordance with the respective cited standard (noted parenthetically) of the 2001 edition of the American Wood Preservers' Association Standards: Lumber and Timber for Salt Water Use Only (C2), Piles (C3), Poles (C4), Plywood (C9), Wood for Highway Construction (C14), Poles, Piles and Posts Used as Structural Members on Farms, and Plywood Used on Farms (C16), Wood for Marine Construction (C18), Round Poles and Posts Used in Building Construction (C23), Sawn Timber Used To Support Residential and Commercial Structures (C24), Sawn Crossarms (C25), Structural Glued Laminated Members and Laminations Before Gluing (C28), Structural Composite Lumber (C33), and Shakes and Shingles (C34). Forest products treated with this product may only be sold or distributed for uses within the AWPA Commodity Standards under which the treatment occurred.

For affected end-use products, the label amendments would read as follows:

Effective December 31, 2003, this product may only be used for preservative treatment of the following categories of forest products and in accordance with the respective cited standard (noted parenthetically) of the 2001 edition of the American Wood Preservers' Association Standards: Lumber and Timber for Salt Water Use Only (C2), Piles (C3), Poles (C4), Plywood (C9), Wood for Highway Construction (C14), Poles, Piles and Posts Used as Structural Members on Farms, and Plywood Used on Farms (C16), Wood for Marine Construction (C18), Round Poles and Posts Used in Building Construction (C23), Sawn Timber Used To Support Residential and Commercial Structures (C24), Sawn Crossarms (C25), Structural Glued Laminated Members and Laminations Before Gluing (C28), Structural Composite Lumber (C33), and Shakes and Shingles (C34). Forest products treated with this product may only be sold or distributed for uses within the AWPA Commodity Standards under which the treatment occurred.

In addition, the registrants requested that EPA allow use of the previous (unamended) labels for a period of 60 calendar days from the date on which the particular affected registrant receives EPA's approval of the amendments, and that EPA allow a further amendment by notification on or

before December 1, 2003 to: (1) Delete the use directions in effect prior to these amendments, and (2) to delete the statement "Effective December 31, 2003" from the amended labels approved by EPA. Furthermore, the registrants stated in their letters that they will not amend or withdraw their requests before EPA acts on them. The registrants also intend to notify their customers of the amended labels by certified mail after EPA acts on the request.

The registrants also estimate that during the first year following acceptance of the amendments by EPA, sales of new generation wood treatment products are likely to increase to 15% to 25% of the total average sales during 1999, 2000, and 2001 of the products identified in Tables 1 and 2 for the non-industrial treatment categories subject to these amendments, and are estimated to increase to 60% to 70% of the same total average sales for these treatment categories subject to these amendments during the second year following acceptance of the amendments by EPA. Further, the registrants estimate that during the first year following acceptance of the amendments by EPA, sales of the products identified in Tables 1 and 2 are likely to decrease by 15% to 25% of their total average sales during 1999, 2000, and 2001 for the non-industrial treatment categories subject to the amendments, and are estimated to decrease by 60% to 70% of the same total average sales during 1999, 2000, and 2001 for these treatment categories subject to the amendments during the second year following acceptance of the amendments by EPA.

## III. What Action is the Agency Taking?

This notice announces receipt by the Agency under section 6(f)(1) of FIFRA from the four identified registrants of CCA products of requests to cancel two affected products and to amend other affected CCA product registrations to terminate all uses with the exception of the treatment of forest products listed above. The affected products and the registrants making the requests are identified in Tables 1 - 3 below.

TABLE 1.—REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO TERMINATE USES

Registration Number	Product Name
<b>End Use Products</b> 3008-17	K-33-C (72%) Wood Preservative

TABLE 1.—REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO TERMINATE USES—Continued

Registration Number	Product Name
3008-21	Special K-33 Preservative
3008-34	K-33 (60%) Wood Preservative
3008-35	K-33 (40%) Type-B Wood Preservative
3008-36	K-33-C (50%) Wood Preservative
3008-42	K-33-A (50%) Wood Preservative
3008-72	Osmose Arsenic Acid 75%
10465-26	CCA Type-C Wood Preservative 50%
10465-28	CCA Type-C Wood Preservative 60%
10465-32	CSI Arsenic Acid 75%
35896-2	Wood-Last Conc. Wood Preservation AQ 50% Solution CCA-Type A
62190-2	Wolmanac® Concentrate 50%
62190-8	Wolmanac® Concentrate 72%
62190-14	Wolmanac® Concentrate 60%
<b>Manufacturing Use Products</b> 3008-66	Arsenic Acid 75%
10465-32	CSI Arsenic Acid 75%
62190-7	Arsenic Acid 75%

TABLE 2.—REGISTRATIONS WITH REQUESTS FOR CANCELLATION OF PRODUCTS

Registration Number	Product Name
62190-5	WolmanacR Concentrate 70%
62190-11	CCA Type C 50% Chromated Copper Arsenate

Table 3 below includes the names and addresses of record for all registrants of the products in Tables 1 and 2.

TABLE 3.—REGISTRANTS REQUESTING VOLUNTARY TERMINATION OF USES AND/OR CANCELLATION OF PRODUCTS

EPA Company No.	Company Name and Address
003008	Osmose, Inc. 980 Ellicott Street Buffalo, NY 14209
010465	Chemical Specialties, Inc. One Woodlawn Green, Suite 250 200 E. Woodlawn Road Charlotte, NC 28217
035896	Phibro-Tech, Inc. One Parker Plaza Fort Lee, NJ 07024
062190	Arch Wood Protection, Inc. 1955 Lake Park Drive, Suite 250 Smyrna, GA 30080

#### IV. What is the Agency's Authority for Taking This Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that a pesticide registration of the registrant be canceled or amended to terminate one or more uses. The Act further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, following the public comment period, the Administrator may approve such a request.

#### V. Provisions for Disposition of Existing Stocks

In any order issued in response these requests for amendment to terminate uses, the Agency proposes to include the following provisions for the treatment of any existing stocks of the products identified or referenced in Table 1:

All distribution, sale, and use of existing stocks of affected manufacturing-use and end-use products will be unlawful under FIFRA effective December 31, 2003, except for purposes of shipping such stocks for relabeling or repackaging, export consistent with the requirements of section 17 of FIFRA, or proper disposal, unless such stocks have been relabeled or repackaged in a manner that is consistent with this order.

In any order issued in response to the above-noted a request for cancellation of a product registration, the Agency proposes to not grant any period of time

for disposition of existing stocks of the products for which cancellation was requested as identified or referenced in Table 2.

#### List of Subjects

Environmental protection, Pesticides and pests

Dated: February 15, 2002.

**Frank Sanders,**

*Director, Antimicrobial Division, Office of Pesticide Programs.*

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#### ENVIRONMENTAL PROTECTION AGENCY

[FRL-7145-7]

#### Privacy Act of 1974: Republication of Existing System of Records

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice; Amendment to notice of privacy act system of records.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to amend the existing Privacy Act system of records.

**EFFECTIVE DATES:** The proposed amendments will be effective upon publication.

**ADDRESSES:** Send written comments to Judy E. Hutt, Agency Privacy Act Officer, 1200 Pennsylvania Ave. (2822) Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Judy E. Hutt, Agency Privacy Act Officer, 1200 Pennsylvania Ave. (2822) Washington, DC 20460; Telephone (202) 260-6131.

**SUPPLEMENTARY INFORMATION:** This section summarizes the changes to each existing system of records. The summaries focus on alternations in name or function, changes in routine uses, and other major changes. Each summary includes the name of the contact person for the system who provided information for this report.

To the greatest extent possible, the old system numbers have been retained for new systems. Thus, old EPA-1 (Payroll System) remains as EPA-1. In some instances, the system number remains the same even though the name of the system has been updated. Systems number not in current use remain unused under the revisions. There was no old number 6, and there is no new number 6. Numbers for systems proposed for deletion will not be reused. Old number 16, which was used by two existing systems, will not be reused. One old number 16 is obsolete,