

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 registration 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 ID 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. Registration Applications

EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provision of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

### *Products Containing Active Ingredients not Included in any Previously Registered Products*

1. *File symbol:* 71771-T. *Applicant:* Nichino America, Inc., 4550 New Linden Hill Road, Wilmington, DE 19808. *Product name:* ET-751 2.5% EC Herbicide. *Product type:* Herbicide. *Active ingredient:* Pyraflufen-ethyl (ethyl 2-chloro-5-(4-chloro-5-difluoromethoxy-1-methylpyrazol-3-yl)-4-fluorophenoxyacetate) at 2.5%. *Proposed classification/Use:* None. For use on terrestrial non-cropland to control broadleaf weeds.

2. *File symbol:* 71711-A. *Applicant:* Nichino America, Inc. *Product name:* ET-751 Technical. *Product type:* Herbicide. *Active ingredient:* Pyraflufen-ethyl at 97.9%. *Proposed classification/Use:* None. For manufacturing use of end-use products to be used to control certain broadleaf weeds on terrestrial non-cropland.

3. *File symbol:* 59639-RNO. *Applicant:* Valent U.S.A. Corporation, 1333 North Carolina Blvd., Suite 600, P.O. Box 8025, Walnut Creek, CA 94596-8025. *Product name:* S-3153 Flufenpyr-ethyl Technical. *Product type:* Herbicide. *Active ingredient:* Flufenpyr-ethyl, ethyl [2-chloro-4-fluoro-5-(5-methyl-6-oxo-4-trifluoromethyl-1,6-dihydropyridazin-1-yl)phenoxy]acetate at 98.0%. *Proposed classification/Use:* None. For formulation into herbicide products to control postemergence broadleaf weed species in field corn, forage; field corn,

grain; field corn, stover; soybean, seed; sugarcane.

4. *File symbol:* 59639-RRN. *Applicant:* Valent U.S.A. Corporation. *Product name:* S-3153 WDG Herbicide. *Product type:* Herbicide. *Active ingredient:* Flufenpyr-ethyl at 57.6%. *Proposed classification/Use:* None. For manufacturing use of end-use products to be used to control postemergence broadleaf weed species in field corn, soybeans and sugarcane.

5. *File symbol:* 59639-RRR. *Applicant:* Valent U.S.A. Corporation. *Product name:* S-3153 Atrazine WDG. *Product type:* Herbicide. *Active ingredient:* Flufenpyr-ethyl 75.0%. *Proposed classification/Use:* None. For manufacturing use of end-use products to be used to control postemergence broadleaf weed species in field corn and sugarcane.

### List of Subjects

Environmental protection, Pesticides and pest.

Dated: October 27, 2002.

**Debra Edwards,**

*Acting Director, Registration Division, Office of Pesticide Programs.*

[FR Doc. 02-28504 Filed 11-12-02; 8:45am]

**BILLING CODE 6560-50-S**

## ENVIRONMENTAL PROTECTION AGENCY

[OPP-2002-0285; FRL-7278-1]

### Draft Guidance on How to Comply with Data Citation Regulations; Notice of Availability

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

**ACTION:** Notice.

**SUMMARY:** This notice announces the availability of draft guidance on how to comply with the Agency's data citation requirements for registration of new pesticide products under the Federal Insecticide, Fungicide, and Rodenticide Act. When applicants do not fully comply with the data citation regulations, the result can be significant delays in the processing of registration applications, the potential for an increase in adversarial petitions being submitted to the Agency by data submitters, and increased expenditures of resources for all involved, the Agency, applicants, and data submitters. EPA believes that the guidance provided through the notice will assist applicants comply with the data citation requirements and ultimately result in fewer delays in the registration process.

**DATES:** Comments, identified by docket ID number OPP-2002-0285, must be received on or before December 13, 2002.

**ADDRESSES:** Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**.

### FOR FURTHER INFORMATION CONTACT:

Peter Caulkins, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-5447; fax number: (703) 305-6920; e-mail address: [caulkins.peter@epa.gov](mailto:caulkins.peter@epa.gov).

### SUPPLEMENTARY INFORMATION:

#### I. General Information

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

You may be potentially affected by this action if you submit applications for registration of pesticides pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), or if you submit data to the Agency in support of registration or reregistration under FIFRA. Potentially affected entities may include, but are not limited to:

Pesticide Manufacturing (NAICS 32532)

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. 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 Copies of this Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPP-2002-0285. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although, a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that

is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket 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/fedrgrstr/>.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> 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 ID number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket, but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or on paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide

a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

#### *C. How and To Whom Do I Submit Comments?*

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. 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 wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically.* If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. 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. EPA's policy is that EPA will not edit your comment, and 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.

i. *EPA Dockets.* Your use of EPA's electronic public docket to submit

comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at <http://www.epa.gov/edocket/>, and follow the online instructions for submitting comments. Once in the system, select "search," and then key in docket ID number OPP-2002-0285. The 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.

ii. *E-mail.* Comments may be sent by e-mail to [opp-docket@epa.gov](mailto:opp-docket@epa.gov), Attention: Docket ID Number OPP-2002-0285. In contrast to EPA's electronic public docket, EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail.* Send your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency (7502C), 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001, Attention: Docket ID Number OPP-2002-0285.

3. *By hand delivery or courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA., Attention: Docket ID Number OPP-2002-0285. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.A.1.

#### *D. How Should I Submit CBI to the Agency?*

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then

identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition, 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 docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket 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 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 your estimate.
5. Provide specific examples to illustrate your concerns.
6. Offer alternatives.
7. Make sure to submit your comments by the comment period deadline identified.
8. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

#### **II. What Action is the Agency Taking?**

Applicants who choose to rely on data citation, rather than submitting their own data to meet EPA data requirements, must assure that the offer-to-pay letters they provide to data submitters satisfy EPA's regulatory requirements as provided in 40 CFR part 152, subpart E. When applicants do not follow these procedures, delays in the processing of registration applications result. In addition, improper offer-to-pay letters can increase the potential for adversarial petition actions brought under 40 CFR 152.99. When applicants do not comply with data citation

requirements, EPA, data submitters, and applicants expend, unnecessarily, significant resources during the application process. In an effort to avoid needless disputes and save the resources of all concerned, the Agency believes it would be helpful to clarify the obligations of data citers.

By providing this guidance, the Agency hopes to streamline the registration process, provide assistance to applicants for pesticide registration, and to help data submitters preserve their data protection rights.

The draft Pesticide Registration Notice does not address the issue of when offers-to-pay must be made or when documentation demonstrating that offers-to-pay have been made must be submitted to the Agency. EPA expects to issue guidance on this related matter through a separate means.

In addition, the Agency will soon make available to the public several letters that have been issued recently regarding data compensation matters. These letters provide useful guidance to the regulated community and the general public, including persons who prepare applications for registration and those who submit data in support of registration actions. The Agency intends to announce the availability of these letters through a separate notice in the **Federal Register**.

#### **List of Subjects**

Environmental protection,  
Administrative practice and procedures,  
Pesticides and pests.

Dated: November 1, 2002.

**Marcia E. Mulkey,**

*Director, Office of Pesticide Programs.*

[FR Doc. 02-28693 Filed 11-12-02; 8:45 am]

**BILLING CODE 6560-50-S**

#### **ENVIRONMENTAL PROTECTION AGENCY**

**[FRL-7407-8]**

#### **Proposed Administrative Settlement Under the Comprehensive Environmental Response, Compensation and Liability Act; Nazcon Concrete Superfund Site**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice; request for public comment.

**SUMMARY:** In accordance with section 122(i)(1) of CERCLA, 42 U.S.C. 9622(i)(1), notice is hereby given of a proposed administrative settlement concerning the Nazcon Concrete Superfund Site, Beltsville, Prince

George's County, Maryland. The administrative settlement was signed by the Acting Regional Administrator of the United States Environmental Protection Agency (EPA), Region III, on October 31, 2002, and is subject to review by the public pursuant to this document.

The Environmental Protection Agency is proposing to enter into a settlement pursuant to section 122(h) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. 9622(h). The proposed settlement resolves EPA's claim for past response costs under section 107 of CERCLA, 42 U.S.C. 9607 against NAZCON, Inc. for response costs incurred at the Nazcon Concrete Superfund Site, Beltsville, Prince George's County, Maryland. The proposed settlement requires NAZCON, Inc. to pay \$15,000 to the EPA Hazardous Substance Fund.

NAZCON, Inc., as the Settling Party, has executed binding certifications of its consent to participate in this settlement. NAZCON, Inc. has agreed to pay \$15,000 subject to the contingency that EPA may elect not to complete the settlement based on matters brought to its attention during the public comment period established by this notice.

For thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the proposed settlement. EPA will consider all comments received and may withdraw or withhold consent to the proposed settlement if such comments disclose facts or considerations which indicate that the proposed settlement is inappropriate, improper, or inadequate.

**DATES:** Comments must be submitted on or before December 12, 2002.

**ADDRESSES:** Comments should be addressed to the Docket Clerk, United States Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103, and should reference the Nazcon Concrete Superfund Site, Beltsville, Maryland, U.S. EPA Docket No. CERCLA 03-2002-0255-DC. The proposed settlement agreement is available for public inspection at the United States Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103. A copy of the proposed settlement agreement can be obtained from Suzanne Canning, Regional Docket Clerk (3RC00), United States Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103, telephone number (215) 814-2476.