



BEYOND PESTICIDES

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July 5, 2006

The Honorable Stephen Johnson
Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, NW 1102A
Washington, DC 20460

Re. Cancel Registrations for Acid Copper Chromate (ACC) Wood Preservative

Dear Administrator Johnson:

We the undersigned are writing to express our surprise and disappointment that EPA has approved the Forest Products Research Laboratory's (FPRL) application to sell the hexavalent chromium-based wood preservative Acid Copper Chromate (ACC) for a number of industrial and building-related uses. Although EPA has previously granted an ACC registration to the wood treatment company Osmose, this company has stopped distributing the product and asked to cancel the registration. In fact the wood preservative industry as a whole has shifted toward alternative products, which contain neither chromium nor arsenic. There is no need for a hexavalent chromium-based preservative.

Given the risks associated with hexavalent chromium and the widespread alternative of safe alternatives, we urge you to rescind all existing registrations for ACC including that issued in May to FPRL. We emphasize, that we are opposed to any use of chromium-based wood preservatives and ask that EPA take this action before ACC enters the market place.

We also request that EPA provide us with copies of toxicological and exposure studies, risk assessments and other documents that EPA used to render its decision on ACC.

EPA approval of ACC use is neither prudent nor necessary and seriously undermines the CCA (Chromated Copper Arsenate) phase-out, one of the most important pollution prevention achievements in the history of U.S. industry. In 2002, the wood treatment industry voluntarily agreed to end the use of CCA wood preservative for residential uses. This phase-out eliminated a substantial amount of arsenic use and 64 million pounds of hexavalent chromium use in the United States.

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As part of the transition from CCA, major wood treatment companies invested tens of millions of dollars to commercialize alternatives to CCA. EPA awarded a Presidential Green Chemistry Challenge Award to one these companies for its leadership in commercializing an alternative that uses no arsenic and no chromium. This alternative, Alkaline Copper and Quaternary Ammonium Compounds (ACQ), is now universally available along with other safer alternatives.

Rather than build upon this success and cancel all ACC use, EPA's recent action does just the opposite. If commercialized, ACC will add millions of pounds of hexavalent chromium a year into the U.S. marketplace. ACC contains 50 percent more hexavalent chromium than CCA - *i.e., one dangerous chemical - chromium -- replaces another -- arsenic*. Why not encourage the use of safe alternatives? Instead EPA's decision undercuts the Agency's leadership on pollution prevention and toxic use reduction.

EPA's message to industry - "if you make voluntary changes, don't expect EPA to uphold its end of the bargain."

Our concerns are in no way diminished by EPA's decision to limit ACC uses to primarily non-residential purposes. We note that EPA's decision allows widespread ACC use for such purposes as cooling towers and many construction products including structural laminates. EPA's decision also allows ACC to treat wooden shakes and shingles for residential roofing and siding. Moreover, FPRL continues to lobby EPA for a broader registration, which would enable ACC-treated wood to be used for residential uses such as decks, picnic tables, fences and playground equipment, etc. As stated previously, we are opposed to any use of chromium-based wood preservatives.

Commercialization of ACC will increase the risks associated with exposure to hexavalent chromium. According to EPA, hexavalent chromium is a known carcinogen via inhalation. Exposure to Hexavalent chromium is also known to cause non-cancer respiratory ailments, kidney and liver damage, and serious allergic reactions of the skin. In addition, this chemical has caused drinking water contamination, worker illness, as well as soil and air degradation. There is increasing evidence linking hexavalent chromium to ingestion as well as inhalation.

We emphasize that exposures will not be limited to consumers but are likely to occur throughout the product life cycle. Many Superfund sites, which have contaminated soil and groundwater, were created by treatment plants using

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hazardous chemicals including chromium. Moreover, in April of this year, the California Regional Water Quality Control Board issued a notice containing multiple violations to Thunderbolt Wood Treating Company in Riverbank, CA for chromium releases to soil, groundwater and surface water. This plant, until recently, treated wood with ACC for use in cooling towers. State and local officials are concerned that chromium contamination at Thunderbolt may spread to municipal well fields where two wells have tested positive for chromium.

Such potential releases and risks at all stages of production, use and disposal are clearly preventable provided that EPA actions prohibit the use of ACC and encourage the use of widely available safe alternatives.

We are also concerned that EPA's decision to allow the use of a hexavalent chromium-based preservative is based largely on proprietary data provided by the applicants and allied parties -- data that has not been subject to public review. While such confidentiality is regrettably standard practice under FIFRA, public review of ACC toxicological data is critical given recent evidence that industry consultants manipulated evidence in order to influence other chromium-related regulatory and court decisions, i.e.:

- A Washington Post article (February 24, 2006) describes a George Washington University / Public Citizen journal article documenting that scientists working for the chromium industry failed to report inhalation studies showing fivefold increase in lung cancer deaths from moderate exposures to chromium. The Post article states that, "Company-sponsored scientists later reworked the data in a way that made the risk disappear." The apparent twisting of the science occurred at the same time that the chromium industry lobbied to block strict new OSHA limits for hexavalent chromium in workplace air.
- The *Journal of Occupational and Environmental Medicine* recently took the highly unusual step of retracting a 1997 article stating that the "financial and intellectual input to the paper by outside parties was not disclosed." The outside parties refer to consultants for PG&E who, according to investigative reports by the Wall Street Journal and the Environmental Working Group, manipulated data in the article in order to obscure a link between exposure to contaminated well water and cancer death rate found by a Chinese scientist.

We are aware that state agencies such as New Jersey and California are now reexamining regulatory decisions based on data provided by various chromium interests. Such steps are critical given numerous regulatory decisions related to

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widespread chromium contamination in the workplace, soils and groundwater – decisions that are pending or that may need to be reopened.

In light of these revelations, it is essential that EPA provide assurance to the public that EPA's decisions on ACC and other products are based on reliable data – data that can be reviewed by the public and independent scientists. Thus, we are asking that EPA to make available to the public all data and studies provided by the applicant in addition to EPA-generated studies used to approve ACC.

In summary, EPA has long promoted pollution prevention and toxic use reduction as the best ways to protect the environment. This means keeping ACC out of circulation. We therefore urge you to cancel all registrations now in effect for ACC.

Thank you for your consideration.

Sincerely,

Jay Feldman, Beyond Pesticides
Bill Walsh, Healthy Building Network
Monica Moore, Pesticide Action Network of North America
Richard Wiles, Environmental Working Group
Paul Schwartz, Clean Water Action
Amy Goldsmith, Coalition Against Toxics
Jane Nogaki, NJ Environmental Federation
Susan Junfish, Parents for a Safer Environment
Bernadette Giblin, Safeground Landcare
Alan Cohen, Biological Pest Management, Inc.
Rachel Sumner, BURNT/No Spray - Nashville
Alison Johnson, Chemical Sensitivity Foundation
Virginia Souders-Mason, Pesticide Free Zone Campaign
Steven Zien, BUGS
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Fawn Pattison, Agricultural Resources Center
Michael Belliveau, Environmental Health Strategy Center
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Michael Mullen, Choctawhatchee Riverkeeper

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Rae Schnapp, Ph.D., Wabash Riverkeeper

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Andrew Willner, Executive Director, NY/NJ Baykeeper

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Terry Backer, Soundkeeper Inc

Michael R Helfrich, Lower Susquehanna Riverkeeper

Dean A. Wilson, Atchafalaya Basinkeeper

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*Organizational names for identification purposes only; does not connote organization endorsement.