

Dated: December 17, 2004.

**Vanessa T. Vu,**

Director, EPA Science Advisory Board Staff Office.

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## ENVIRONMENTAL PROTECTION AGENCY

[OPP-2004-0429; FRL-7695-6]

### Notice of Receipt of Requests to Cancel Registrations of Certain Pentachlorophenol Wood Preservative Products, and/or Amend Registrations to Terminate Certain Uses of Pentachlorophenol Products

**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 requests by registrants of pesticide products containing Pentachlorophenol to cancel certain Pentachlorophenol wood preservative products, and/or amend registrations to terminate certain uses of Pentachlorophenol products. Two registrants, KMG Chemicals, Inc. and Vulcan Chemicals, are requesting these actions effective immediately. KMG Chemicals, Inc., is requesting that registrations for two of its products, Pentacon 40 and Penwar, be cancelled. Vulcan Chemicals is requesting amendments to registrations to terminate spray uses for two of its products (Vulcan GLAZD Penta and Vulcan Premium Four Pound [PCP-2] Concentrate). KMG Chemicals, Inc. has asked for no provision for existing stocks. Vulcan Chemicals has asked to be allowed to sell and distribute existing stocks for a period of 18 months after the issuance of the cancellation order terminating spray uses of its products. Both registrants waived the 180-day comment period (i.e., any comment period in excess of 30 days).

**DATES:** Comments, identified by docket ID number OPP-2004-0429, must be received on or before February 7, 2005. Unless a request is withdrawn by February 7, 2005, the Agency intends to issue cancellation orders granting these requests to cancel certain products, and/or to amend registrations to terminate certain uses. The Agency will consider withdrawal requests postmarked no later than February 7, 2005.

**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:** Heather Garvie, Office of Pesticide Programs (7510C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-0034; e-mail address: garvie.heather@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 an official public docket for this action under docket identification (ID) number OPP-2004-0429. 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, 1801 S. Bell St., Arlington, VA 22202. 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/fedrgstr/>. 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.

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.1. 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.1. 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 in 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-2004-0429. 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-2004-0429. 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) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001, Attention: Docket ID Number OPP-2004-0429.

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, 1801 S. Bell St., Arlington, VA, Attention: Docket ID Number OPP-2004-0429. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.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 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 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?

This notice announces receipt by the Agency of requests from registrants to voluntarily cancel registrations and/or amend registrations to terminate certain uses of pentachlorophenol wood preservative products (see Tables 1 and 2 below.). The Agency received letters from Vulcan Chemicals, dated September 13, 2004, requesting that registrations be amended to terminate spray uses for two of its products. The Agency also received a letter from Roger C. Jackson, dated December 14, 2004, on behalf of KMG Chemicals Inc. requesting voluntary cancellation of two of its wood preservative products, Pentacon 40 and Penwar. KMG Chemicals, Inc. has asked for no provision for existing stocks. Vulcan Chemicals has asked to be allowed to sell and distribute existing stocks for a period of 18 months after the issuance of the cancellation order terminating spray uses of its products. Both registrants waived the 180-day comment period (i.e., any comment period in excess of 30 days).

The following pentachlorophenol product registrations would be affected by the requests for cancellation:

TABLE 1.—REQUEST FOR CANCELLATION OF REGISTRATIONS FOR WOOD PRESERVATIVE PRODUCTS

Registration No.	Product name	Chemical name
61483-56	Pentacon 40	Pentachlorophenol
61483-55	Penwar	Pentachlorophenol

The following pentachlorophenol products would be affected by the requests to amend registrations to terminate spray uses:

TABLE 2.—REQUEST FOR AMENDMENTS TO TERMINATE SPRAY USES

Registration No.	Product name	Chemical name
5382-36	Vulcan Premium Four Pound (PCP-2) Concentrate	Pentachlorophenol
5382-16	Vulcan GLAZD Penta	Pentachlorophenol

Unless a request is withdrawn by the registrant within 30 days of publication of this notice, the Agency intends to issue cancellation orders for the products, and for the amendments to registrations to terminate uses. Users of these pesticides or anyone else desiring the retention of a particular use should contact the applicable registrant directly before the lapse of this 30-day period.

Table 3 includes the names and addresses of record for all registrants of the products in Tables 1 and 2, in sequence by EPA company number:

TABLE 3.—REGISTRANTS REQUESTING AMENDMENT OF REGISTRATIONS TO TERMINATE CERTAIN USES OR CANCELLATION OF REGISTRATIONS OF PENTACHLOROPHENOL WOOD PRESERVATIVE PRODUCTS

EPA Company No.	Company name and address
61483	KMG Chemicals, Inc., 10611 Harwin Drive, Suite 402, Houston, Texas 77036-1534
5382	Vulcan Chemicals, PO Box 385015, Birmingham, Alabama 35259-5015

### III. 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 any of its pesticide registrations be canceled or amended to terminate uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**, and provide a 30-day public comment period. Thereafter, the Administrator may approve such a request.

### IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for voluntary cancellation of a product registration or amendment of a registration to terminate uses must submit such withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**, postmarked before February 7, 2005. This written withdrawal of the request for cancellation of a product registration or amendment to terminate uses will apply only to the applicable FIFRA section 6(f)(1) request listed in this notice. If the product(s) have been subject to a previous cancellation or use termination action, the effective date of cancellation and all other provisions of any earlier cancellation or use termination order are controlling. The withdrawal request must also include a commitment to pay any maintenance fees due, and to fulfill any applicable unsatisfied data requirements.

### V. Provisions for Disposition of Existing Stocks

The two registrants are KMG Chemicals, Inc., and Vulcan Chemicals. KMG Chemicals, Inc. has asked for no provision for existing stocks. Therefore, the Agency is not proposing allowing any sale, distribution or use of existing stocks in the hands of the registrant on the effective date of the use termination.

Vulcan Chemicals has asked to be allowed to sell and distribute existing stocks (those that still bear the spray use on the label) for a period of 18 months after the issuance of the cancellation order terminating spray uses of their products, and to allow sufficient time to implement amended labeling. However, Vulcan Chemicals does not knowingly sell nor intend to sell at any time in the future, either of their products for spray uses. According to Vulcan Chemicals, their customers are not using the products for any treatment other than pressure-treatment or thermal-treatment.

Existing stocks of any affected product already in the hands of persons

other than the registrant can be distributed, sold, or used legally until they are exhausted, provided that such further sale and use comply with the EPA-approved label of the affected product.

For purposes of this proposed order, the term "existing stocks" is defined, pursuant to EPA's existing stocks policy (56 FR 29362, June 26, 1991), as those stocks of a registered pesticide product which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation or amendment. Any distribution, sale or use of existing stocks in a manner inconsistent with the terms of the cancellation order or the existing stocks provisions contained in the order will be considered a violation of section 12(a)(2)(K) and/or section 12(a)(1)(A) of FIFRA.

### List of Subjects

Environmental Protection, Pesticides and Pests.

Dated: December 29, 2004.

**Jack E. Housenger,**

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

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## ENVIRONMENTAL PROTECTION AGENCY

**OPP-2004-0294; FRL-7694-7]**

### Pesticide Products; Registration Applications

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

**ACTION:** Notice.

**SUMMARY:** This notice announces receipt of applications to register pesticide products containing new active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

**DATES:** Written comments, identified by the docket ID number OPP-2004-0294, must be received on or before February 7, 2005.

**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:** The Product Manager (PM), Antimicrobials Division (7510C), listed in the table below: