

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.

## II. Did EPA Conditionally Approve the Application?

A conditional registration may be granted under section 3(c)(7)(C) of FIFRA for a new active ingredient where certain data are lacking, on condition that such data are received by the end of the conditional registration period and do not meet or exceed the risk criteria set forth in 40 CFR 154.7; that use of the pesticide during the conditional registration period will not cause unreasonable adverse effects; and that use of the pesticide is in the public interest. The Agency has considered the available data on the risks associated with the proposed use of *Macleaya* extract, and information on social, economic, and environmental benefits to be derived from such use. Specifically, the Agency has considered the nature 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 use of *Macleaya* extract during the period of conditional registration will not cause any unreasonable adverse effect on the environment, and that use of the pesticide is, in the public interest.

Consistent with section 3(c)(7)(C) of FIFRA, the Agency has determined that these conditional registrations are in the public interest. Use of the pesticides are of significance to the user community, and appropriate labeling, use directions, and other measures have been taken to ensure that use of the pesticides will not result in unreasonable adverse effects to man and the environment.

## III. Conditionally Approved Registrations

EPA issued a notice, published in the **Federal Register** of January 19, 2000 (65 FR 2948) (FRL-6485-1), which announced that Camas Technologies, Inc., P.O. Box 1357, Broomfield, CO 80038-1357, had submitted an application to conditionally register the pesticide product, Qwel Fungicide (EPA File Symbol 69876-R), containing *Macleaya* extract at 1.5% an active ingredient not included in any previously registered product.

The application was conditionally approved on September 19, 2002, as Qwel (CTI 13-19B) Liquid Concentrate, an end-use product; for foliar application to ornamental crops in

enclosed greenhouses for the control of powdery mildew and *Alternaria* and *Septoria* leaf spots (EPA Registration Number 69876-1).

### List of Subjects

Environmental protection, Pesticides and pest.

Dated: October 6, 2002.

**Debra Edwards,**

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

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**BILLING CODE 6560-50-S**

## ENVIRONMENTAL PROTECTION AGENCY

[OPP-2002-0267; FRL-7276-2]

### Thymol and Eucalyptus Oil; Receipt of Application for Emergency Exemption, Solicitation of Public Comment

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

**ACTION:** Notice.

**SUMMARY:** EPA has received a specific exemption request from the Maine Department of Agriculture, Food, and Rural Resources to use the pesticide thymol and eucalyptus oil (CAS numbers 89-83-8 and 8000-48-4, respectively) to treat up to 13,000 hives of honey and beeswax to control Varroa mite. The Applicant proposes the use of the new chemical, eucalyptus oil which has not been registered by EPA and the Applicant proposes a first food use of thymol. EPA is soliciting public comment before making the decision whether or not to grant the exemption.

**DATES:** Comments, identified by docket ID number OPP-2002-0267, must be received on or before November 8, 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:

Barbara Madden, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-6463; fax number: (703) 308-5433; e-mail address: Sec-18-Mailbox@epamail.epa.gov.

#### SUPPLEMENTARY INFORMATION:

#### I. General Information

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

You may be potentially affected by this action if you are a federal or state

government agency involved in administration of environmental quality programs. Potentially affected entities may include, but are not limited to:

Federal or state government entity, (NAICS 9241), e.g., Department of Agriculture, Environment, etc.

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. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in Unit II. 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-2002-0267. 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/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. 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-2002-0267. 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-2002-0267. 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-2002-0267.

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-2002-0267. 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 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.
7. Make sure to submit your comments by the deadline in this document.
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. Background**

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

Under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), at the discretion of the Administrator, a federal or state agency may be exempted from any provision of FIFRA if the Administrator determines that emergency conditions exist which require the exemption. The Maine Department of Agriculture, Food, and Rural Resources has requested the Administrator to issue a specific exemption for the use of thymol and eucalyptus oil on honey and beeswax to control Varroa mite. Information in accordance with 40 CFR part 166 was submitted as part of this request.

As part of this request, the Applicant asserts that Varroa mites were first detected in Maine in November of 1987. Since 1988, beekeepers have treated their colonies with fluvalinate to control Varroa. Varroa mite resistance to fluvalinate is widespread in Maine. In 1999, a section 18 emergency exemption was granted by EPA for the treatment of Varroa and the small hive beetle. During the fall of 2001, a Florida-Maine migratory beekeeping operation was determined to have Varroa with resistance to coumaphos and fluvalinate. Maine produced 231,000 pounds of honey in 2000 valued at \$173,000 wholesale. The honey bee and beekeeping industry is essential for crop pollination. Maine is the primary producer of blueberries in the world, an

industry that contributes \$75 - 100 million to the state's annual economy. Honey bees also pollinate the state's apple crop and other fruits and vegetables with an estimated value of over \$30 million per year.

The Applicant proposes to treat 13,000 hives in late summer or fall at least 5 months prior to harvesting the honey. A maximum of 26,000 tablets weighing 11 grams each will be used.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 of FIFRA require publication of a notice of receipt of an application for a specific exemption proposing use of a new chemical (i.e., an active ingredient) which has not been registered by EPA, as well as a first food use of a chemical. The notice provides an opportunity for public comment on the application.

The Agency will review and consider all comments received during the comment period in determining whether to issue the specific exemption requested by the Maine Department of Agriculture, Food, and Rural Resources.

### **List of Subjects**

Environmental protection, Pesticides and pests.

Dated: October 6, 2002.

**Debra Edwards,**

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

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**BILLING CODE 6560-50-S**

## **ENVIRONMENTAL PROTECTION AGENCY**

**[FRL-7398-3]**

### **Proposed Prospective Purchaser Agreement under CERCLA for the Midwest Portland Cement Superfund Site**

**AGENCY:** United States Environmental Protection Agency ("USEPA").

**ACTION:** Proposal of CERCLA prospective purchaser agreement for the Midwest Portland Cement Superfund Site.

**SUMMARY:** USEPA is proposing to execute a Prospective Purchaser Agreement ("PPA") under authority of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), 42 U.S.C. 9601 *et seq.*, as amended, and under the inherent authority of the Attorney General of the United States to compromise and settle claims of the United States, for the transfer of title to property at the Midwest Portland

Cement Superfund Site, located in East Fultonham, Ohio, to a purchaser who will obtain title to the Site through the judicial sale process. The PPA is intended to resolve the liability under CERCLA of the purchaser for costs incurred by USEPA in conducting response actions at the Site. In return for a covenant not to sue and contribution protection from USEPA, subject to standard reservations of rights, the purchaser will pay \$350,000 in reimbursement of USEPA's response costs.

The Site was operated by the Midwest Portland Cement Company ("MPC") as a cement manufacturing and limestone mining facility until ceasing operations in March, 1993. USEPA's response action at the Site was completed on January 20, 1998. The Site is not on the National Priorities List. No further response activities by USEPA are anticipated at the Site at this time. The MPC estate is being liquidated under Chapter 7 of the Bankruptcy Code in the United States Bankruptcy Court for the Western District of Pennsylvania (Case No. 97-23098-JLC). MPC's real estate was the subject of a judicial sale that took place on June 18, 2002.

**DATES:** Comments on this proposed PPA must be received by November 25, 2002.

**ADDRESSES:** A copy of the proposed PPA is available for review at USEPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. Please contact Kevin C. Chow at (312) 353-6181, prior to visiting the Region 5 office. Comments on the proposed PPA should be addressed to Kevin C. Chow, Office of Regional Counsel (C-14J), USEPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

### **FOR FURTHER INFORMATION CONTACT:**

Kevin C. Chow, Office of Regional Counsel, at (312) 353-6181.

**SUPPLEMENTARY INFORMATION:** In accordance with CERCLA, notice is hereby given of a proposed Prospective Purchaser Agreement concerning the Midwest Portland Cement Superfund Site, located at 6400 Maysville Pike, East Fultonham, Muskingum County, Ohio. The proposed PPA has been signed and approved by USEPA and the Department of Justice, subject to review by the public pursuant to this Notice. The purchaser—Belmont Leasing, Inc. ("Belmont Leasing")—participated in the judicial sale of the Site and successfully bid for title to the property. Belmont Leasing will be required to execute the signature page for the PPA at the closing of the sale. Under the proposed PPA, the Settling Respondent will pay \$350,000 in reimbursement of USEPA's response costs, and will