



ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2009-0308; FRL-10017-94]

United States Department of Justice and Parties to Certain Litigation; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that pesticide related information submitted to the Environmental Protection Agency (EPA) pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA), including information that may have been claimed as Confidential Business Information (CBI) by the submitter, will be transferred to the U.S. Department of Justice (DOJ) and parties to certain litigation. This transfer of data is in accordance with the CBI regulations governing the disclosure of potential CBI in litigation.

DATES: Access to this information by DOJ and the parties to certain litigation is ongoing and expected to continue during the litigation as discussed in this Notice.

FOR FURTHER INFORMATION CONTACT: Patricia Biggio, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 347-0547; email address: biggio.patricia@epa.gov.

SUPPLEMENTARY INFORMATION:

This notice is being provided pursuant to 40 CFR 2.209(d) to inform affected businesses that EPA, via DOJ, will provide certain information to the parties and the Court in the matter of *Natural Resources Defense Council v. U.S. Environmental Protection Agency et al.*, Case No. 20-72794 (9th Cir.) (“TCVP litigation”). The information is contained in documents that have been submitted to EPA pursuant to FIFRA and FFDCA by pesticide registrants or other data-submitters, including information that has been claimed to be, or determined to potentially

contain, CBI. In the TCVP Litigation, the Petitioner seeks judicial review of EPA's July 21, 2020 denial of the Natural Resources Defense Council's 2009 petition requesting that EPA cancel all pet uses of the pesticide tetrachlorvinphos (TCVP) registered under FIFRA.

The documents are being produced as part of the Administrative Record of the decision at issue and include documents that registrants or other data-submitters may have submitted to EPA regarding the pesticide TCVP, and that may be subject to various release restrictions under federal law. The information includes documents submitted with pesticide registration applications and may include CBI as well as scientific studies subject to the disclosure restrictions of FIFRA section 10(g), 7 U.S.C. 136h(g).

All documents that may be subject to release restrictions under federal law will be designated as "Confidential or Restricted Information" in the certified list of record materials that EPA will file in this case. Further, EPA intends to seek a Protective Order that would preclude public disclosure of any such documents by the parties in this action who have received the information from EPA, and that would limit the use of such documents to litigation purposes only. EPA would only produce such documents in accordance with the Protective Order. The anticipated Protective Order would require that such documents would be filed under seal and would not be available for public review, unless the information contained in the document has been determined to not be subject to FIFRA section 10(g) and all CBI has been redacted.

Authority: 7 U.S.C. 136 *et seq.*; 21 U.S.C. 301 *et seq.*

Dated: December 1, 2020.

Mary Reaves,

Acting Director,

Pesticide Re-Evaluation Division, Office of Pesticide Programs.

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