

10465-28

3-17-2003

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, DC 20460

OFFICE OF  
PREVENTION, PESTICIDES  
AND TOXIC SUBSTANCES

March 17, 2003

Certified Mail  
Return Receipt Requested

Kevin J. Archer  
Chemical Specialties, Inc.  
200 E. Woodlawn Road  
Charlotte, NC 28217

RE: Cancellation Order: Termination of Uses

Dear Mr. Archer:

This letter serves as the final cancellation order in response to certain of your requests under Section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, to amend registrations to terminate certain uses of pesticide registrations containing chromated copper arsenic (CCA). In light of issues raised in the comments received regarding the use of CCA to treat wood used for agricultural fence posts and permanent wood foundations, the Agency has decided to defer its action on your request to terminate those uses until the Agency has fully evaluated those uses through its reregistration process. If at any time during the reregistration review the Agency determines it has sufficient information to take an action, that is to either accept or refuse the requests for termination of those uses, the Agency will take appropriate action at that time.

EPA's decision on the portions of your requests upon which it is acting is as follows:

- A) The following manufacturing product registration is amended to delete certain terminated uses effective May 16, 2003:

10465-32                      CSI Arsenic Acid 75%

CONCURRENCES

SYMBOL	7510C	7510C	7510C				
SIGNATURE	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>				



- C) Further amendments to the product label may be made by **Chemical Specialties, Inc.** via notification to the Agency on or before December 1, 2003, to (1) delete the use directions in effect prior to these amendments, and (2) delete the preface phrase "Effective December 31, 2003," from the amended labels such that the statement begins by reading "This product may only be used for preservative treatment of the following categories of forest products and in accordance with the respective cited standard (noted parenthetically) of the 2001 edition of the American Wood-Preservers' Association Standards..." These specific changes may be done via notification.
- D) **Chemical Specialties, Inc.** must notify its customers of the amended registrations/labels by certified mail. This is to ensure that those who are affected by the cancellation order are aware of the labeling changes
- E) 40 CFR 152.132 provides that a distributor (or supplemental registrant) is considered an agent of the registrant for intents and purposes under the act, and both the registrant and the distributor may be held liable for violations pertaining to the distributor product.
- F) The following existing stocks provisions are incorporated as part of this order:

For purposes of this 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. The following summarizes the effective dates of cancellation as well as the existing stocks provisions for each product subject to the cancellation order.

The effective date of the cancellation effectuating the use terminations is May 16, 2003. **Chemical Specialties, Inc.**'s voluntary requests for termination of uses had requested that EPA allow use of the previous (unamended) labels for a period of 60 calendar days from the date on which the particular affected registrant receives EPA's approval of the amendments. The Agency is granting this request by making the effective date of cancellation 60 calendar days following the date of this cancellation order. You were notified of the signing of the cancellation order and of the required changes to labels on the date the order was signed by telephone and facsimile transmission. This 60 day period is intended to allow a sufficient period of time for an orderly transition to the amended labels without disrupting supply and availability of product. On or after May 16, 2003, any sale, distribution or use of existing stocks by **Chemical Specialties, Inc.** of these affected products is prohibited. Sale, distribution, or use by persons other than **Chemical Specialties, Inc.** may continue until supplies are exhausted. Additionally, sale, distribution, or use of the stocks in the channels of trade by persons other than **Chemical Specialties, Inc.** may continue until depleted, provided any sale, distribution or use is in accordance with the existing label of that product

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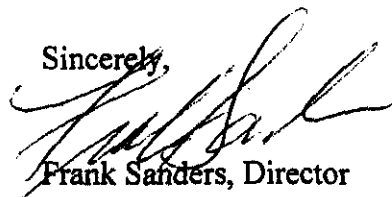
G) Approval of Amended Labels

The Agency is approving, subject to certain modifications, the proposed label amendments for the products listed in sections A and B, submitted on February 4, 2002. The attachments to this cancellation order include the accepted labels and set forth the specific language the labels must contain. (See also sections A and B of this order, as applicable.)

Stamped copies of the labels are enclosed for your records. Submit three (3) copies of the revised final printed labels before distributing/selling these products.

If you have any questions, please do not hesitate to contact the Product Manager, Mr. Adam Heyward (703.308.6422), or the Chemical Review Manager, Dr. B. A. Akinlosotu (703.605.0653).

Sincerely,



Frank Sanders, Director  
Antimicrobials Division (7510C)

cc: Connie Welch, Chief  
Regulatory Management Branch II

Attachments

**PRECAUTIONARY STATEMENTS  
HAZARDS TO HUMANS & DOMESTIC ANIMALS**

**DANGER**

Corrosive. Causes irreversible eye damage, skin or mucous membrane irritation. Harmful or fatal if swallowed, inhaled or absorbed through skin. Handle in a well ventilated area. Do not get on skin, in eyes or on clothing. Keep container closed when not in use.

Individuals in the work area of an arsenical wood treatment plant must wear properly fitting, well-maintained, high efficiency respirators. MSHA/NIOSH-approved for inorganic arsenic, if the level of inorganic arsenic in the plant is unknown or exceeds 10 micrograms per cubic meter of air (10 ug/m<sup>3</sup>) averaged over an 8-hour work period. Air monitoring programs, procedures, record retention and submission must be conducted in accordance with the instructions on the attached labeling material.

Refer to label attachment, "Permissible Exposure Limit (PEL) Monitoring Program" for additional information concerning the use of this product.

**ENVIRONMENTAL HAZARDS**

This product is toxic to fish and wildlife. Do not contaminate water by cleaning of equipment or disposal of wastes. Do not discharge effluent containing this product into lakes, streams, ponds, estuaries, oceans or other waters unless in accordance with the requirements of a National Pollutant Discharge Elimination System (NPDES) permit and the permitting authority has been notified in writing prior to discharge. Do not discharge effluent containing this product to sewer systems without previously notifying the local sewage treatment plant authority. For guidance contact your State Water Board or Regional Office of the EPA.

**PHYSICAL AND CHEMICAL HAZARDS**

Do not use or store near heat or open flame.

**STORAGE AND DISPOSAL**

Do not contaminate water, food or feed by storage or disposal. Open dumping is prohibited.

**STORAGE**

This product must be stored in closed tanks or drums which display a label properly identifying the product and its concentration.

**PESTICIDE DISPOSAL**

Pesticides wastes are acutely hazardous. Improper disposal of excess pesticide, spray mixture, or rinsate is a violation of Federal Law. If this waste cannot be disposed of by use according to label instructions, contact your State Pesticide or Environmental Control Agency or the Hazardous Waste Representative at the nearest EPA Regional Office for guidance.

**CONTAINER DISPOSAL**

Triple rinse (or equivalent) and offer for recycling or reconditioning or disposal of in a sanitary landfill or by other approved State and local procedures.

**SPILLS**

- Avoid contact with eyes, skin or clothing.
- Dike to contain with sand or soil.
- Collect usable liquid and return to work tank or drum.
- Neutralize any uncollected liquid.

**60% Concentrate**

Apply 200 pounds of lime or 800 pounds of cement per 40 gallons of 60% concentrate.

**Working Solutions (up to 10% solution)**

Apply 40 pounds of lime or 160 pounds of cement per 50 gallons of solution of 10% or less.

- Collect and enclose in steel drums, any contaminated soil, sand or absorbent and dispose in accordance with local, state and federal regulations or hazardous waste.
- Contact chemical manufacturer, state environmental agency or U.S. E.P.A. for assistance and instructions for control of spilled chemicals.

**RESTRICTED USE PESTICIDE  
DUE TO ACUTE TOXICITY AND BECAUSE THIS PRODUCT  
CONTAINS ARSENIC AND/OR CHROMIUM COMPOUNDS SOME  
TYPES OF WHICH HAVE BEEN ASSOCIATED WITH TUMOR  
DEVELOPMENT IN HUMANS**

For retail sale to and use only by certified applicators or persons under their direct supervision and only for those uses covered by the certified applicator certification.

**CCA TYPE-C WOOD  
PRESERVATIVE  
FOR INDUSTRIAL USE ONLY  
CHROMATED COPPER ARSENATE  
60% CONCENTRATE**

ACTIVE INGREDIENTS	Oxide
Chromic Acid (CrO <sub>3</sub> )	28.50%
Cupric Oxide (CuO)	11.40%
Arsenic Pentoxide(As <sub>2</sub> O <sub>5</sub> )	20.10%
<b>OTHER INGREDIENTS</b>	<b>40.00%</b>
<b>TOTAL</b>	<b>100.00%</b>

Total arsenic, all in water soluble form, expressed as metallic - 13.32%.  
This product contains 9.34 lbs. oxide per gallon.  
This product weighs 15.56 lbs. per gallon.

**KEEP OUT OF THE REACH OF CHILDREN  
DANGER POISON  
STATEMENT OF PRACTICAL TREATMENT**

**IF SWALLOWED:**

Contact a physician or Poison Control Center. If professional advice is not available, do not induce vomiting. Victim should drink milk, egg whites, or large quantities of water. Do not induce vomiting or give anything by mouth to an unconscious person.

**IF IN EYES:**

Flush with plenty of water. Call a physician.

**IF ON SKIN:**

Wash with plenty of soap and water. Get medical attention.

Refer to additional precautionary statements elsewhere on the label under the heading, "Precautionary Statements: Hazards to Humans and Domestic Animals"

Manufactured By:  
Chemical Specialties, Inc.  
200 E. Woodlawn Road, Suite 520  
Charlotte, North Carolina 28217  
Phone (704) 522-0825 in case of emergency.

EPA Registration No. 10465-28  
EPA Est. No. 10465-NC-1  
EPA Est. No. 10465-GA-1  
EPA Est. No. 10465-TX-1  
EPA Est. No. 10465-WA-1  
Net Contents \_\_\_\_\_ lbs

**POST A COPY OF THIS LABEL IN WORK AREA**

**DIRECTIONS FOR USE**

It is a violation of Federal Law to use this product in a manner inconsistent with its labeling.

Effective December 31, 2003, this product may only be used for preservative treatment of the following categories of forest products and in accordance with the respective cited standard (noted parenthetically) of the 2001 edition of the American Wood Preservers' Association Standards: Lumber and Timber for Salt Water Use Only (C2), Piles (C3), Pole (C4), Plywood (C9), Wood for Highway Construction (C14), Poles, Piles and Posts Used as Structural Members on Farms and Plywood Used on Farms (C16), Wood for Marine Construction (C18), Round Poles and Posts Used in Building Construction (C23), Sawm Timber Used To Support Residential and Commercial Structures (C24), Sawm Crossarms (C25), Structural Glued Laminated Members and Laminations Before Gluing (C28), Structural Composite Lumber (C33), and Shakes and Shingles (C34). Forest products treated with this product may only be sold or distributed for uses within the AWPA Commodity Standards under which the treatment occurred.

**SPECIFIC USE INSTRUCTIONS**

Contents for use only in pressure treating cylinder for forest products. Cannot be used in concentrated form. Do not attempt to use without implementing the necessary safety procedures and equipment. To be used only in impregnation of forest products utilizing water solutions having concentrations ranging from 0.5% to 10% by weight. Impregnation procedures must rigidly adhere to the current specifications of the American Wood Preservers Association. Treated wood is provided protection against termites, ascomycetes, brown rot, dry rot and white rot.

Applicators must wear gloves impervious to the wood treatment formulation in all situations where dermal contact is expected (e.g., handling freshly treated wood and manually opening cylinder doors).

Individuals who enter pressure treatment cylinders and other related equipment that is contaminated with the wood treatment solution (e.g., cylinders that are in operation or are not free of the treatment solution) must wear protective clothing, including overalls, jacket, gloves and boots, impervious to the wood treatment formulation. In addition, individuals who enter pressure-treatment cylinders must wear properly fitting, well-maintained, high efficiency respirators MSHA/NIOSH-approved for inorganic arsenic, if the level of inorganic arsenic in the plant is unknown or exceeds 10 micrograms per cubic meter of air (10 ug/m<sup>3</sup>) averaged over an 8-hour work period. Air monitoring programs, procedures, record retention and submission must be conducted in accordance with the instructions on the attached labeling material.

Applicators must not eat, drink or use tobacco products during those parts of the application process that may expose them to the wood treatment formulation (e.g., manually opening/closing cylinder doors, moving trams out of cylinders, mixing chemicals and handling freshly treated wood).

Protective clothing must be changed when it shows signs of contamination. Applicators must leave protective clothing and workshoes or boots and equipment at the plant. Worn out protective clothing and workshoes or boots must be left at the plant and disposed of in a manner approved for pesticide disposal and in accordance with local, state and federal regulations.

Processes used to apply inorganic and arsenical formulations shall leave no visible surface deposits on the wood, as defined by AWPA Standard C-1 (visible surface deposits means a surface residue or crystallization on the treated wood. Small isolated or infrequent spots of chemical on otherwise clean wood shall be allowed).

**NOTE TO USER:** Examples of acceptable materials for protective clothing (e.g., gloves, overalls, jackets and boots) required during application and handling of inorganic arsenicals are vinyl, polyvinyl chloride (PVC), neoprene, NBR (Buna-N), rubber and polyethylene.

**WARRANTY STATEMENT**

Following directions carefully. Buyer assumes all risks of use, storage or handling of this material not in strict accordance with directions given herewith.

## IMPLEMENTATION OF THE PERMISSIBLE EXPOSURE LIMIT (PEL) MONITORING PROGRAM

Each arsenical wood treatment plant employer shall require all employees potentially exposed to airborne inorganic arsenic to wear properly fitting, well maintained, high efficiency filter respirators. MSHA/NIOSH-approved for inorganic arsenic for the entire period that the employees are in the treatment process. Alternatively, to potentially relieve employees from the burden of wearing respirators, the employer may implement a Permissible Exposure Limit (PEL) Monitoring Program. This requirement became effective on July 10, 1986. Any plant which begins operation after April 10, 1986 will have 3 months from the date of initial operation to implement this program.

All wood treatment plant employees who elect to implement the PEL monitoring program must determine the current levels of airborne arsenic, averaged over an 8-hour period, to which their employees are exposed. Monitoring data must be obtained in the same manner as described below under "Monitoring and Measured Procedures". If the initial or subsequent monitoring demonstrates that airborne inorganic arsenic in a work area is greater than 10  $\mu\text{g}/\text{m}^3$ , all employees working in that area are required to wear properly fitting, well-maintained, high efficiency filter respirators, MSHA/NIOSH-approved for inorganic arsenic. If in subsequent monitoring, at least two consecutive measurements taken at least 7 days apart, the inorganic arsenic levels are below 10  $\mu\text{g}/\text{m}^3$ , employees in those areas may discontinue wearing the respirators except as discussed in the PEL Checklist below. However, if the employee exposure is below 10  $\mu\text{g}/\text{m}^3$ , but above 5  $\mu\text{g}/\text{m}^3$ , the employer shall repeat monitoring at least every 6 months until at least two consecutive measurements, taken at least 7 days apart, are 5  $\mu\text{g}/\text{m}^3$ . The employer may then discontinue monitoring except as discussed in the PEL Checklist below.

If the monitoring reveals employees are exposed to airborne arsenic levels below 5  $\mu\text{g}/\text{m}^3$ , monitoring need not be repeated except as discussed in the PEL Checklist below.

### PEL CHECKLIST

In all cases where there has been a change in production, process, control, or employee handling procedures, or if any events in the PEL Checklist occurred, or if, for any other reasons an employer should suspect new or additional airborne inorganic arsenic, additional monitoring that complies with the requirements for initial monitoring shall be completed. Responses to the Checklist will become part of the

monitoring records. Monitoring is required within 3 months if any of the following events/questions on the Checklist can be answered in the affirmative with respect to any events which may have occurred since the last monitoring report submitted to the Agency.

1. After the wood has been treated, have you changed from hand stacking to mechanical stacking or from mechanical stacking to hand stacking? If yes, when?
2. Has your production capacity increased significantly? If yes, when?
3. Have you changed from a ready-to-use or dilute concentrate to a mix-it-yourself formulation? Has the proportional amounts of arsenic in solution increased, e.g., have you shifted from CCA Type A or C to Type B? If yes, when?
4. Has a significant (i.e., reportable under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Superfund), 42 U.S.C. 960 et seq.) spill occurred? If yes, when?
5. Is treated wood being retained on the drip pad for less time? If yes, when?
6. Have there been any other production, process control or employee handling procedure changes which could result in new or additional airborne inorganic arsenic? Identify change and when it occurred.

### MONITORING AND MEASUREMENT PROCEDURES

The Employer shall collect personal air samples, including at least one sample which is adequate to represent typical conditions for a full work shift (at least 7 hours) for each job classification in each work area. Sampling should be done using a personal sampling pump calibrated at a flow rate of 2 liters per minute. Samples should be collected on 0.8 micrometer pore size membrane filters. (37 mm diameter). The method of sampling analysis should have an accuracy of not less than  $\pm 25$  percent (with a confidence limit of 95 percent) for 10 micrograms per cubic meter of air (10  $\mu\text{g}/\text{m}^3$ ) and  $\pm 35$  percent (with a confidence limit of 95 percent) for concentrations of inorganic arsenic between 5 and 10  $\mu\text{g}/\text{m}^3$ .

Monitoring may be conducted through a request made to the Occupational Safety and Health Administration (OSHA) for monitoring assistance, which may be provided free of charge under the terms of the OSHA consultation program as provided under section 7(c)(1) of the OSHA Act, or by the employees or contractors of the employer's choosing.

The Environmental Protection Agency (EPA) may direct that remonitoring take place at statistically selected establishments to assure that the checklist is effective in the identifying events which increase airborne arsenic. Selected employers will be responsible for obtaining current air monitoring data within the time specified in the remonitoring notification and for submitting this data and report to the EPA as described below.

### DATA SUBMISSION AND CERTIFICATION

The employer shall establish and maintain accurate records which include responses to the PEL Checklist and all monitoring reports. The annual record or copies thereof shall be submitted to the U.S. Environmental Protection Agency, Office of Pesticides and Toxic Substances, Office of Compliance Monitoring (EN-0342), 401 M Street, S.W., Washington, D.C. 20460. All records submitted will be certified by the employer as accurate and in compliance with all calibration analytical and sampling requirements outlined in this program. If the employer received assistance, from an OSHA 7(c)(1) consultant, that consultant's report to the employer will be an acceptable record of calibration, analysis, and monitoring requiring no additional certification.

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