

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR**

**In re FIFRA Section 6(b) Notice of Intent
to Cancel Pesticide Registrations for
Chlorpyrifos Products**)
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)
)
**Gharda Chemicals International, Inc., and
Red River Valley Sugarbeet Growers
Association, et al.,**)
)
)
Petitioners.)
)
_____)

Docket No. FIFRA-HQ-2023-0001

PETITIONERS’ RESPONSE TO ORDER TO SHOW CAUSE

Petitioners Gharda Chemicals International, Inc. (“Gharda”) and Red River Valley Sugarbeet Growers Association, U.S. Beet Sugar Association, American Sugarbeet Growers Association, Southern Minnesota Beet Sugar Cooperative, American Crystal Sugar Company, Minn-Dak Farmers Cooperative, American Farm Bureau Federation, American Soybean Association, Iowa Soybean Association, Minnesota Soybean Growers Association, Missouri Soybean Association, Nebraska Soybean Association, South Dakota Soybean Association, North Dakota Soybean Growers Association, National Association of Wheat Growers, Cherry Marketing Institute, Florida Fruit and Vegetable Association, and Georgia Fruit and Vegetable Growers Association, and National Cotton Council of America (“Growers” and together with Gharda, “Petitioners”) hereby submit this response to this Tribunal’s November 8, 2023 Order to Show Cause. Because the U.S. Environmental Protection Agency (“EPA,” “Agency,” or “Respondent”) did not seek rehearing of the Eighth Circuit’s November 2, 2023 judgment in *Red River Valley Sugarbeet Growers Association, et al. v. Michael S. Regan, et al.*, No. 22-1422

(8th Cir.), the NOIC¹ should be dismissed entirely. All parties now agree that there is no cause as to why this proceeding should not be dismissed. *See* Respondent’s and Intervenors’ Response to Order to Show Cause.

The Eighth Circuit should issue its mandate² no later than December 26, 2023, at which time the Court’s vacatur of the Final Rule³ will become effective. *See* Fed. R. App. P. 41. As all parties have agreed in previous filings before this Tribunal, the NOIC is *entirely dependent* on the Final Rule. *See, e.g.*, Respondent’s Motion for Accelerated Decision at 15, 17 (“Petitioners are correct that the NOIC is ultimately based on the Final Rule” and “after revocation of all chlorpyrifos tolerances by the Final Rule. . . EPA was left with no other option than to issue the NOIC”), Intervenors’ Motion for Accelerated Decision at 18 (“The Final Rule, therefore, predetermined the outcome of this cancellation proceeding as a matter of law.”); *see also* Order to Show Cause at 2 (explaining that the NOIC proposed to cancel registrations because “as a direct result of the Final Rule, no tolerances existed for those registrations”); NOIC at 76474 (“[T]he Environmental Protection Agency (EPA) hereby announces its intent to cancel the registrations of three pesticide products containing the insecticide chlorpyrifos *due to the Agency’s revocation of all tolerances of chlorpyrifos.*”) (emphasis added). Once the mandate is issued and vacatur of the Final Rule becomes effective, the NOIC should be similarly dismissed with prejudice.

¹ The “NOIC” is the EPA December 14, 2022 Notice of Intent to Cancel Pesticide Registrations.

² Petitioners will provide the Tribunal with the Eighth Circuit’s mandate once it is issued.

³ The “Final Rule” is Final Rule, Chlorpyrifos; Tolerance Revocations, 86 Fed. Reg. 48315 (Aug. 30, 2021).

This 22nd day of December, 2023,

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CERTIFICATE OF SERVICE

I hereby certify that on December 22, 2023, a true and correct copy of the foregoing was filed electronically with the EPA OALJ E-Filing System for the OALJ's E-Docket Database, with a copy via electronic mail to the following:

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