



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

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

**Docket No. FIFRA-HQ-2023-0001**

**ORDER SCHEDULING HEARING AND PREHEARING PROCEDURES**

This proceeding is governed by the *Rules of Practice Governing Hearings, under the Federal Insecticide, Fungicide, and Rodenticide Act, Arising from Refusals to Register, Cancellations of Registrations, Changes of Classifications, Suspensions of Registrations and Other Hearings Called Pursuant to Section 6 of the Act*, 40 C.F.R. Part 164 (“Rules of Practice”), to the extent applicable. The parties are advised to familiarize themselves with the applicable statute(s) and the Rules of Practice.

Pursuant to my powers under those legal authorities and the Administrative Procedure Act, 5 U.S.C. §§ 551-559 (“APA”), I hereby schedule prehearing filing deadlines and the hearing in this matter as follows.

**Settlement.** U.S. Environmental Protection Agency (“Agency” or “EPA”) policy encourages settlement of a proceeding without the necessity of a formal hearing, and the benefits of a negotiated settlement may far outweigh the uncertainty, time, and expense associated with a litigated proceeding. With these considerations in mind, the parties are encouraged to continue settlement negotiations. The Agency is directed to file a Status Report as to the status of any settlement negotiations between the parties, *which shall not include any specific terms of settlement*, on or before **November 10, 2023** and **December 8, 2023**.

The Office of Administrative Law Judges (“OALJ”) also offers the assistance of a neutral to facilitate settlement negotiations if *all* parties agree in writing. The parties must advise the OALJ of such an agreement by filing a joint motion for the appointment of a neutral.

*However, be advised that, unless a neutral has been appointed, the mere pendency of settlement negotiations or even the existence of a settlement in principle does not constitute a basis for failing to strictly comply with the following prehearing exchange requirements or otherwise delaying the proceedings. Only the filing with the Headquarters Hearing Clerk of a fully-executed settlement agreement, or an order of the judge, excuses noncompliance with filing deadlines.*

**Opportunity for a Hearing.** The Notice of Intent to Cancel (“NOIC”) in this matter gave Petitioners notice and opportunity for a hearing, in accordance with Section 554 of the APA, 5 U.S.C. § 554. In this regard, Section 554(c)(2) of the APA provides that a hearing be conducted under Section 556 of the APA. 5 U.S.C. § 554(c)(2). Section 556(d) provides that a party is entitled to present its case by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. 5 U.S.C. § 556(d). Generally, a party is entitled to elect any or all three means to present its case. If any party intends to only conduct cross-examination of witnesses and to forgo the presentation of direct and/or rebuttal evidence, the party shall serve a statement to that effect on or before the date for filing its Prehearing Exchange. If all parties are agreeable to having the case decided on the written record, they shall submit a joint statement to that effect.

For expediency in the conduct of the hearing in this matter, direct testimony of witnesses will be allowed only by verified written statements provided in advance of the hearing. The proponent of a witness’s verified written statement must ensure that the witness is available for cross-examination in-person at the hearing unless the opposing party waives such requirement in writing.

**Hearing.** The hearing in this matter will be held beginning promptly at **9:00 a.m.** Eastern Time on **Monday, January 8, 2024**, and continue as necessary through **Thursday, January 11, 2023**. The hearing will take place at:

EPA Administrative Courtroom  
EPA East Building, Room 1152  
1201 Constitution Ave. NW  
Washington, D.C. 20460

**Intervention and Amicus Curiae.** Leave to intervene will be freely granted insofar as the prospective intervenor satisfies all applicable requirements of 40 C.F.R. § 164.31. Motions for leave to intervene must be filed no later than **July 7, 2023**, and must be accompanied by any primary discovery materials as outlined below.

Persons who do not request to intervene but would like to file briefs may do so by filing a motion for leave to file an *amicus curiae* brief together with the brief. Unless all parties otherwise consent, such motions and briefs must be filed within the time allowed the party whose position the brief will support. 40 C.F.R. § 164.31(d).

**Prehearing Exchanges and Primary Discovery.** Although the Rules of Practice contemplate a formal prehearing conference, I do not find one necessary at this time. *See* 40 C.F.R. § 164.50(a), (d). Rather, the parties shall engage in the following prehearing exchange, which includes the exchange of primary discovery materials pursuant to 40 C.F.R. § 164.50(b):

Each party<sup>1</sup> shall file with the Headquarters Hearing Clerk, serve on all other parties, and

---

<sup>1</sup> The Rules of Practice define the term “Petitioner” as “any person adversely affected by a notice of the Administrator who requests a public hearing,” 40 C.F.R. § 164.2(o), and the term “Respondent” as the Assistant Administrator of the Office of Chemical Safety and Pollution Prevention, 40 C.F.R. § 164.2(s). The parties to this proceeding include Petitioners Gharda Chemicals International, Inc., (“Petitioner Gharda”), Petitioners Red River Valley Sugarbeet Growers Association, et al. (“Grower Petitioners”), and Respondent EPA. Additionally, on May 22, 2023, I granted a

serve on the undersigned an Initial Prehearing Exchange that includes the following:

- (A) a list of names of the witnesses intended to be called at the hearing, identifying each as a fact witness or an expert witness, and a curriculum vitae or resume for each identified expert witness; or, in lieu of the foregoing a statement that no witnesses will be called;
- (B) for each witness (fact and expert) identified, a verified written statement to serve as that witness's direct testimony;
- (C) a list of all exhibits, numbered in sequential order, that the party intends to produce at the hearing, along with a copy of each exhibit marked for identification as follows:
  - i. Petitioners' exhibits shall be identified as follows: If Petitioners file one collective prehearing exchange, their exhibits shall be identified as "PX." If Petitioners file individual prehearing exchanges, their exhibits shall be identified in a manner appropriate to distinguish between the exhibits of Petitioner Gharda and the Grower Petitioners.
  - ii. Respondent's exhibits shall be identified as "RX."
  - iii. Intervenors' exhibits shall be identified as "IX."
  - iv. Each exhibit shall be labeled numerically with the corresponding exhibit number on each page of the exhibit. For example, the first exhibit provided by Respondent shall be labeled on each page of the exhibit as "RX 1." The label for each exhibit shall be located at the bottom (footer) of the document and aligned to the right margin.
  - v. Any exhibit consisting of more than one page shall include page numbers at the bottom (footer) of each page, aligned to the right margin. The pages shall be numbered consecutively as follows: "Page X of [total of] Y," with "Page X" representing the page number in sequence beginning from the number 1 and "[total of] Y" representing the total number of pages in the exhibit. For example, to identify the third page of Respondent's first exhibit, which has five pages total, the bottom of the page shall read "RX 1 Page 3 of 5."
- (D) a list of any matters of which the party requests official notice be taken;
- (E) a statement of whether interpretation services are necessary with respect to the testimony of any witness(es), and, if so, the language to be interpreted; and
- (F) a statement of whether the party desires that one or more questions of scientific

---

Motion to Intervene in this proceeding filed by 13 nongovernmental organizations, which thereby became parties to the proceeding and are referred to herein as the "Intervenors." Motion to Intervene (March 28, 2023); Order Granting Motion to Intervene (May 22, 2023). Multiple parties are permitted to submit one collective prehearing exchange, or individual prehearing exchanges.

fact be referred to a committee designated by the National Academy of Sciences pursuant to 7 U.S.C. § 136d(d) and 40 C.F.R. § 164.50(e).

In addition, each party shall subsequently file a Rebuttal Prehearing Exchange that includes, in the manner described in (A)–(E) above, any additional witnesses, documents, or noticeable matters that the party plans to introduce at hearing in rebuttal.

The prehearing exchanges called for above shall be filed pursuant to the following schedule:

<b>July 14, 2023</b>	Initial Prehearing Exchanges
<b>August 4, 2023</b>	Rebuttal Prehearing Exchanges

Section 164.50(b) of the Rules of Practice provides that documents, exhibits, and witness testimony not included in the prehearing exchanges may not be added or amended except upon motion. 40 C.F.R. § 164.50(b). Therefore, each party should very thoughtfully prepare its prehearing exchange.

**Motions.** *Prior to filing any motion, the moving party must contact all other parties to determine whether any other party has any objection to the granting of the relief sought in the motion, and the motion shall state the positions of the other parties.* The mere consent of the other parties to the relief sought does not assure that the motion will be granted. Furthermore, all motions must be submitted in sufficient time to permit the filing of a response by the other parties and/or the issuance of a ruling on the motion before any relevant deadline set by this or any subsequent order. *Motions not filed and served in a timely manner may not be considered.*

*Dispositive motions*, such as a motion for accelerated decision or motion to dismiss under Section 164.91(a) of the Rules of Practice, must be filed no later than **August 25, 2023**.

*Non-dispositive motions*, such as motions for additional discovery, motions for subpoenas, and *motions in limine*, must be filed no later than **November 10, 2023**.

*Oral argument.* The Rules of Practice permit oral argument of motions only if the Presiding Judge deems it necessary. 40 C.F.R. § 164.60(c). A party requesting oral argument must make that request by motion no later than the close of briefing on the motion on which oral argument is requested. The requesting party shall propose an appropriate location for the argument. The OALJ has access to videoconferencing technology that may be utilized for oral arguments on motions, which may minimize the expenditure of time and monetary resources in connection with such arguments.

**Contact Information.** The Headquarters Hearing Clerk, Mary Angeles, may be contacted at (202) 564-6281 or [angeles.mary@epa.gov](mailto:angeles.mary@epa.gov) to verify that a document has been received. For procedural questions, you may contact OALJ's Staff Attorney, Stefanie Neale, at [neale.stefanie@epa.gov](mailto:neale.stefanie@epa.gov). **Under no circumstances should you telephone or email the undersigned directly.**

**SO ORDERED.**

*Christine Donelian Coughlin*  
Christine Donelian Coughlin  
Administrative Law Judge

Dated: June 5, 2023  
Washington, D.C.

**In re FIFRA Section 6(b) Notice of Intent to Cancel Pesticide Registrations for Chlorpyrifos Products, Docket No. FIFRA-HQ-2023-0001**

Gharda Chemicals International, Inc., and Red River Valley Sugarbeet Growers Association, et al., Petitioners

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing **Order Scheduling Hearing and Prehearing Procedures**, dated June 5, 2023, and issued by Administrative Law Judge Christine Donelian Coughlin, was sent this day to the following parties in the manner indicated below.

*Stefanie Neale*

Stefanie Neale  
Attorney Advisor

**Copy by OALJ E-Filing System to:**

Mary Angeles, Headquarters Hearing Clerk  
U.S. Environmental Protection Agency  
Office of Administrative Law Judges  
Ronald Reagan Building, Room M1200  
1300 Pennsylvania Ave., NW  
Washington, DC 20004

**Copies by Electronic Mail to:**

Nash E. Long  
Javaneh S. Tarter  
HUNTON ANDREWS KURTH LLP  
Telephone: (704) 378-4728  
nlong@HuntonAK.com  
jtarter@HuntonAK.com  
*For Petitioners Red River Valley Sugarbeet Growers Association, et al.*

Donald C. McLean  
Kathleen R. Heilman  
ARENTFOX SCHIFF, LLP  
Telephone: (202) 857-6000  
donald.mclean@afslaw.com  
katie.heilman@afslaw.com  
*For Petitioner Gharda Chemicals International, Inc.*

Aaron Newell  
Angela Huskey  
Pesticides and Toxic Substances Law Office  
Office of General Counsel  
U.S. Environmental Protection Agency  
Telephone: (202) 564-2482

newell.aaron@epa.gov  
huskey.angela@epa.gov  
*For the Agency*

Patti A. Goldman  
Noorulanne Jan  
Earthjustice  
Telephone: (206) 343-7340  
pgoldman@earthjustice.org  
njan@earthjustice.org  
*For the Intervenors*

Dated: June 5, 2023  
Washington, D.C.