

**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.,)	Docket No. FIFRA-HQ-2023-0001
)	
Petitioners)	
)	

RESPONDENT’S INITIAL PREHEARING EXCHANGE

Respondent the U.S. Environmental Protection Agency (“EPA,” “Agency,” or “Respondent”), pursuant to 40 C.F.R. § 164.50(b) and the Presiding Officer’s June 5, 2023 Order Scheduling Hearing and Prehearing Procedures (the “Scheduling Order”), hereby submits this Prehearing Exchange. Respondent may move to amend or supplement this Prehearing Exchange as provided by 40 C.F.R. § 164.50(b). The heading numbers below correspond to those set forth in the Scheduling Order.

(A) List of Potential Witnesses

Respondent may call the following witness at the evidentiary hearing in this matter.

1. **Dana Friedman**, Chief of the Risk Management and Implementation Branch 1 (“RMIB1”) of the Pesticide Reevaluation Division (“PRD”) in EPA’s Office of Pesticide Programs (“OPP”). PRD is the division responsible for overseeing the periodic “registration review” of conventional pesticides as required by section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 136a(g). Within OPP, RMIB1 is

responsible for reevaluating chlorpyrifos and taking associated actions that stem from that reevaluation. Ms. Friedman was the Chief of RMIB1 at the time the Agency issued the December 14, 2022 Notice of Intent to Cancel (“NOIC”) certain chlorpyrifos registrations that is the subject of this proceeding. Chlorpyrifos; Notice of Intent to Cancel Pesticide Registrations, 87 Fed. Reg. 76,474 (Dec. 14, 2022). Ms. Friedman is expected to testify as to EPA’s efforts to cancel chlorpyrifos food uses on Petitioner Gharda’s registrations and the issuance of the NOIC. Ms. Friedman may testify as a fact witness on direct examination (*i.e.*, the verified written statement filed in tandem with this Prehearing Exchange) and on cross examination.

(B) Verified Written Statements Attached

Pursuant to the Scheduling Order, the witness listed above prepared a verified written statement to serve as her direct testimony. A copy of this written statement is being filed in tandem with this Prehearing Exchange.

(C) Documents and Other Exhibits

An index is provided below that identifies Respondent’s Exhibits (“RX”) filed in tandem with this Prehearing Exchange:

- RX 1 – Letters from USEPA to Chlorpyrifos Registrants Regarding Tolerance Expiration and Active Chlorpyrifos Product Labels with Uses Tied to Tolerances that Require Action (assorted dates).
- RX 2 – Letter from USEPA to Agent for Gharda Chemicals International Inc. Approving Transfer of Pesticide Registrations from Company Number 33658 to Company Number 93182 (Sept. 1, 2017).

Respondent, Petitioners, and Intervenors conferred and agreed to jointly submit 16 exhibits as joint exhibits (“JX”). A Joint Exhibit Index is provided below that identifies all joint exhibits, which are being filed in tandem with this Prehearing Exchange:

- JX 1 – Chlorpyrifos; Notice of Intent to Cancel Pesticide Registrations, 87 Fed. Reg. 76,474 (Dec. 14, 2022).
- JX 2 – Chlorpyrifos; Final Order Denying Objections, Requests for Hearings, and Requests for a Stay of the August 2021 Tolerance Final Rule, 87 Fed. Reg. 11,222 (Feb. 28, 2022).
- JX 3 – Chlorpyrifos; Tolerance Revocations, 86 Fed. Reg. 48,315 (Aug. 30, 2021).
- JX 4 – Product label for Chlorpyrifos Technical (EPA Registration No. 33658-17) (approved Nov. 28, 2011).
- JX 5 – Product label for Pilot 4E Chlorpyrifos Agricultural Insecticide (EPA Registration No. 33658-26) (approved Dec. 20, 2012).
- JX 6 – Product label for Pilot 15G Chlorpyrifos Agricultural Insecticide (EPA Registration No. 33658-27) (approved Dec. 20, 2012).
- JX 7 – Letter from USEPA to Gharda Chemicals International, Inc. re: Tolerance expiration and active chlorpyrifos product labels with uses tied to tolerances that require action (March 1, 2022).
- JX 8 – Letter from Gharda Chemicals International, Inc. to USEPA responding to EPA’s March 1, 2022 letter (March 30, 2022).
- JX 9 – Letter from Gharda Chemicals International, Inc. to USEPA transmitting request for label amendment for Chlorpyrifos Technical (EPA Registration No. 93182-3) and label amendments (June 10, 2022).

- JX 10 – Letter from Gharda Chemicals International, Inc. to USEPA transmitting request for label amendment for Pilot 4E Chlorpyrifos Agricultural Insecticide (EPA Registration No. 93182-7) and label amendments (January 11, 2023).
- JX 11 – Letter from Gharda Chemicals International, Inc. to USEPA transmitting request for label amendment for Pilot 15G Chlorpyrifos Agricultural Insecticide (EPA Registration No. 93182-8) and label amendments (June 10, 2022).
- JX 12 – USEPA Memorandum from Edward Messina to Steven M. Knott, Request for Waiver of Scientific Advisory Panel (SAP) Review – Chlorpyrifos ; Notice of Intent to Cancel Pesticide Registrations (Aug. 11, 2022).
- JX 13 – USEPA Memorandum from Steven M. Knott to Ed Messina re: Request for Waiver of Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel (SAP) Review of the draft Chlorpyrifos; Notice of Intent to Cancel Pesticide Registrations (NOIC) (Aug. 23, 2022).
- JX 14 – USEPA Letter from Ed Messina to US Department of Agriculture re: draft Notice of Intent to Cancel certain chlorpyrifos registrations (Aug. 11, 2022).
- JX 15 – US Department of Agriculture Comments on draft Notice of Intent to Cancel Chlorpyrifos Registrations (Sept. 11, 2022).
- JX 16 – Chlorpyrifos; Notice of Receipt of Requests to Voluntarily Cancel Certain Pesticide Registrations and Amend Registrations to Terminate Certain Uses, 88 Fed. Reg. 37,875 (June 9, 2023).

(D) Official Notice

Respondent is not aware of any matters of which official notice should be taken, but reserves the right to move for official notice of matters as appropriate.

(E) **Interpretation Services**

Respondent does not anticipate requiring the services of an interpreter.

(F) **Questions of Scientific Fact**

Respondent does not wish to refer one or more questions of scientific fact 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).

Respectfully submitted,

Dated: July 14, 2023

/s/ Aaron Newell
Aaron Newell
Pesticides and Toxic Substances Law Office
Office of General Counsel
U.S. Environmental Protection Agency

Counsel for Respondent

CERTIFICATE OF SERVICE

I hereby certify that the foregoing RESPONDENT’S INITIAL PREHEARING EXCHANGE, dated July 14, 2023 was filed electronically with the U.S. Environmental Protection Agency, Office of Administrative Law Judges E-filing system, with a copy via electronic mail to the following:

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