

Fenthion; Notice of Receipt of Request to Voluntarily Cancel Certain Pesticide Registrations

Note: EPA no longer updates this information, but it may be useful as a reference or resource.

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ENVIRONMENTAL PROTECTION AGENCY
[OPP-2003-0122; FRL-7304-6]

Fenthion; Notice of Receipt of Request to Voluntarily Cancel
Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).
ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request by Bayer Environmental Science to voluntarily cancel the registrations for all of their products containing O,O-dimethyl O-(4-methylthio)-m-tolylphosphorothioate (fenthion). EPA intends to grant this request by issuing a cancellation order at the close of the comment period for this announcement unless the Agency receives substantive comments within the comment period that would merit its further review of this request. It is EPA's intent that the effective date of the cancellation order, as requested by Bayer, will be June 30, 2004. Upon the effective date of the cancellation order, any distribution or sale of products listed in this notice will be prohibited as of June 30, 2004, except for return of unused portions to Bayer or for proper disposal. EPA expects use of products listed in this notice will be permitted until November 30, 2004. Any such use must be in accordance with the label. Bayer has submitted, and EPA intends to approve, label amendments intended to further mitigate the risks of fenthion. Because Bayer has requested cancellation of the registrations of all of its fenthion products, Bayer is not required to satisfy the data requirements in any of the Agency's Data Call-Ins, including the Developmental Neurotoxicity Data Call-In.

DATES: Comments on the requested registration cancellations must be submitted to the address provided below and identified by docket ID number OPP-2003-0122. Comments must be received on or before July 29, 2003.

ADDRESSES: Comments may be submitted electronically, by mail, or by hand delivery or courier. Please follow the detailed instructions for each method as provided in Unit I.C. of the SUPPLEMENTARY INFORMATION. To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPP-2003-0122 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Susan Jennings, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (706) 355-8574; e-mail address: jennings.susan@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to persons who produce or use pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, consult the person listed under FOR FURTHER INFORMATION CONTACT.

B. How Can I Get Copies of this Document and Other Related Information?

1. Docket. EPA has established an official public docket for this action under docket identification (ID) number OPP-2003-0122. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. EPA also established two dockets containing documents in support of the fenthion IRED. They are dockets OPP-34145 and OPP-34145A. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305-5805.

2. Electronic access. You may access this Federal Register document electronically through the EPA Internet under the ``Federal Register'' listings at <http://www.epa.gov/fedrgstr/>.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.regulations.gov/> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public

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docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility

identified in Unit I.B.1. Once in the system, select ``search,'' then key in the appropriate docket ID number.

C. How and To Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ``late.'' EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. Electronically. If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. EPA Dockets. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at <http://www.epa.gov/edocket>, and follow the online instructions for submitting comments. Once in the system, select ``search,'' and then key in docket ID number OPP-2003-0122. The system is an ``anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. E-mail. Comments may be sent by e-mail to opp-docket@epa.gov, Attention: Docket ID Number OPP-2003-0122. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ``anonymous access'' system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. Disk or CD ROM. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. By mail. Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001, Attention: Docket ID Number OPP-2003-0122.

3. By hand delivery or courier. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide

Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, Attention: Docket ID Number OPP-2003-0122. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under FOR FURTHER INFORMATION CONTACT.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Make sure to submit your comments by the deadline in this notice.
7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and Federal Register citation.

II. What Action is the Agency Taking?

This notice announces receipt by the Agency of a request from Bayer Environmental Science to cancel two pesticide products registered under section 3 of FIFRA. These registrations are listed by registration number in Table 1. Additionally, there are four section 24(c) registrations, which the Agency intends to address in a separate action.

A. Background Information

Fenthion is an organophosphorous insecticide used to control adult mosquitos in Florida.

In a letter dated March 31, 2003, Bayer Environmental Science requested a voluntary cancellation of all their registrations for products containing fenthion, to be effective June 30, 2004. Bayer stated that this decision was based on the fact that the market for this product is very limited, in addition to the expected costs for generating data to meet the requirements mandated by the FIFRA reregistration process.

Bayer has requested that distribution and sale of fenthion be prohibited after

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June 30, 2004. The Agency intends to announce this in a cancellation order following the comment period, unless substantive comments warrant the Agency's further review of this request. Use of fenthion will be prohibited after November 30, 2004. All unopened material may be returned to Bayer Environmental Science until December 31, 2004.

B. Requests for Voluntary Cancellation

Under section 6(f)(1)(A) of FIFRA, registrants may request, at any time, that their pesticide registrations be canceled or amended to terminate one or more pesticide uses. Section 6(f)(1)(B) of FIFRA requires that before acting on a request for voluntary cancellation, EPA must provide a 30-day public comment period on the request for voluntary cancellation. In addition, section 6(f)(1)(C) of FIFRA requires that EPA provide a 60-day comment period on a request for voluntary termination of any minor agricultural use before granting the request, unless: (1) The registrants request a waiver of the comment period, or (2) the Administrator determines that continued use of the pesticide would pose an unreasonable adverse effect on the environment. The registrant has requested a waiver of the comment period. The Agency will therefore apply a 60-day comment period.

Table 1.--Registrations with Pending Requests for Cancellation

Registration No.	Product Name	Company
432-1285	Baytex Liquid Concentrate Insecticide	Bayer Environmental Science
432-1290	Baytex Technical Insecticide	Bayer Environmental Science

Unless a request is withdrawn by the registrant within 60 days of publication of this notice, or if the Agency determines that there are substantive comments that warrant further review of this request, an order will be issued canceling all of these registrations.

Table 2 of this unit includes the name and address of record for the registrant of the products in Table 1 of this unit.

Table 2.--Registrants Requesting Voluntary Cancellation

EPA Company No.	Company Name and Address
432	Bayer Environmental Science, 95

III. What is the Agency's Authority for Taking this Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the Federal Register and must accept public comment for a specified time. Thereafter, the Administrator may approve such a request.

IV. Procedures for Withdrawal of Request and Considerations for Reregistration of Fenthion

Registrants who choose to withdraw a request for cancellation must submit such withdrawal in writing to the person listed under FOR FURTHER INFORMATION CONTACT, postmarked before July 29, 2003. This written withdrawal of the request for cancellation will apply only to the applicable FIFRA section 6(f)(1) request listed in this notice. If the product(s) have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling.

Any person, including the registrant, who wishes to support the continued registration of fenthion, must fulfill all outstanding data gaps. In addition, EPA must find that fenthion is eligible for reregistration. Finally, EPA may have to consult with the U.S. Fish and Wildlife Service under the Endangered Species Act.

V. Provisions for Disposition of Existing Stocks

The Agency intends to issue a cancellation order following consideration of all comments received during the comment period, unless the comments warrant further review of this request. Any cancellation order issued in response to this request will have an expected effective date of June 30, 2004.

Existing stocks are those stocks of registered pesticide products 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 action. The Agency intends to grant the request of Bayer that there be no distribution and sale of existing stocks as of the effective date of the cancellation order, June 30, 2004, except for the return to Bayer of unused product or for proper disposal until December 31, 2004. The Agency also intends to grant Bayer's request that the use of fenthion be prohibited as of November 30, 2004. All use of fenthion must be in accordance with the terms and conditions of the product's labeling.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: April 29, 2003.

Lois Ann Rossi,
Director, Special Review and Reregistration Division
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