

# Fenvalerate; Notice of Receipt of Requests 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  
[EPA-HQ-OPP-2008-0263; FRL-8363-5]

Fenvalerate; Notice of Receipt of Requests to Voluntarily Cancel  
Certain Pesticide Registrations

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

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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 requests by the registrants to voluntarily cancel the registrations for all of their products containing 4-chloro-alpha-(1-methylethyl)benzeneacetic acid, cyano(3-phenoxyphenyl)methyl ester (fenvalerate). The requests would terminate the last fenvalerate products registered for use in the United States. EPA intends to grant these requests 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 the requests, or unless the registrants withdraw their requests within this period. Upon acceptance of these requests, any sale, distribution, or use of products listed in this notice will be permitted only if such sale, distribution, or use is consistent with the terms as described in the final order.

DATES: Comments must be received on or before May 30, 2008.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA-HQ-OPP-2008-0263, by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>.

Follow the on-line instructions for submitting comments.

- Mail: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

- Delivery: OPP Regulatory Public Docket (7502P),

Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305-5805.

Instructions: Direct your comments to docket ID number EPA-HQ-OPP-2008-0263. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ``anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. 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. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available in regulations.gov. To access the electronic docket, go to <http://www.regulations.gov>, select ``Advanced Search,'' then ``Docket Search.'' Insert the docket ID number where indicated and select the ``Submit'' button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

FOR FURTHER INFORMATION CONTACT: Wilhelmena Livingston, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-8025; fax number: (703) 308-8005; e-mail address: [livingston.wilhelmena@epa.gov](mailto:livingston.wilhelmena@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

##### A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, 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 applicability of this action to a particular entity, consult the person listed under FOR FURTHER INFORMATION CONTACT.

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

1. Submitting CBI. Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, 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 claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not

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contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. Tips for preparing your comments. When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, Federal Register date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

#### II. Background on the Receipt of Requests to Cancel Registrations

This notice announces receipt by EPA of requests from Waterbury Companies, Inc., Contact Industries, The Scotts Company, Phaeton Corporation, and Amrep Inc. to cancel 16 product registrations. Fenvalerate is a synthetic pyrethroid insecticide which is used to control insects and related organisms, mollusks, fouling organisms and miscellaneous invertebrates on agricultural, pet care, domestic home and garden (domestic), and commercial/industrial/food and non-food/

mosquito abatement (commercial) sites. In letters dated August 29, 2007 through April 2, 2008, Waterbury Companies, Inc., Contact Industries, The Scotts Company, Phaeton Corporation, and Amrep, Inc. requested EPA to cancel affected product registrations of pesticide product registrations identified in this notice in Table 1. Specifically, the registrant's requests to cancel their product registrations to reflect the cancellation order issued on August 5, 2004 ([69 FR 47437](#)) (FRL-7369-9), as requested by the technical registrants, Sumitomo Chemical Company, Limited and Bayer Environmental Science and approved by the Agency to cancel the registrations for all of their product containing fenvalerate. The action on the registrant's requests will terminate the last fenvalerate products registered in the United States.

In a letter dated August 1, 2007, another registrant, Wellmark International, submitted a request to EPA to voluntarily cancel their product registrations containing fenvalerate. The notice of receipt of request for their product registrations was published in a Federal Register Notice on December 19, 2007 ([72 FR 71898](#)) (FRL-8343-9).

### III. What Action is the Agency Taking?

This notice announces receipt by EPA of requests from registrants to cancel fenvalerate product registrations. The affected products and the registrants making the requests are identified in Tables 1 and 2 of this unit.

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 or use termination. In addition, section 6(f)(1)(C) of FIFRA requires that EPA provide a 180-day comment period on a request for voluntary cancellation or 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 fenvalerate registrants have requested that EPA waive the 180-day comment period. EPA will provide a 30-day comment period on the proposed requests.

Unless a request is withdrawn by a registrant within 30 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 the affected registrations.

Table 1.--Fenvalerate Product Registrations with Pending Requests for Cancellation

Registration Number	Product Name	Company
538-166	Scotts House Plant Insect Spray	The Scotts Company
538-173	Chinch Bug Control	The Scotts Company
9444-120	Total Release Fogger	Waterbury Companies, Inc.

10806-61	Contact Roach and Ant Killer VI	Contact Industries
10806-73	Contact Lawn Spray Concentrate for Fleas	Contact Industries
10806-74	Contact Lawn Spray Concentrate for Fleas II	Contact Industries
10806-87	Contact Roach and Ant Killer IX	Contact Industries
10806-93	Contact Ornamental Gypsy Moth and Japanese Beetle Spray	Contact Industries
10806-94	Contact Roach and Ant Killer XI	Contact Industries
10807-150	Misty Fire Ant Injector	Amrep, Inc.
28293-151	Unicorn Flea and Tick Lawn Spray No.1	Phaeton Corporation

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28293-159	Unicorn RTU Home and Premise Spray	Phaeton Corporation
28293-162	Unicorn Zap Insecticide	Phaeton Corporation
28293-163	Unicorn Flush-Out Spray	Phaeton Corporation
28293-164	Unicorn Household Insecticide II	Phaeton Corporation
28293-217	Unicorn Residual Spray #4	Phaeton Corporation

Table 2 of this unit includes the names and addresses of record for the registrants of the products listed in Table 1 of this unit.

Table 2 --Registrants Requesting Voluntary Cancellation

EPA Company Number	Company Name and Address
538	The Scotts Company 14111 Scottslawn Road Marysville, Ohio 43041

9444	Waterbury Companies, Inc. 64 Avenue of Industry Waterbury, Connecticut 06705
10806	Contact Industries 641 Dowd Avenue Elizabeth, NJ 07201
10807	Amrep, Inc. 990 Industrial Park Drive Marietta, Georgia 30062
28293	Phaeton Corporation P.O. Box 290 Madison, Georgia 30650

IV. 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 or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the Federal Register. Thereafter, following the public comment period, the Administrator may approve such a request.

V. Procedures for Withdrawal of Request and Considerations for Reregistration of Fenvalerate

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 May 30, 2008. 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 products have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling.

VI. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which were packaged, labeled, and released for shipment prior to the effective date of the cancellation action.

In any order issued in response to the request for cancellation of product registrations, EPA proposes to include the following provisions for the treatment of any existing stocks of the products identified or referenced in Table 1 of Unit III.: Registrants may sell and distribute existing stocks for 1 year from the date of the use termination request. The products may be sold, distributed, and used by people other than the registrant until existing stocks have been exhausted, provided that such sale, distribution, and use complies with the EPA-approved label and labeling of the product.

If the request for voluntary cancellation is granted, the Agency intends to publish the cancellation order in the Federal Register.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: April 24, 2008.

Steven Bradbury,  
Director, Special Review and Reregistration Division, Office of  
Pesticide Programs.

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