

# Fenamiphos; Amendment to Use Deletion and Product Cancellation Order

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-2003-0200; FRL-8389-8]

Fenamiphos; Amendment to Use Deletion and Product Cancellation Order

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

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SUMMARY: This notice announces EPA's amendment to the order for the cancellation of products, voluntarily requested by the registrant and accepted by the Agency, of products containing the pesticide fenamiphos, pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This amendment follows a June 11, 2008 Federal Register Amendment to Use Deletion and Product Cancellation Order which extended the deadline for persons other than the registrant to sell and distribute two fenamiphos products, Namacur 10% Turf and Ornamental Nematicide (EPA Reg. No. 432-1291) and Namacur 3 Emulsifiable Systemic Insecticide-Nematicide (EPA Reg. No. 264-731), from May 31, 2008, until November 30, 2008. These are the last fenamiphos products registered for use in the United States. The Agency subsequently received a request from an end user to extend the sale and distribution deadline for Namacur 3. The Agency will extend the deadline for persons other than the registrant to sell and distribute Namacur 3 Emulsifiable Systemic Insecticide-Nematicide (EPA Reg. No. 264-731) until March 31, 2009.

DATES: This amendment is effective December 10, 2008.

FOR FURTHER INFORMATION CONTACT: Eric Miederhoff, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 347-8028; fax number: (703) 308-7070; e-mail address: [miederhoff.eric@epa.gov](mailto:miederhoff.eric@epa.gov).

SUPPLEMENTARY INFORMATION:

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

1. Docket. EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPP-2003-0200. 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 Office of Pesticide Programs (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.

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>.

II. What Action is the Agency Taking?

This notice announces the amendment of the June 11, 2008 amendment to the use deletion and product cancellation order of fenamiphos products registered under section 3 of FIFRA. The affected registration is listed by registration number in Table 1 of this unit.

Table 1.--Fenamiphos Product Affected

EPA Registration Number	Product Name
264-731	Nemacur 3 Emulsifiable Systemic Insecticide-Nematicide

Table 2 of this unit includes the name and address of record for the registrant of the product in Table 1 of this unit, by EPA company number.

Table 2.--Registrant of Affected Products

EPA Company Number	Company Name and Address
264	Bayer CropScience 2 T.W. Alexander Drive P.O. Box 12014

On December 10, 2003, EPA published a Use Deletion and Product Cancellation Order (68 FR 68901) (FRL-7332-5). The order prohibited, among other things, the manufacture and distribution of fenamiphos by Bayer Corporation, the sole technical ingredient registrant, after May 31, 2007. The deadline established for Bayer Corporation followed a production cap on the manufacture of fenamiphos, which limited fenamiphos production to 500,000 pounds of active ingredient for the year ending May 31, 2003, and reduced production by 20% each subsequent year during the 5-year phase-out period. The order also prohibited the sale and distribution of fenamiphos by persons other than the registrant after May 31, 2008.

In a June 11, 2008 Federal Register Amendment to Use Deletion and Product Cancellation Order, the Agency extended the May 31, 2008 deadline through November 30, 2008. This action was taken in response to a request from the sole fenamiphos technical registrant, Bayer Environmental Science, to extend the deadline to allow distributors to sell existing stockpiles of Nemacur 10% Turf and Ornamental Nematicide (EPA Reg. No. 432-1291) and Nemacur 3 Emulsifiable Systemic Insecticide-Nematicide (EPA Reg. No. 264-731) to end users.

On November 19, 2008, the Agency received a request from an end user, Maui Pineapple, to extend the deadline for sale and distribution of Nemacur 3 Emulsifiable Systemic Insecticide-Nematicide (EPA Reg. No. 264-731) from November 30, 2008, to March 31, 2009. The request stated that due to a substantial decrease in production, the end user would be unable to utilize their existing stocks of Nemacur 3. They requested the extension to enable them to sell their Nemacur 3 to a distributor who would in turn, sell and distribute the material to other end users.

In the case of fenamiphos, the original May 31, 2008 deadline was established to provide a reasonable amount of time for the material to work through the channels of trade following the cessation of sale and distribution of fenamiphos products by the registrant, Bayer Environmental Science, on May 31, 2007. Extending the deadline for distributors to sell and distribute Nemacur 3 Emulsifiable Systemic Insecticide-Nematicide will neither conflict with the Agency's application of the guidelines outlined in PR Notice 97-7, nor will it introduce more fenamiphos into the pesticide use cycle than had been stipulated by the terms of the 5-year phase-out. Allowing additional time for distributors to sell the Nemacur 3 to end users will ensure that this product is utilized in accordance with the approved labeling requirements. Today's action extends the deadline for persons other than the registrant to sell and distribute Nemacur 3 Emulsifiable Systemic Insecticide-Nematicide (EPA Reg. No. 264-731) for 4 months, until March 31, 2009. End users with existing stocks of products containing fenamiphos may continue to use these products until their stocks are exhausted, provided that the use complies with EPA-approved product label requirements for the respective products.

### III. Amended Order

Pursuant to FIFRA section 6(a), EPA hereby amends the June 11, 2008 order to allow persons other than the registrant to sell and distribute the fenamiphos product identified in Table 1 of Unit II., until March 31, 2009. Accordingly, the Agency hereby orders that the sale and

distribution of products containing fenamiphos is prohibited provided, however, that persons other than the registrant are permitted to sell and distribute existing stocks of Namacur 3 Emulsifiable Systemic Insecticide-Nematicide (EPA Reg. No. 264-731) until March 31, 2009. The Agency further orders that end users with existing stocks of products containing fenamiphos may continue to use these products until their stocks are exhausted, provided that the use complies with EPA-approved product label requirements for the respective products.

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

Section 6(a)(1) of FIFRA provides that the Administrator may permit the continued sale and use of existing stocks of a pesticide whose registration is suspended or canceled under this section, or section 3 or 4, to such extent, under such conditions, and for such uses as the Administrator determines that such sale or use is not inconsistent with the purposes of this Act.

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#### List of Subjects

Environmental protection, Pesticides and pests.

Dated: November 25, 2008.

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

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