

to the ethoprop IRED, signed on February 25, 2006, presents the Agency's conclusions on the risks posed by exposure to EC formulations of ethoprop alone; however, section 408(b)(2)(D)(v) of the Federal Food, Drug and Cosmetic Act (FFDCA) directs the Agency also to consider available information on the cumulative risk from substances sharing a common mechanism of toxicity. Because the organophosphate pesticides share a common mechanism of toxicity, the Agency will evaluate the cumulative risk posed by this group before making final reregistration eligibility decisions on individual organophosphates.

During the pendency of the organophosphate cumulative assessment, the Agency is proceeding with risk assessments and interim risk management for individual organophosphate pesticides. EPA has determined that, but for the cumulative risk assessment, the data base to support ethoprop reregistration is substantially complete and that products containing ethoprop, in addition to the grandular formulators, EC formulations are eligible for reregistration provided the risks are mitigated in the manner described in the 2001 IRED and in the 2006 Addendum to the IRED or by another means that achieves equivalent risk reduction. Upon submission of any required product specific data under section 4(g)(2)(B) and any necessary changes to the registration and labeling (either to address concerns identified in the IRED or as a result of product specific data), and after assessing organophosphate cumulative risks, EPA will make a final reregistration decision under section 4(g)(2)(C) for products containing ethoprop. When the Agency finalizes decisions for ethoprop and other organophosphate pesticides, further risk mitigation may be required for ethoprop.

EPA is applying the principles of public participation to all pesticides undergoing reregistration and tolerance reassessment. The Agency's Pesticide Tolerance Reassessment and Reregistration; Public Participation Process, published in the **Federal Register** on May 14, 2004, (69 FR 26819)(FRL-7357-9) explains that in conducting these programs, EPA is tailoring its public participation process to be commensurate with the level of risk, extent of use, complexity of issues, and degree of public concern associated with each pesticide. Due to its uses, risks, and other factors, ethoprop was reviewed through the full 6-Phase public participation process. Through this process, EPA worked extensively with stakeholders and the public to

reach the regulatory decisions for ethoprop.

The reregistration program is being conducted under Congressionally mandated time frames, and EPA recognizes the need both to make timely decisions and to involve the public. In this case, no additional comment period is needed because the 2001 ethoprop IRED was reviewed through the full 6-phase public participation process, and all issues related to this pesticide were resolved through consultations with stakeholders and the submission of data allowing the Agency to conclude the decision on the EC formulation. The Agency, therefore, is issuing the 2006 ethoprop addendum to the IRED without a comment period. Decisions presented in the IRED and in the addendum to the IRED may be supplemented by further risk mitigation measures when EPA concludes its cumulative assessment of the organophosphate pesticides.

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

Section 4(g)(2) of FIFRA as amended directs that, after submission of all data concerning a pesticide active ingredient, "the Administrator shall determine whether pesticides containing such active ingredient are eligible for reregistration," before calling in product specific data on individual end-use products, and either reregistering products or taking other "appropriate regulatory action."

#### **List of Subjects**

Environmental protection, Pesticides and pests.

Dated: March 28, 2006.

**Debra Edwards,**

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

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## **ENVIRONMENTAL PROTECTION AGENCY**

**[EPA-HQ-OPP-2006-0195; FRL-7767-1]**

### **Tebuconazole; Receipt of Application for Emergency Exemption, Solicitation of Public Comment**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** EPA has received a specific exemption request from the California Department of Pesticide Regulation to use the pesticide tebuconazole (CAS No. 107534-96-3) to treat up to 8,000 acres of garlic to control garlic rust (*Puccinia*

*porri - P. allii*). The Applicant proposes a use which has been requested in 3 or more previous years, and a complete registration application has not yet been submitted to the Agency. Due to the urgent nature of the emergency and the very narrow and extremely limited use being requested, EPA has eliminated the public comment period. Nonetheless, interested parties may still contact the Agency with comments about this notice and treatment program.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA-HQ-OPP-2006-0195, by one of the following methods:

- <http://www.regulations.gov/>. Follow the on-line instructions for submitting comments.

- *Mail:* Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

*Hand Delivery:* Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID number EPA-HQ-OPP-2006-0195. The docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the docket facility is (703) 305-5805. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to docket ID number EPA-HQ-OPP-2006-0195. EPA's policy is that all comments received will be included in the public 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 [www.regulations.gov](http://www.regulations.gov/) or e-mail. The [www.regulations.gov](http://www.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 [www.regulations.gov](http://www.regulations.gov/), your e-mail address will be captured automatically and included as part of the comment that is placed in the public 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. For additional information about EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/docket.htm/>.

**Docket:** All documents in the docket are listed in the regulation.gov index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically at <http://www.regulations.gov/> or in hard copy at the Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. The docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the docket facility is (703) 305-5805.

**FOR FURTHER INFORMATION CONTACT:** Libby Pemberton, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-9364; fax number: (703) 308-5433; e-mail address: [Sec-18-Mailbox@epa.gov](mailto:Sec-18-Mailbox@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

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

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111)
- Animal production (NAICS code 112)
- Food manufacturing (NAICS code 311)
- Pesticide manufacturing (NAICS code 32532)

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of

entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. 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 <http://www.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 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 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

### What Action is the Agency Taking?

Under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), at the discretion of the Administrator, a Federal or State agency may be exempted from any provision of FIFRA if the Administrator determines that emergency conditions exist which require the exemption. The California Department of Pesticide Regulation has requested the Administrator to issue a specific exemption for the use of tebuconazole on garlic to control garlic rust (*Puccinia porri* - *P. allii*). Information in accordance with 40 CFR part 166 was submitted as part of this request.

As part of this request, the Applicant asserts that garlic rust became an economic problem in 1998, reducing yields by as much as 50%. The Applicant states that existing fungicides registered for use on garlic are not effective at controlling the pathogen under high disease pressure.

The Applicant proposes to make no more than two applications of tebuconazole totaling no more than .45 pounds active ingredient per acre per season, to 8,000 acres of garlic in California between March 1 and July 3, 2006.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 of FIFRA require publication of a notice of receipt of an application for a specific exemption proposing a use, which has been requested in 3 or more previous years, and a complete registration application has not yet been submitted to the Agency.

As noted above, the Agency is eliminating the comment period due to the urgent nature of emergency situation and the very narrow and extremely limited use being requested. Nonetheless, interested parties may still contact the Agency with comments about this notice and treatment program. The notice provides an opportunity for public comment on the application.

### List of Subjects

Environmental protection, Pesticides and pests.

Dated: March 27, 2006.

**Lois Rossi,**

*Director, Registration Division, Office of Pesticide Programs.*

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