

# CHLORPYRIFOS

Internal deliberative pre-decisional - FOR USE BY 2024 PRESIDENT-ELECT TRANSITION TEAM MEMBERS ONLY

## ISSUE SUMMARY:

[Chlorpyrifos is an organophosphate \(OP\) insecticide](#) registered for agricultural and non-agricultural uses which is the subject of a 2007 petition to revoke tolerances, as well as related litigation. On November 2, 2023, the U.S. Court of Appeals for the Eighth Circuit issued a ruling vacating EPA's final rule revoking all food tolerances of chlorpyrifos and remanded the matter to EPA. Since the court's ruling, EPA has been working with chlorpyrifos registrants to voluntarily cancel all food uses except for the 11 crops specified in EPA's 2020 Proposed Registration Review Interim Decision (2020 PID).

## UPCOMING MILESTONES:

EPA will complete implementation of measures to protect federally threatened or endangered (listed) species and their designated critical habitats from the effects chlorpyrifos consistent with the National Marine Fisheries Services Biological Opinion in 2024. EPA also expects to issue a proposed rule to revoke tolerances of the canceled chlorpyrifos food uses (i.e., all except the 11 specified in the 2020 PID) as there will not be any remaining U.S. registrations for those uses.

## BACKGROUND:

In September 2007, environmental advocacy organizations submitted a [petition](#) to EPA under the Federal Food, Drug, and Cosmetic Act, requesting that EPA revoke all chlorpyrifos tolerances and cancel all chlorpyrifos registrations. In April 2021, the U.S. Court of Appeals for the Ninth Circuit ordered EPA to—within 60 days—issue a final rule either revoking all chlorpyrifos tolerances or modifying the chlorpyrifos tolerances, provided EPA could make a determination that those modified tolerances met the safety standard. On August 20, 2021, OPP responded to the petition and litigation in the Ninth Circuit by issuing a final rule (Final Tolerance Rule) revoking all chlorpyrifos tolerances and setting an expiration date for those tolerances of February 28, 2022. The Final Tolerance Rule was challenged by a chlorpyrifos registrant and several grower groups in the U.S. Court of Appeals for the Eighth Circuit.

On November 2, 2023, the Eighth Circuit issued a ruling vacating Final Tolerance Rule and remanding the matter to EPA for further proceedings. The court's decision noted that, in the 2020 PID, the Agency had "identified 11 specific candidates" of food and feed crop uses that could potentially be retained. Tolerances were reinstated on December 28, 2023, when the Eighth Circuit issued its mandate, making it legal for any currently registered chlorpyrifos product to be used on all the crops with reinstated tolerances.

Upon the court's ruling, EPA immediately engaged in discussions with the chlorpyrifos registrants to address the safety of the tolerances in line with the conclusions from the 2020 PID. As of June 2024, 38 chlorpyrifos product registrations have been cancelled and 17 have been amended to remove food uses and implement additional application restrictions. Cancellation orders for these registrations include existing stocks provisions which allow these products to be sold and distributed until April 30, 2025, and uses allowed until June 30, 2025.

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KEY EXTERNAL STAKEHOLDERS:

- ☒ Congress
- ☒ Industry
- ☒ States
- ☐ Tribes
- ☒ Media
- ☒ Other Federal Agency
- ☒ NGO
- ☐ Local Governments
- ☒ Public

Stakeholder interest has focused on health concerns for children and agricultural workers and the loss of a widely used insecticide for several food crops.

MOVING FORWARD:

EPA will continue work towards issuing a final rule revoking tolerances for the canceled food uses and continue the registration review of chlorpyrifos. The EPA expects to issue a revised human health risk assessment and an amended PID that addresses any remaining human health or ecological risk concerns in 2025.

LEAD OFFICE/REGION: OCSPP

OTHER KEY OFFICES/REGIONS: OGC, ORD, OCHP