

II. Description of Information

A complete list of the information described below is available from the RCRA Docket at the address and telephone number listed above. The new data include:

Technical Resource Documents— Mineral Sectors

The Agency has prepared technical resource documents on extraction and beneficiation practices of various mineral sectors. Each of the following documents contains a summary of current literature on waste management practices in the sector and site visit reports of operating mines. These documents have been peer reviewed by state representatives, federal land management agencies, mining companies, and public interest groups. Where appropriate, the reviewers' comments have been incorporated into each document. These documents will be available in Spanish in May 1995: (1) TRD Vol.1: Lead-Zinc (NTIS PB94-170248); (2) TRD Vol.2: Gold (NTIS PB94-170305); (3) TRD Vol.3: Iron (NTIS PB94-195203); (4) TRD Vol.4: Copper (NTIS PB94-200979); (5) TRD Vol.5: Uranium (NTIS PB94-200987); (6) TRD Vol.6: Gold Placer (NTIS PB94-201811); and (7) TRD Vol.7: Phosphate & Molybdenum (NTIS PB94-201001).

Technical Reports—Mining Waste Management and Engineering Practices

These documents discuss current mining waste management and engineering practices. These documents have been peer reviewed by state representatives, federal land management agencies and mining companies. Where appropriate, the reviewers' comments have been incorporated into each document. Additionally, the WASTE database will be available in the RCRA docket and electronically, however, it will be unavailable at NTIS. These documents will be available in Spanish in May 1995: (1) Innovative Methods of Managing Environmental Releases at Mine Sites (NTIS PB94-170255); (2) Design and Evaluation of Tailings Dams (NTIS PB94-201845); (3) Treatment of Cyanide Heap Leaches & Tailings (NTIS PB94-201837); (4) Acid Mine Drainage Prediction (NTIS PB94-201829); and (5) WASTE: An Information Retrieval System for Mill Tailings References (NOT AT NTIS).

Other Mining Documents

The following documents provide historical context for EPA's mine waste activities. The Report to Congress and Strawman II documents are currently not available in electronic format but

will be made available at a later date: Report to Congress on Wastes from the Extraction and Beneficiation of Metallic Ores, Phosphate Rock, Asbestos, Overburden from Uranium Mining, and Oil Shale (NTIS PB88-162631); Strawman II (NTIS PB91-178418); U.S. EPA Mine Waste Policy Dialogue Committee Meeting Summaries and Supporting Material (NTIS PB95-122529).

The Agency is also developing additional technical reports on waste rock piles, subaqueous disposal of mine tailings, model mines, and phosphogypsum waste piles.

Dated: February 23, 1995.

Elizabeth A. Cotsworth,

Acting Director, Office of Solid Waste.

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[OPP-30000/48F; FRL-4939-7]

Granular Carbofuran; Final Decision To Deny Reinstatement of the Corn and Sorghum Uses and To Grant Conditional Extension of Phase-Out Period for Use on Rice; Summary of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This Notice announces EPA's decision to deny reinstatement of the use of the granular insecticide carbofuran on corn and sorghum, and to grant a limited extension of use on rice. This Notice also summarizes the public comments received in response to the Agency's proposal of these actions (59 FR 17530, April 13, 1994).

FOR FURTHER INFORMATION CONTACT: By mail: Margaret Rice, Special Review and Reregistration Division (7508W), Office of Pesticide Programs, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Special Review Branch, Rm. WF32N4, Crystal Station #1, 2800 Crystal Drive, Arlington, Virginia, (703) 308-8039.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of April 13, 1994 (59 FR 17530), EPA proposed to deny reinstatement of the use of granular carbofuran on corn and sorghum, to extend the use on rice with restrictions, for a limited time period, and offered incentives for the registration of reduced risk alternatives to control rice water weevil. The Agency's proposal was in response to FMC Corporation and grower groups'

requests that the phase-out scheduled for these three uses be extended beyond the limits established in the negotiated settlement agreement that concluded the Special Review of granular carbofuran in 1991.

The Agency's April 1994 notice outlined the arguments put forth by FMC Corp in support of their request, as well as the rationale for EPA's proposed decision, and allowed 90 days for public comment. Readers are referred to the proposed decision (59 FR 17530, April 13, 1994) for a detailed summary of the regulatory history and legal background of the granular carbofuran Special Review and negotiated settlement agreement.

II. EPA's Findings

The following summarizes the Agency's findings regarding the risks and benefits resulting from the use of granular carbofuran. With regard to risks, the Agency finds:

1. Carbofuran is highly acutely toxic to birds.

2. One granule can kill a small bird.

3. Proper agricultural use of carbofuran results in granules available to birds.

4. Birds are directly exposed to carbofuran by picking up and ingesting granules. Predatory and scavenging birds are secondarily exposed when they eat the organisms that were directly exposed.

5. Many birds have been killed by proper use of granular carbofuran. This has been documented in 8 field studies and over 90 separate poisoning incidents, which demonstrate widespread and repeated mortality to many species, including migratory, threatened and endangered species. Incidents of both primary and secondary poisonings have been observed and documented in many different geographic areas, associated with many different use sites, times of year, and under varying environmental conditions.

6. The Agency continues to receive reports of bird kills from granular carbofuran. Twenty three additional wildlife kill incidents have been reported to EPA since the conclusion of the Special Review in 1991. Three were attributed to granular formulations; the other 20 incident reports did not specify which formulation was involved. Species killed include a bald eagle, Canada geese, red-tailed hawks, and numerous other species.

7. Based on available data, carbofuran presents a greater risk to birds than alternative chemical control methods.

8. It has not been demonstrated that there are any conditions under which

granular carbofuran can be used without presenting an extremely high risk to birds.

With regard to the benefits, the Agency finds:

1. Efficacious alternatives to granular carbofuran exist for use on corn and sorghum.

2. The absence of granular carbofuran will result in no short- or long-term increases in field corn production costs, nor will it cause significant output or yield losses, based on the current price and availability of pesticidal alternatives.

3. The absence of granular carbofuran for use on sorghum will result in some increased production costs due to the higher cost of alternatives and specialized application equipment, but will not cause significant reduction in yield.

4. No chemical alternatives are currently registered and no applications are pending for use on rice. Only limited data are available to characterize the effectiveness of non-chemical controls.

5. In the absence of granular carbofuran, significant reductions in rice yields may occur.

III. Summary of Public Comment

The complete text of all comments received in response to EPA's proposed decision (59 FR 17530), as well as a memorandum detailing EPA's responses to these comments can be found in the Office of Pesticide Program's public docket (OPP-30000/48E). See Unit VII, below, for more information and the location and hours of the OPP public docket.

EPA received few comments and no data in support of continued use of granular carbofuran on corn.

Several rice growers and rice growers' associations supported the Agency's proposed decision to extend the rice use. Several research institutions advised EPA of ongoing studies related to control of rice pests.

The Agency reviewed approximately 40 letters of a testimonial nature from sorghum growers, and numerous letters from Senators and Congressmen representing sorghum producing areas, supporting the continued use of granular carbofuran on sorghum. The National Grain Sorghum Producers provided some additional efficacy and yield data for carbofuran and its alternatives.

The U.S. Fish and Wildlife Service (FWS) and several environmental organizations commented that, in their opinion, no extensions of granular use were justified and that the Agency should also take action to eliminate use

of flowable carbofuran. The Sierra Club Legal Defense Fund, representing a group of environmental organizations, notified the Agency of its intention to sue EPA for violations of the Endangered Species Act and other statutes.

In response to EPA's call for safer alternatives in the April notice, one company, Solvay Duphar B.V., has indicated an interest in pursuing a registration for diflufenuron on rice. Other companies have made preliminary inquiries.

IV. EPA's Final Decision and Rationale

A. Corn and Sorghum

EPA finds no justification in the comments it has received to alter the Agency's proposed decision not to reinstate the use of granular carbofuran on corn and sorghum. EPA confirms its previous decision that the risks of continued use of granular carbofuran on these sites outweigh the benefits. Therefore, these uses will not be reinstated.

While EPA received many comments related to the sorghum use, none contained persuasive evidence or new data to justify changing the proposed decision. Furthermore, new information supports the Agency's proposed decision. EPA has registered a new alternative pesticide, imidacloprid (trade name GAUCHO), for use on sorghum. The new compound is available as a seed treatment and therefore, is applied at rates much lower than carbofuran. Imidacloprid poses less risk both to pesticide handlers and to birds and wildlife than carbofuran and other alternatives, and the available information indicates that it is as effective as granular carbofuran in controlling moderate chinch bug infestations.

EPA has received additional comparative efficacy and yield data that confirm the Agency's previous determination that the available alternatives, aldicarb and flowable carbofuran, perform as well as granular carbofuran under conditions of high chinch bug infestation.

The state of Nebraska reports that they do currently have a special local needs registration for in-furrow application of flowable carbofuran, thereby reducing the Agency's previous concern that some growers in Nebraska might suffer economic impacts from the cancellation of the granular formulation. FMC has made available to sorghum growers a closed system for applying flowable carbofuran that they believe reduces potential exposure to pesticide handlers. The company is also offering

partial rebates to defray the cost to farmers of switching to the new application equipment.

EPA recognizes that there may not be sufficient imidacloprid treated sorghum seed available for the 1995 use season. The Agency also acknowledges that acquiring new application equipment may not be feasible for growers in certain circumstances. In these instances EPA will consider special local needs registrations, FIFRA section 24(c), submitted by states.

B. Rice

EPA has determined that the short-term benefits of using granular carbofuran on rice outweigh the short-term risks to birds, provided the use restrictions and conditions listed below are observed. Neither FMC nor other commenters has provided data to justify the long-term continued use of granular carbofuran on rice. Therefore, EPA is granting a maximum 2-year extension of this use for the sole purpose of providing an orderly transition to alternative controls.

In spite of the Agency's effort to encourage new registrations for alternatives to granular carbofuran for control of rice water weevil, none appears likely before the 1995 use season. EPA's decision to allow a limited extension on rice was also influenced by the Agency's concern that non-chemical control options, specifically draining fields and eliminating vegetation on levees and field edges (clean farming), could impede initiatives that conservation groups have implemented with rice growers to enhance wildlife habitat. EPA notes, however, that no data have been provided to the Agency that quantify the relative risks of continued carbofuran use compared to possible habitat losses from clean farming. Such data would be necessary to support any use of carbofuran on rice beyond that permitted by this Notice. See Unit VI, below.

FMC's granular carbofuran product registrations must be amended to include the following limitations and conditions:

1. The use of granular carbofuran on rice is subject to the overall sales limits as set forth below in Unit V.

2. No production and sales by FMC will be allowed for use on rice during the 1996 growing season if registration of an alternative to control rice water weevil appears imminent at the end of the 1995 growing season. On or before September 1, 1995, EPA will assess the prospect for registration of alternatives to control rice water weevil and advise FMC and other interested parties if

production and sales of granular carbofuran for use on rice will be allowed for the 1996 growing season. EPA assessment of the prospect for alternatives will include: the product's efficacy in controlling the rice water weevil; the completeness of the data base supporting the product's registration; and the Agency's finding that the product presents less risk to the environment and human health than carbofuran. If EPA determines that registration of an alternative appears imminent, FMC's registration for granular carbofuran use on rice will automatically expire on September 1, 1995, without order or hearing. Otherwise, FMC's registration for this use will expire automatically on September 1, 1996, without order or hearing.

3. The labels of granular carbofuran products sold by FMC in 1995 for use on rice must bear the following statements: "FMC will sell this product in conformity with volume limitations agreed to with EPA," "FMC will not sell or release for shipment this product for use on rice after 8/31/95," and "This product cannot be used on rice after 8/31/96."

4. If no alternatives are registered and the Agency allows sales during 1996, labels of granular carbofuran products sold by FMC for use on rice must bear the following statements: "FMC will sell this product in conformity with volume limitations agreed to with EPA," "FMC will not sell or release for shipment this product for use on rice after 8/31/96," and "This product cannot be used on rice after 8/31/97."

5. Granular carbofuran products sold by FMC in 1995 and 1996 for use on rice must bear the following restrictions to protect the bald eagle, a federally designated threatened species: "Aerial application is prohibited within 1 mile of active bald eagle nests and within 10 miles of eagles congregating in winter roosting or staging areas." "For ground application to unflooded fields, within 1 mile of active bald eagle nests and within 10 miles of eagles congregating in winter roosting or staging areas, granules must be incorporated immediately and flooding must begin within 4 hours unless application is followed by hazing to keep birds out of the fields. If hazing is used, the field must be flooded no longer than 24 hours after application."

In most rice growing areas, eagles vacate wintering areas prior to the time when granular carbofuran is applied to rice. However, the 10 mile restriction may apply to some counties in California from April 1st through April

15th, and to two counties in Texas from March 1st through March 31st.

6. Granular carbofuran products used on rice in California only, must bear labeling prohibiting use in areas occupied by the giant garter snake, a federally designated threatened species, unless FMC or other interested parties can provide data to EPA demonstrating that the toxicity of carbofuran to snakes is sufficiently low to eliminate concern or that the circumstances of use preclude exposure to this species.

Because toxicity data for reptiles in general and snakes in particular are lacking, EPA has used toxicity data for birds in their risk assessment. The Agency recognizes that data on a more closely related species such as the western aquatic garter snake (*Thamnophis couchii*) would be a better indicator of toxicity to the giant garter snake.

In the absence of such data, products must bear the following restriction: "This product may not be used in areas where adverse impact on the giant garter snake is likely. Prior to making applications, the user of this product must determine that no giant garter snakes are located in or immediately adjacent to the area to be treated. If the user is in doubt whether or not the giant garter snake may be affected, he or she should contact either the State Department of Fish and Game, the regional office of the FWS, or the county agricultural commissioner."

Based on the limited information currently available to the Agency, the area potentially affected by this restriction would be the Butte, Colusa, American, and Sutter basins, as well as the Willow Slough and Liberty Farm area of the Yolo basin.

7. In order to protect threatened and endangered aquatic species in California, labels must state: "Flood water must be held on carbofuran treated fields for 28 days following flooding or application before being released into streams, rivers or other surface water bodies." Listed species that potentially could be affected without this measure in California include the Delta smelt and the winter run of Chinook salmon.

In the South (Arkansas, Louisiana, Mississippi, Missouri, and Texas), labels must state: "Permanent flood waters may not be released until 42 days after application. Also, if the water level in flooded rice fields rises due to heavy rainfall, additional flashboards must be put in place to prevent carbofuran-treated water from spilling over levees into public waters." Listed species that potentially could be affected without

these measures in the South include numerous mussels.

8. In lieu of the measures specified on product labels to protect threatened and endangered species, growers have the option of developing "landowner agreements" with the appropriate state lead conservation agency. These agreements permit growers to tailor species protection measures to the specific conditions on their land.

9. Granular carbofuran products for use on rice must contain the following application recommendations: "Confine all granular carbofuran applications to field areas. Cut off application equipment to avoid treating adjacent roads, field drains, ditches, banks, and other non-target areas. Apply carbofuran only when weather conditions are calm to prevent misplacement of granules. Ground applications will provide more precise carbofuran placement."

10. Labels must contain the following recommendation for loading: "Ground application equipment should be loaded in areas which will be flooded; each refill should be in a different location in the field. To facilitate clean up, load material only on tarp-covered ground."

11. FMC must provide a toll-free phone number on their product labels to report bird and wildlife kill incidents. FMC must report all incidents reported to it which associate the use of carbofuran with wildlife injury or death to EPA and the appropriate wildlife management agencies within 24 hours, regardless of the circumstances of the incident.

Should substantial avian mortality or incidental take of threatened or endangered species occur, EPA will be forced to consider additional use restrictions.

EPA will make available through the public docket its assessment of the potential risk to the threatened and endangered species associated with the use of carbofuran in rice growing areas. The assessment contains, among other useful information, a listing of counties potentially subject to use restrictions due to nesting or wintering bald eagles.

The measures that EPA is requiring are based on previous Biological Opinions from the FWS. EPA believes that these measures will decrease, but not necessarily eliminate, the likelihood of incidental take of eagles.

V. Sales Limits

Domestic sales of the 2G, 3G, 5G, 10G, and 15G formulations by FMC will be limited to 250,000 pounds of active ingredient (ai) per year for the 1995 and 1996 use seasons for use only on rice and five minor use sites, spinach grown for seed, cucurbits, cranberries, pine

progeny, and bananas. Based on information received from the Puerto Rico Department of Agriculture, EPA acknowledges that Puerto Rico has an existing special local need registration for granular carbofuran use on bananas and plantains. This minor use will now be allowed in both Hawaii and Puerto Rico, subject to the overall sales limitations.

FMC must direct a minimum of 2,500 pounds/ai/year, out of the total 250,000 pounds, or more at their discretion, to areas where the five minor use crops are grown during the 1995 and 1996 use seasons.

For 1997 and subsequent years, sales by FMC will be limited to 2,500 pounds/ai/year for use only on the five minor use sites.

For the purpose of this action, the 1995 "use season" begins September 1, 1994 and ends August 31, 1995. Similarly, the 1996 use season begins September 1, 1995 and ends August 31, 1996.

Existing stocks of the 1995 production in the possession of dealers and growers may be sold, distributed or used until August 31, 1996. Existing stocks of 1996 production in the possession of dealers and growers may be sold, distributed, or used until August 31, 1997.

For each use season during which FMC sells granular carbofuran for domestic use, FMC must submit to EPA a report by October 15 containing FMC's 2G, 3G, 5G, 10G, and 15G carbofuran production and sales totals for domestic use for the immediately preceding use season. FMC must also provide EPA with batch and key numbers for granular carbofuran products produced for the 1995 and 1996 domestic use season.

The production and sales limits in this Notice do not include the 10CR formulation of carbofuran, which FMC markets only for use on canola under FIFRA section 24(c) registrations.

The canola use differs somewhat from other uses because of a lower application rate (0.25 lbs/ai/acre). The 10 CR formulation differs from other granular carbofuran formulations in the use of a corn cob carrier rather than a sand-core granule. The canola use was not included in the Special Review; the Agency is currently evaluating the risks and benefits of this use.

VI. Procedural Matters

In order to effectuate the extension on rice, FMC must submit applications for amended registrations and revised product labels. These amendments will not be accepted by EPA until all the limitations and conditions in this Notice have been satisfied.

The settlement agreement concluding the Special Review of granular carbofuran in 1991 provided for one opportunity for FMC Corp. to present additional information related to the risks and benefits of granular carbofuran use on corn, sorghum and rice. EPA has fulfilled that provision of the agreement. EPA will not consider any additional requests for extensions or reinstatement of use on any site under the provisions of the settlement agreement. By the terms of the amended registration, FMC's registration for use of granular carbofuran on rice will expire no later than September 1, 1996, without order or hearing.

In the settlement agreement with EPA, FMC waived any right it may have to challenge or appeal the Office Director's decision regarding the extension of use of granular carbofuran to an administrative law judge, the EPA Administrator, or the courts. Nothing in this Notice affects that waiver.

Any additional applications to amend any granular carbofuran registration which FMC may submit after the publication date of this Notice may be denied by EPA unless FMC has submitted substantial new evidence which materially changes the Agency's assessment of the risks and benefits of the use of carbofuran and which was not previously available to either EPA or FMC. For the rice use, for example, the new evidence would need to include, at a minimum, site-specific, scientifically sound, wildlife monitoring data, and a quantitative assessment of the relative effect on waterfowl and other wildlife of carbofuran use versus clean farming.

Consistent with the applicable provisions of FIFRA, EPA may consider, on a case-by-case basis, requests for emergency uses of granular carbofuran under FIFRA section 18 and special local needs registrations submitted by states under FIFRA section 24(c).

All provisions of the 1991 settlement agreement not specifically amended by this Notice remain in effect.

VII. Public Record

The Office of Pesticide Programs' public docket is located in room 1132, Crystal Mall 2, 1921 Jefferson Davis Highway, Arlington, Va. The carbofuran docket and index are available for inspection and copying from 8:00 a.m. to 4:30 p.m., Monday through Friday, except legal holidays.

The docket for carbofuran (OPP-30000/48E) contains: the complete text of all comments received in response to 59 FR 17530; a memorandum summarizing the comments and detailing EPA's responses to them; EPA's assessment of the potential risk to

threatened and endangered species associated with rice; and other documents and correspondence related to the granular carbofuran Special Review and negotiated settlement agreement.

List of Subjects

Environmental protection, pesticides and pest.

Dated: February 22, 1995.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

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[OPP-00403; FRL-4939-1]

Pesticide Products Used to Disinsect Aircraft; Notice of Availability of Draft Policy and Request for Comments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Agency has received information which raises questions concerning the potential human health risks associated with the use of insecticide spray products in occupied aircraft cabins. The United States has not required the spraying of aircraft since 1979 and the Agency believes that this policy has not encouraged the spread of any insectborne communicable diseases. EPA is soliciting comments on the Agency's draft Pesticide Regulation (PR) Notice which proposes strict measures to prevent human exposure to any pesticide product (insecticide) used for disinsecting aircraft. The proposed draft PR Notice is entitled, "Pesticide Products Used to Disinsect Aircraft." Interested parties may request a copy of the Agency's proposed policy as set forth in the ADDRESSES unit of this notice.

DATES: Written comments, identified by the docket number [OPP-00403], must be received on or before April 17, 1995.

ADDRESSES: The draft PR Notice is available from Rame' Cromwell, By mail: Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 6th Floor, Westfield Building, 2800 Crystal Drive, Arlington, VA, (703) 308-8377. Submit written comments to: By mail: Public Docket and Freedom of Information Section, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington,