

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2008-0525; FRL-8395-6]

Carbaryl; Notice of Receipt of Requests to Voluntarily Cancel or to Terminate Uses of Certain Pesticide Registrations**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice.

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 from Loveland Products, Inc., Value Garden Supply, and Helena Chemical Company to voluntarily amend their registrations to terminate uses of certain carbaryl products, or to eliminate certain application methods for carbaryl products. The requests would terminate carbaryl use in or on wheat, millet, and fresh/succulent beans and peas (crop subgroup 6B). These requests would also terminate the use of drench or dip treatments of seedlings or seed pieces, dust formulations in agricultural crops, granular applications to leafy vegetables (except brassica), direct applications (except for flea collars) to domestic animals (including dogs, cats, and other pets), and all indoor applications. The requests would not terminate the last carbaryl 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 November 14, 2008.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA-HQ-OPP-2008-0525, 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), U.S. 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 Facility'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-2008-0525. 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 www.regulations.gov or e-mail. The 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, 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 at <http://www.regulations.gov>. 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: Christina Scheltema, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-2201; fax number: (703) 308-8005; e-mail address: scheltema.christina@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 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 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 and to Amend Registrations to Terminate Uses

This notice announces receipt by EPA of requests from three registrants, listed in Table 2 below, to amend several carbaryl product registrations to terminate certain uses and eliminate certain application methods. Carbaryl is a broad-spectrum insecticide used on a variety of food and feed crops, ornamentals, turf, pasture, and rangeland. In letters dated September 2008, registrants of carbaryl products

requested EPA to amend the product registrations identified in Table 1 of this notice to terminate certain uses and eliminate certain application methods. Specifically, these registrants are no longer supporting carbaryl use in or on wheat, millet, and fresh/succulent beans and peas (crop subgroup 6B). These requests would also terminate the use of drench or dip treatments of seedlings or seed pieces, dust formulations in agricultural crops, granular applications to leafy vegetables (except brassica), direct applications (except for flea collars) to domestic animals (including dogs, cats, and other pets), and all indoor applications. The complete list of affected registrations and registrants are identified in Tables 1 and 2, respectively. EPA's action on these requests will not terminate the last carbaryl products registered in the United States, or the last pesticide products registered in the United States for these uses.

III. What Action is the Agency Taking?

This notice announces receipt by EPA of requests from various registrants to amend certain carbaryl product registrations to terminate various uses. The affected products, uses, 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.

2. The Administrator determines that continued use of the pesticide would pose an unreasonable adverse effect on the environment.

All of the carbaryl registrants listed in Table 2 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 the 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 or amending the affected registrations in the following Table 1.

TABLE 1.—CARBARYL PRODUCT REGISTRATIONS WITH PENDING REQUESTS FOR AMENDMENTS

Registration Number	Product Name	Uses Being Terminated
769-574	Suregard Brand Sevin 80S Carbaryl Insecticide	Pea and bean, succulent shelled (subgroup 6B); preplant dip (sweet potato); wheat
769-728	Sevin Brand Carbaryl Insecticide 5% Turf Insecticide Granules	Pea and bean, succulent shelled (subgroup 6B); leafy vegetables (except brassica)
769-971	Sevin Brand 80% DB	Pea and bean, succulent shelled (subgroup 6B); preplant dip (sweet potatoes); use of dust formulations in agricultural crops; wheat
769-972	Security Brand 50% Sevin Wettable	Pea and bean, succulent shelled (subgroup 6B)
769-976	Sevin Brand Carbaryl Insecticide 2% Granular Insecticide	Leafy vegetables (except brassica)
5887-43	Black Leaf Sevin Brand Carbaryl Insecticide	Pea and bean, succulent shelled (subgroup 6B); direct application to domestic animals (dogs and cats) and their dwellings/premises
5905-251	Helena Sevimol 4 Carbaryl Insecticide	Pea and bean, succulent shelled (subgroup 6B)
34704-289	10% Sevin Granules	Pea and bean, succulent shelled (subgroup 6B); leafy vegetables (except brassica)
34704-447	Carbaryl 4L	Pea and bean, succulent shelled (subgroup 6B); millet; wheat; sweet potato preplant root or seedling dips or drenches; all indoor applications

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 AND/OR AMENDMENTS

EPA Company Number	Company Name and Address
769	Value Garden Supply 9100 W. Bloomington Freeway Suite 113 Bloomington, MN 55431
5887	Value Garden Supply 9100 W. Bloomington Freeway Suite 113 Bloomington, MN 55431
5905	Helena Chemical Company 225 Schilling Boulevard Suite 300 Collierville, TN 38017
34704	Loveland Products, Inc. 7251 W 4th Street (80634) P.O. Box 1286 Greeley, CO 80632-1286

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 Carbaryl

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 before November 14, 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 these requests for cancellation of product registrations and for amendments to terminate uses, the Agency proposes to include the following provisions for the treatment of any existing stocks of the products identified or referenced in Table 1. Provided that these stocks bear labels previously approved by EPA, registrants may sell and distribute existing stocks of the affected products for 18 months from the effective date of the Agency's termination order.

If the request for voluntary cancellation and/or use termination is granted as discussed in this unit, the Agency intends to issue a cancellation order that will allow persons other than the registrant to continue to sell and/or use existing stocks of canceled products until such stocks are exhausted, provided that such use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled product. The order will specifically prohibit any use of existing stocks that is not consistent with such previously approved labeling. EPA intends to publish the cancellation order in the **Federal Register** after the end of the 30-day comment period for this notice.

List of Subjects

Environmental protection, Pesticides and pests, Carbaryl, SEVIN®.

Dated: October 1, 2008.

Steven Bradbury,

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

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-8728-5]

State Program Requirements; Application To Administer the National Pollutant Discharge Elimination System (NPDES) Program for Concentrated Animal Feeding Operations (CAFOs); Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice: Proposed approval and hearing.

SUMMARY: The State of Ohio has submitted a request for the Environmental Protection Agency (EPA) to approve a revision to the Ohio

National Pollutant Discharge Elimination System (NPDES) program to allow the Ohio Department of Agriculture (ODA) to administer the parts of the program pertaining to concentrated animal feeding operations (CAFOs) and storm water associated with construction activity at animal feeding operations (AFOs) in Ohio. The Ohio Environmental Protection Agency (Ohio EPA) currently administers the Ohio NPDES program in its entirety. Under the proposed revision, Ohio EPA would continue to implement all other aspects of the State's approved NPDES program. EPA Region 5 received Ohio's request in January 2007. In April and November 2007, EPA identified 31 technical and legal issues that ODA needs to resolve before EPA would be able to approve the ODA program. In a letter dated September 4, 2008, ODA committed to pursue specified statutory and administrative rule changes to address the issues identified by EPA. The ODA letter also included proposed statutory and rule changes beyond the scope of the changes needed to resolve the issues raised by EPA. ODA subsequently provided correct versions of certain proposed statutory and rule provisions that were not included with the September 4 letter. On October 3, 2008, EPA responded to ODA, stating its belief that enactment and adoption of the former changes would resolve EPA's issues, and that the latter changes proposed by ODA will not adversely affect ODA's authority to administer the NPDES program. The letter stated that EPA expects the adopted statutory and rule changes to be identical to those submitted with ODA's September 2008 letters. As a result, EPA proposes to approve Ohio's application contingent on the enactment and adoption of the former changes, as documented in ODA's September 4 letter. Today, EPA is requesting comment on the State's application to have ODA administer the NPDES program for CAFOs and for storm water associated with construction activity at AFOs, and is providing notice of a public hearing and comment period on the Agency's proposal to approve Ohio's application. EPA will either approve or disapprove the State's request after considering all comments it receives. A final decision to approve the program would be contingent on Ohio's enactment and adoption of the statutory and rule changes needed to resolve EPA's issues, as documented in ODA's September 4 letter.

DATES: The public comment period will close on December 16. Comments must