

**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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**ENVIRONMENTAL PROTECTION AGENCY**

[EPA-HQ-OPP-2008-0836; FRL-8392-7]

**FIFRA Scientific Advisory Panel; Notice of Public Meeting**

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

**ACTION:** Notice.

**SUMMARY:** There will be a 3-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel (FIFRA SAP) to consider and review a set of scientific issues being considered by the Agency pertaining an Evaluation of the Resistance Risks from Using a Seed Mix Refuge with Pioneer's Optimum<sup>®</sup> AcreMax<sup>™</sup> 1 Corn Rootworm-Protected Corn.

**DATES:** The meeting will be held on Monday February 23, 2009 from 1:30 p.m. to 5 p.m.; and on Wednesday, February 25, 2009 from 8:30 a.m. to 12 noon (eastern time).

*Comments.* The Agency encourages that written comments be submitted by February 9, 2009 and requests for oral comments be submitted by February 16, 2009. However, written comments and requests to make oral comments may be submitted until the date of the meeting, but anyone submitting written comments after February 9, 2009 should contact the Designated Federal Official (DFO) listed under **FOR FURTHER INFORMATION CONTACT**. For additional instructions, see Unit I.C. of the **SUPPLEMENTARY INFORMATION**.

*Nominations.* Nominations of candidates to serve as ad hoc members of the FIFRA SAP for this meeting should be provided on or before December 24, 2008.

*Special accommodations.* For information on access or services for individuals with disabilities, and to request accommodation of a disability, please contact the DFO listed under **FOR FURTHER INFORMATION CONTACT** at least 10 days prior to the meeting to give EPA as much time as possible to process your request.

**ADDRESSES:** The meeting will be held at the Environmental Protection Agency,

Conference Center, Lobby Level, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA 22202.

*Comments.* Submit your comments, identified by docket identification (ID) number EPA-HQ-OPP-2008-0836, 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), 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-2008-0836. If your comments contain any information that you consider to be CBI or otherwise protected, please contact the DFO listed under **FOR FURTHER INFORMATION CONTACT** to obtain special instructions before submitting your comments. 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](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 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.

*Nominations, requests to present oral comments, and requests for special accommodations.* Submit nominations to serve as ad hoc members of the FIFRA SAP, requests for special seating accommodations, or requests to present oral comments to the DFO listed under **FOR FURTHER INFORMATION CONTACT**.

**FOR FURTHER INFORMATION CONTACT:** Joseph E. Bailey, DFO, Office of Science Coordination and Policy (7201M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (202) 564-2045; fax number: (202) 564-8382; e-mail addresses: [bailey.joseph@epa.gov](mailto:bailey.joseph@epa.gov).

**SUPPLEMENTARY INFORMATION:****I. General Information***A. Does this Action Apply to Me?*

This action is directed to the public in general. This action may, however, be of interest to persons who are or may be required to conduct testing of chemical substances under the Federal Food, Drug, and Cosmetic Act (FFDCA), FIFRA, and the Food Quality Protection Act of 1996 (FQPA). Since other entities may also 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 DFO listed under **FOR FURTHER INFORMATION CONTACT**.

### B. What Should I Consider as I Prepare My Comments for EPA?

When submitting comments, remember to:

1. Identify the document by docket ID number and other identifying information, subject heading, **Federal Register** date and page number.
2. 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.
3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
4. Describe any assumptions and provide any technical information and/or data that you used.
5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
6. Provide specific examples to illustrate your concerns and suggest alternatives.
7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
8. Make sure to submit your comments by the comment period deadline identified.

### C. How May I Participate in this Meeting?

You may participate in this meeting by following the instructions in this unit. To ensure proper receipt by EPA, it is imperative that you identify docket ID number EPA-HQ-OPP-2008-0836; in the subject line on the first page of your request.

1. *Written comments.* The Agency encourages that written comments be submitted, using the instructions in **ADDRESSES**, no later than February 9, 2008, to provide the FIFRA SAP the time necessary to consider and review the written comments. Written comments are accepted until the date of the meeting, but anyone submitting written comments after February 9, 2008 should contact the DFO listed under **FOR FURTHER INFORMATION CONTACT**. Anyone submitting written comments at the meeting should bring 30 copies for distribution to the FIFRA SAP.
2. *Oral comments.* The Agency encourages that each individual or group wishing to make brief oral comments to the FIFRA SAP submit their request to the DFO listed under **FOR FURTHER INFORMATION CONTACT** no later than February 16, 2008, in order to be included on the meeting agenda. Requests to present oral comments will be accepted until the date of the meeting and, to the extent that time permits, the

Chair of the FIFRA SAP may permit the presentation of oral comments at the meeting by interested persons who have not previously requested time. The request should identify the name of the individual making the presentation, the organization (if any) the individual will represent, and any requirements for audiovisual equipment (e.g., overhead projector, 35 mm projector, chalkboard). Oral comments before the FIFRA SAP are limited to approximately 5 minutes unless prior arrangements have been made. In addition, each speaker should bring 30 copies of his or her comments and presentation slides for distribution to the FIFRA SAP at the meeting.

3. *Seating at the meeting.* Seating at the meeting will be open and on a first-come basis.

4. *Request for nominations to serve as ad hoc members of the FIFRA SAP for this meeting.* As part of a broader process for developing a pool of candidates for each meeting, the FIFRA SAP staff routinely solicits the stakeholder community for nominations of prospective candidates for service as ad hoc members of the FIFRA SAP. Any interested person or organization may nominate qualified individuals to be considered as prospective candidates for a specific meeting. Individuals nominated for this meeting should have expertise in one or more of the following areas: Insect population genetics, corn rootworm biology and population dynamics, simulation modeling for pest resistance in Bt agricultural systems (preferably maize), and statistical analysis. Nominees should be scientists who have sufficient professional qualifications, including training and experience, to be capable of providing expert comments on the scientific issues for this meeting. Nominees should be identified by name, occupation, position, address, and telephone number. Nominations should be provided to the DFO listed under **FOR FURTHER INFORMATION CONTACT** on or before December 24, 2008. The Agency will consider all nominations of prospective candidates for this meeting that are received on or before this date. However, final selection of ad hoc members for this meeting is a discretionary function of the Agency.

The selection of scientists to serve on the FIFRA SAP is based on the function of the panel and the expertise needed to address the Agency's charge to the panel. No interested scientists shall be ineligible to serve by reason of their membership on any other advisory committee to a Federal department or agency or their employment by a Federal department or agency except the EPA. Other factors considered during

the selection process include availability of the potential panel member to fully participate in the panel's reviews, absence of any conflicts of interest or appearance of lack of impartiality, independence with respect to the matters under review, and lack of bias. Although, financial conflicts of interest, the appearance of lack of impartiality, lack of independence, and bias may result in disqualification, the absence of such concerns does not assure that a candidate will be selected to serve on the FIFRA SAP. Numerous qualified candidates are identified for each panel. Therefore, selection decisions involve carefully weighing a number of factors including the candidates' areas of expertise and professional qualifications and achieving an overall balance of different scientific perspectives on the panel. In order to have the collective breadth of experience needed to address the Agency's charge for this meeting, the Agency anticipates selecting approximately 10 ad hoc scientists.

FIFRA SAP members are subject to the provisions of 5 CFR part 2634, Executive Branch Financial Disclosure, as supplemented by the EPA in 5 CFR part 6401. In anticipation of this requirement, prospective candidates for service on the FIFRA SAP will be asked to submit confidential financial information which shall fully disclose, among other financial interests, the candidate's employment, stocks and bonds, and where applicable, sources of research support. The EPA will evaluate the candidates financial disclosure form to assess whether there are financial conflicts of interest, appearance of a lack of impartiality or any prior involvement with the development of the documents under consideration (including previous scientific peer review) before the candidate is considered further for service on the FIFRA SAP. Those who are selected from the pool of prospective candidates will be asked to attend the public meetings and to participate in the discussion of key issues and assumptions at these meetings. In addition, they will be asked to review and to help finalize the meeting minutes. The list of FIFRA SAP members participating at this meeting will be posted on the FIFRA SAP website at <http://epa.gov/scipoly/sap> or may be obtained from the OPP Regulatory Public Docket at <http://www.regulations.gov>.

## II. Background

### A. Purpose of the FIFRA SAP

The FIFRA SAP serves as the primary scientific peer review mechanism of EPA's Office of Prevention, Pesticides and Toxic Substances (OPPTS) and is structured to provide scientific advice, information and recommendations to the EPA Administrator on pesticides and pesticide-related issues as to the impact of regulatory actions on health and the environment. The FIFRA SAP is a Federal advisory committee established in 1975 under FIFRA that operates in accordance with requirements of the Federal Advisory Committee Act. The FIFRA SAP is composed of a permanent panel consisting of seven members who are appointed by the EPA Administrator from nominees provided by the National Institutes of Health and the National Science Foundation. FIFRA, as amended by FQPA, established a Science Review Board consisting of at least 60 scientists who are available to the Scientific Advisory Panel on an ad hoc basis to assist in reviews conducted by the Scientific Advisory Panel. As a peer review mechanism, the FIFRA SAP provides comments, evaluations and recommendations to improve the effectiveness and quality of analyses made by Agency scientists. Members of the FIFRA SAP are scientists who have sufficient professional qualifications, including training and experience, to provide expert advice and recommendation to the Agency.

### B. Public Meeting

EPA's Office of Pesticide Programs (OPP) has received an application of registration from Pioneer Hi-Bred International, Inc. for registration of Optimum<sup>®</sup> AcreMax<sup>™</sup> 1 Insect Protection, which is a corn seed blend containing seeds that express the Bt toxins Cry34Ab1, Cry35Ab1, and Cry1F in a stack for corn rootworm (CRW) and lepidopteran protection mixed with seeds that express only Cry1F for lepidopteran protection (i.e. "refuge in the bag" for CRW). Pioneer proposes to use a seed blend mixture containing  $\geq$  2% refuge seeds. OPP has reviewed the submitted studies and modeling chapter and has identified several areas of uncertainties with respect to CRW biology, population genetics, and modeling. EPA is seeking the assistance of the FIFRA SAP to address the scientific issues associated with the seed mix proposal for CRW resistance management and provide the Agency with guidance as to the implications of the uncertainties. These areas of uncertainties include:

1. Mode of action of Cry34/35Ab1 (i.e. toxic or repellent) to exposed CRW and implications for a seed mix,

2. Aspects of corn rootworm pest biology including the effects of delayed emergence and uneven sex ratios on random mating and ultimately on the rate of resistance evolution in a seed blend environment;

3. Assumptions about initial resistance gene frequency to Cry34/35Ab1;

4. Contributions of tolerance (minor) and resistance (major) genes and selection consequences in corn rootworm exposed to Cry34/35Ab1 in a seed blend environment;

5. Mortality for individuals being heterozygous (XY) and susceptible (XX) for the tolerance (minor) gene;

6. The overall simulation model (i.e. is it adequate to evaluate the proposed seed mix for Cry34/35Ab1); and

7. The mechanics of mixing refuge seed with Cry34/35Ab1 seed into a single bag and the potential distribution (i.e. random or non-random) of refuge plants within planted fields.

### C. FIFRA SAP Documents and Meeting Minutes

EPA's background paper, related supporting materials, charge/questions to the FIFRA SAP, FIFRA SAP composition i.e., members and ad hoc members for this meeting, and the meeting agenda will be available by late January, 2009. In addition, the Agency may provide additional background documents as the materials become available. You may obtain electronic copies of these documents, and certain other related documents that might be available electronically, at <http://www.regulations.gov> and the FIFRA SAP homepage at <http://www.epa.gov/scipoly/sap>.

The FIFRA SAP will prepare meeting minutes summarizing its recommendations to the Agency approximately 90 days after the meeting. The meeting minutes will be posted on the FIFRA SAP website or may be obtained from the OPP Regulatory Public Docket at <http://www.regulations.gov>.

### List of Subjects

Environmental protection, Pesticides and pests.

Dated: December 2, 2008.

### Frank Sanders,

Director, Office of Science Coordination and Policy.

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## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2008-0835; FRL-8392-8]

### FIFRA Scientific Advisory Panel; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

**SUMMARY:** There will be a 3-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel (FIFRA SAP) to consider and review a set of scientific issues being considered by the Agency that are associated with the data required to register Plant-Incorporated Protectants (PIP).

**DATES:** The meeting will be held on Wednesday, February 25, 2009 from 1:30 p.m. to approximately 5 p.m.; on Thursday, February 26, 2009 from 8:30 a.m. to approximately 5 p.m.; and Friday, February 27, 2009 from 8:30 a.m. to approximately 12 noon (eastern time).

**Comments.** The Agency encourages that written comments be submitted by February 9, 2009 and requests for oral comments be submitted by February 16, 2009. However, written comments and requests to make oral comments may be submitted until the date of the meeting, but anyone submitting written comments after February 9, 2009 should contact the Designated Federal Official (DFO) listed under **FOR FURTHER INFORMATION CONTACT**. For additional instructions, see Unit I.C. of the **SUPPLEMENTARY INFORMATION**.

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**ADDRESSES:** The meeting will be held at the Environmental Protection Agency, Conference Center, Lobby Level, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA 22202.

**Comments.** Submit your comments, identified by docket identification (ID) number EPA-HQ-OPP-2008-0835, by one of the following methods:

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