

Dated: November 4, 2010.

**Suzanne Rudzinski,**

*Acting Director, Office of Resource Conservation & Recovery.*

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## **ENVIRONMENTAL PROTECTION AGENCY**

[EPA-HQ-OPP-2010-0829; FRL-8850-7]

### **Hop Beta Acids; Receipt of Application for Emergency Exemption, Solicitation of Public Comment**

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

**ACTION:** Notice.

**SUMMARY:** EPA has received a specific exemption regional request from the Washington State Department of Agriculture, Idaho State Department of Agriculture, and the Oregon Department of Agriculture to use hop beta acids (CAS Reg. No. none specified) to treat up to 181,000 honey bee colonies in the Pacific North West (PNW) to control varroa mites. The applicants propose the use of a new chemical which has not been registered by the EPA. EPA is soliciting public comment before making the decision whether or not to grant the exemption.

**DATES:** Comments must be received on or before December 2, 2010.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA-HQ-OPP-2010-0829, 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-2010-0829. 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) Web site 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.

**FOR FURTHER INFORMATION CONTACT:** Stacey M. Groce, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; *telephone number:* (703) 305-2505; *fax number:* (703) 605-0781; *e-mail address:* [groce.stacey@epa.gov](mailto:groce.stacey@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 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.

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticide discussed in this document, compared to the general population.

## II. 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 Washington Department of Agriculture, Idaho State Department of Agriculture, and the Oregon Department of Agriculture have requested the Administrator to issue a specific exemption regional request for use of hop beta acids in honey bee hives to control varroa mites. Information in accordance with 40 CFR part 166 was submitted as part of this request.

As part of this request, the applicants assert that the varroa mite is a highly destructive pest and is having a catastrophic effect on honey bee populations. The parasitic mite is considered the primary pest of honeybees and its control is necessary for successful beekeeping in the PNW. According to the applicants, the currently available registered products no longer successfully control varroa mites, because repeated use has contributed to widespread development of mite resistance. Further, some of the

alternative products have been reported to cause bee mortality, have labeling limitations which make them impractical for large beekeeping operations, or provide inconsistent mite control. Varroa mite outbreaks are also associated with colony viruses, which result in large colony losses.

The Applicants propose to make no more than three treatments per year of two cardboard strips, coated with liquid product per brood super, during the spring, summer and fall. Approximately 181,000 honey bee colonies could be treated in all counties throughout Washington, Idaho, and Oregon, requiring 2,172,000 strips for three treatments. The total amount of hop beta acids applied would be 4,170 kilograms (2,172,000 × 1.92 grams of hop beta acids per strip), which is equivalent to 9,194 pounds, if all honey bee colonies in the PNW were treated.

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 this specific exemption regional request which proposes use of a new chemical (*i.e.*, an active ingredient) which has not been registered by EPA. The notice provides an opportunity for public comment on the application. The Agency will review and consider all comments received during the comment period in determining whether to issue the specific exemption requested by the Washington, Oregon, and Idaho Departments of Agriculture.

### List of Subjects

Environmental protection, Pesticides and pests.

Dated: November 4, 2010.

**Lois Rossi,**

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

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL-9228-3]

### California State Motor Vehicle Pollution Control Standards; California Heavy-Duty On-Highway Otto-Cycle Engines and Incomplete Vehicle Regulations; Notice of Decision

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

**ACTION:** Notice of Decision Granting a Waiver of California's Heavy-Duty On-Highway Otto-Cycle Engines and Incomplete Vehicle Regulations.

**SUMMARY:** The Environmental Protection Agency (EPA), pursuant to section 209(b) of the Clean Air Act (Act), is granting California its request for a waiver of Clean Air Act preemption for three sets of amendments applicable to its heavy-duty Otto-cycle engines and incomplete vehicle regulations for the 2004, 2005 through 2007, and 2008 and subsequent model year regulations. These amendments align each of California's exhaust emission standards and test procedures with its federal counterpart in an effort to streamline and harmonize the California and federal programs.

**ADDRESSES:** Materials relevant to this decision are contained in Docket ID No. EPA-HQ-OAR-2006-0018. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the Air and Radiation Docket in the EPA Headquarters Library, EPA West Building, Room 3334, located at 1301 Constitution Avenue, NW., Washington, DC. The Public Reading Room is open to the public on all federal government work days from 8:30 a.m. to 4:30 p.m.; generally, it is open Monday through Friday, excluding holidays. The telephone number for the Reading Room is (202) 566-1744. The Air and Radiation Docket and Information Center's Web site is <http://www.epa.gov/oar/docket.html>. The electronic mail (e-mail) address for the Air and Radiation Docket is: [a-and-r-Docket@epa.gov](mailto:a-and-r-Docket@epa.gov), the telephone number is (202) 566-1742, and the fax number is (202) 566-9744. An electronic version of the public docket is available through the federal government's electronic public docket and comment system. You may access EPA dockets at <http://www.regulations.gov>. After opening the <http://www.regulations.gov> Web site, enter EPA-HQ-OAR-2006-0018 in the "Enter Keyword or ID" fill-in box to view documents in the record of CARB's amendments to its heavy-duty Otto-cycle engines and incomplete vehicle regulations. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

EPA's Office of Transportation and Air Quality also maintains a Web page that contains general information on its review of California waiver requests. Included on that page are links to several of the prior waiver **Federal Register** notices which are cited throughout today's notice; the page can be accessed at <http://www.epa.gov/otaq/cafr.htm>.