

# EPA Formally Reinstates All Chlorpyrifos Tolerances but Signals It Will Revoke Most of Them in the Future

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The U.S. Environmental Protection Agency (EPA) officially reinstated all tolerances for chlorpyrifos on February 5, 2024, undoing a prior rule that had halted chlorpyrifos use on all food and feed commodities in early 2022.

At the same time, EPA signaled through a [posting](#) on its website that it would take steps to revoke all of these uses except for the following: alfalfa, apple, asparagus, cherry (tart), citrus, cotton, peach, soybean, strawberry, sugar beet, wheat (spring), and wheat (winter). EPA also announced that it plans to “expeditiously” propose new restrictions on the chlorpyrifos uses that are retained.

## Who’s Impacted

Companies who produce, distribute, or sell chlorpyrifos products in the United States; applicators, growers, and others who use such products.

## What To Consider Doing in Response

Follow developments closely and be prepared to adjust chlorpyrifos manufacturing, distribution, and growing practices as the regulatory landscape for these products is expected to remain in flux. Distributors and growers should check the current Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and state registration status of existing stocks of chlorpyrifos products before sale, distribution, or use.

As all chlorpyrifos tolerances are currently in effect, EPA has confirmed that growers may now use currently registered chlorpyrifos products on all relevant crops, consistent with directions for use on those product labels. However, EPA canceled many registered chlorpyrifos products in 2022 without any allowances for continued use of existing stocks on food or feed crops. EPA’s new announcement expressly provides that these existing final cancellation orders -- including any terms for sale, distribution, and use of existing stocks of products subject to those cancellation orders and related return programs for chlorpyrifos products -- remain in place, unless and until amended by EPA.

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## Background

Registered for use in the United States since 1965, chlorpyrifos is a broad-spectrum, chlorinated organophosphate insecticide. By 2017, chlorpyrifos was considered one of the country's most widely used conventional pesticides. On August 30, 2021, EPA published a direct final rule revoking all tolerances for residues of chlorpyrifos, including all uses on fruit and nut trees, many types of fruits and vegetables, and grain crops. EPA took this action in response to an April 2021 order from the U.S. Court of Appeals for the Ninth Circuit, which directed EPA to either revoke the tolerances or modify them if EPA could, within a 60-day window, determine the tolerances were safe without taking public comment or engaging in further factfinding.

EPA's tolerance revocations became effective on February 28, 2022. Any chlorpyrifos residues on commodities that resulted from pesticide applications after this date would render food adulterated. The majority of chlorpyrifos registrants submitted cancellation requests or label amendments to reflect EPA's tolerance revocations.

On November 2, 2023, following a challenge to EPA's revocation rule by a chlorpyrifos registrant and several grower groups, the U.S. Court of Appeals for the Eighth Circuit vacated EPA's tolerance revocations. According to the Eighth Circuit, in EPA's rush to comply with the Ninth Circuit's order, the Agency failed to adequately consider retaining tolerances for a specific set of crop uses that EPA had previously identified for potential modification in 2020.

## Next Steps

In a [February 5, 2024, final rule](#), EPA amended its regulations to reflect the current legal status of all chlorpyrifos tolerances following the Eighth Circuit's vacatur of EPA's 2021 revocation.

The immediate practical impacts of EPA's action on the use of chlorpyrifos products are unclear and potentially short-lived. Because the Eighth Circuit vacated EPA's 2021 rule revoking the tolerances, EPA has acknowledged that these tolerances are "legally currently in effect." But many chlorpyrifos product registrations with food and feed crop uses were cancelled in 2022. EPA's [announcement](#) indicates that these existing final cancellation orders, including any terms for sale, distribution, and use of existing stocks of products subject to those cancellation orders and related return programs for chlorpyrifos products, will remain in place, unless and until amended by EPA. Chlorpyrifos product uses may also be subject to restrictions by individual states.

In addition, EPA states that it expects to "expeditiously propose" a new rule to revoke the tolerances for all but a limited number of specified uses, for which it intends to propose additional restrictions for geographic location and rate of application to address safety of the tolerances and potential restrictions for farmworker and other vulnerable populations, and vulnerable species and their habitats. EPA notes that it is currently engaging with chlorpyrifos registrants to further reduce exposure associated with these uses. Consistent with the Federal Food, Drug, and Cosmetic Act (FFDCA) requirements, any forthcoming rule revoking and restricting chlorpyrifos uses should be made available for public comment for at least 60 days before it is finalized.

## Conclusion

The regulatory landscape for chlorpyrifos products will likely remain in flux for the foreseeable future. EPA's latest action reflects the legally effective status of all chlorpyrifos tolerances at this

time, but EPA has also signaled that this reinstatement may soon be reversed again for all but a limited set of specific uses that EPA intends to maintain. EPA also expects to propose additional restrictions on these remaining uses. In the interim, all uses of chlorpyrifos products must still comply with cancellation orders previously issued by EPA, including applicable existing stock provisions.

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