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United States Court of Appeals for the Ninth Circuit
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Molly C. Dwyer
Clerk of Court

October 23, 2020

No.: 20-73146
EPA No.: EPA-HQ-OPP-2018-0038-0040
Short Title: Center for Biological Diversit, et al v. USEPA

Dear Petitioners/Counsel

Your Petition for Review has been received in the Clerk's office of the United States Court of Appeals for the Ninth Circuit. The U.S. Court of Appeals docket number shown above has been assigned to this case. You must indicate this Court of Appeals docket number whenever you communicate with this court regarding this case.

The due dates for filing the parties' briefs and otherwise perfecting the petition have been set by the enclosed "Time Schedule Order," pursuant to applicable FRAP rules. These dates can be extended only by court order. Failure of the petitioner to comply with the time schedule order will result in automatic dismissal of the petition. 9th Cir. R. 42-1.

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

OCT 22 2020

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

CENTER FOR BIOLOGICAL
DIVERSITY; CENTER FOR
FOOD SAFETY,

Petitioners,

v.

U.S. ENVIRONMENTAL
PROTECTION AGENCY,

Respondent.

No. 20-73146

EPA No. EPA-HQ-OPP-2018-0038-0040
Environmental Protection Agency

TIME SCHEDULE ORDER

The parties shall meet the following time schedule.

- | | |
|-------------------------------|---|
| Fri., October 30, 2020 | Petitioners' Mediation Questionnaire due. If your registration for Appellate CM/ECF is confirmed after this date, the Mediation Questionnaire is due within one day of receiving the email from PACER confirming your registration. |
| Mon., January 11, 2021 | Agency petitioner brief due |
| Tue., February 9, 2021 | Respondent's answering brief and excerpts of record shall be served and filed pursuant to FRAP 31 and 9th Cir. R. 31-2.1. |

The optional petitioners' reply brief shall be filed and served within 21 days of service of the respondent's brief, pursuant to FRAP 31 and 9th Cir. R. 31-2.1.

Failure of the petitioners to comply with the Time Schedule Order will result in automatic dismissal of the appeal. See 9th Cir. R. 42-1.

FOR THE COURT:

MOLLY C. DWYER
CLERK OF COURT

By: Janne Nicole Millare Rivera
Deputy Clerk
Ninth Circuit Rule 27-7



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United States Court of Appeals for the Ninth Circuit
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Molly C. Dwyer
Clerk of Court

**ATTENTION ALL PARTIES AND COUNSEL
PLEASE REVIEW PARTIES AND COUNSEL LISTING**

We have opened this appeal/petition based on the information provided to us by the appellant/petitioner and/or the lower court or agency. EVERY attorney and unrepresented litigant receiving this notice MUST immediately review the caption and service list for this case and notify the Court of any corrections.

Failure to ensure that all parties and counsel are accurately listed on our docket, and that counsel are registered and admitted, may result in your inability to participate in and/or receive notice of filings in this case, and may also result in the waiver of claims or defenses.

PARTY LISTING:

Notify the Clerk immediately if you (as an unrepresented litigant) or your client(s) are not properly and accurately listed or identified as a party to the appeal/petition. To report an inaccurate identification of a party (including company names, substitution of government officials appearing only in their official capacity, or spelling errors), or to request that a party who is listed only by their lower court role (such as plaintiff/defendant/movant) be listed as a party to the appeal/petition as an appellee or respondent so that the party can appear in this Court and submit filings, contact the Help Desk at <http://www.ca9.uscourts.gov/cmecf/feedback/> or send a letter to the Clerk. If you or your client were identified as a party to the appeal/petition in the notice of appeal/petition for review or representation statement and you believe this is in error, file a motion to dismiss as to those parties.

COUNSEL LISTING:

In addition to reviewing the caption with respect to your client(s) as discussed above, all counsel receiving this notice must also review the electronic notice of docket activity or the service list for the case to ensure that the correct counsel are

listed for your clients. If appellate counsel are not on the service list, they must file a notice of appearance or substitution immediately or contact the Clerk's office.

NOTE that in criminal and habeas corpus appeals, trial counsel WILL remain as counsel of record on appeal until or unless they are relieved or replaced by Court order. *See* Ninth Circuit Rule 4-1.

REGISTRATION AND ADMISSION TO PRACTICE:

Every counsel listed on the docket must be admitted to practice before the Ninth Circuit AND registered for electronic filing in the Ninth Circuit in order to remain or appear on the docket as counsel of record. *See* Ninth Circuit Rules 25-5(a) and 46-1.2. These are two separate and independent requirements and doing one does not satisfy the other. If you are not registered and/or admitted, you MUST, within 7 days from receipt of this notice, register for electronic filing AND apply for admission, or be replaced by substitute counsel or otherwise withdraw from the case.

If you are not registered for electronic filing, you will not receive further notices of filings from the Court in this case, including important scheduling orders and orders requiring a response. Failure to respond to a Court order or otherwise meet an established deadline can result in the dismissal of the appeal/petition for failure to prosecute by the Clerk pursuant to Ninth Circuit Rule 42-1, or other action adverse to your client.

If you will be replaced by substitute counsel, new counsel should file a notice of appearance/substitution (no form or other attachment is required) and should note that they are replacing existing counsel. To withdraw without replacement, you must electronically file a notice or motion to withdraw as counsel from this appeal/petition and include your client's contact information.

To register for electronic filing, and for more information about Ninth Circuit CM/ECF, visit our website at <http://www.ca9.uscourts.gov/cmecf/#section-registration>.

To apply for admission, see the instructions and form application available on our website at <https://www.ca9.uscourts.gov/attorneys/>.



**United States Court of Appeals
for the Ninth Circuit**

P.O. Box 31478
Billings, Montana 59107-1478

CHAMBERS OF
SIDNEY R. THOMAS
CHIEF JUDGE

TEL: (406) 373-3200
FAX: (406) 373-3250

Dear Counsel:

I write to introduce you to the court's mediation program. The court offers you and your clients professional mediation services, at no cost, to help resolve disputes quickly and efficiently and to explore the development of more satisfactory results than can be achieved from continued litigation. Each year the mediators facilitate the resolution of hundreds of cases, from the most basic contract and tort actions to the most complex cases involving multiple parties, numerous pieces of litigation and important issues of public policy.

The eight circuit mediators, all of whom work exclusively for the court, are highly experienced attorneys from a variety of practices; all have extensive training and experience in negotiation, appellate mediation, and Ninth Circuit practice and procedure. Although the mediators are court employees, the court has adopted strict confidentiality rules and practices to ensure that what goes on in mediation stays in mediation. See Circuit Rule 33-1.

The first step in the mediation process is case selection. To assist the mediators in the case selection process, appellants/petitioners must file a completed Mediation Questionnaire within 7 days of the docketing of the case. See Circuit Rules 3-4, and 15-2. Appellees may also fill out and file a questionnaire. The questionnaire with filing instructions is available [here](#). Once the Mediation Questionnaire is submitted, the parties will receive via NDA a link to a separate form that will allow them to submit **confidential** information directly to the Circuit Mediators. Counsel may also submit confidential information at any time to ca09_mediation@ca9.uscourts.gov.

In most cases, the mediator will schedule a settlement assessment conference, with counsel only, to determine whether the case is suitable for mediation. Be assured that participation in the mediation program will not slow down disposition of your appeal. Mediation discussions are not limited to the issues on appeal. The discussions can involve other cases and may include individuals who are not parties to the litigation, if doing so enables the parties to reach a global settlement.

Further information about the mediation program may be found on the court's website: www.ca9.uscourts.gov/mediation/. Please address questions directly to the Mediation Program at 415-355-7900 or ca09mediation@ca9.uscourts.gov.

Sincerely,

A handwritten signature in black ink that reads "Sidney R. Thomas".

Sidney Thomas

IN THE UNITED STATES COURT OF APPEALS FOR
THE NINTH CIRCUIT

_____)	
CENTER FOR BIOLOGICAL)	No.	_____
DIVERSITY and CENTER FOR FOOD)		
SAFETY,)		
)		
Petitioners,)		
)		
v.)		
)		
UNITED STATES ENVIRONMENTAL)		
PROTECTION AGENCY,)		
)		
Respondent.)		
)		
_____)	

PETITION FOR REVIEW

1. The Center for Biological Diversity and Center for Food Safety (“Petitioners”) seek review by the United States Court of Appeals for the Ninth Circuit of the Environmental Protection Agency’s (“EPA”) failure to comply with the requirements of the Endangered Species Act (“ESA”), 16 U.S.C. § 1531 *et seq.*, and Federal Insecticide Fungicide and Rodenticide Act (“FIFRA”), 7 U.S.C. § 136 *et seq.*, in unconditionally registering for use the fungicide active ingredient inpyrfluxam, Docket # EPA-HQ-OPP-2018-0038-0040 (August 27, 2020) [Exhibit A]; the following pesticide products: S-2399 2.84 SC Fungicide, EPA

Reg. # 59639-230 (August 31, 2020) [Exhibit B]; S-2399 3.2 FS Fungicide, EPA Reg. # 59639-231 (August 31, 2020) [Exhibit C]; S-2399 Technical Fungicide, EPA Reg. # 59639-233 (August 31, 2020) [Exhibit D]; and V-10417 FS Fungicide, which combines inpyrfluxam, ethaboxam, and metalaxyl, EPA Reg. # 59639-232 (August 31, 2020) [Exhibit E]; and all subsequent pesticide products made with the fungicide active ingredient inpyrfluxam approved by EPA in these decisions.

2. EPA has violated the Endangered Species Act (“ESA”) by failing to ensure that its registration of inpyrfluxam, and the technical products developed from this registration, would not jeopardize any listed species or destroy or adversely modify their critical habitat and by failing to consult with the U.S. Fish and Wildlife Service (“FWS”) and the National Marine Fisheries Service (“NMFS”), in violation of 16 U.S.C. § 1536 (a)(2). EPA acknowledges this violation when it admits in their response to comments that the registration “does not include a complete ESA analysis and effects determinations for specific listed species or their designated critical habitat.” Docket # EPA-HQ-OPP-2018-0038-0039 at 6 of 16.

3. EPA has further violated FIFRA by registering a pesticide that will result in “unreasonable adverse effects on the environment”, 7 U.S.C. §

136a(c)(5), via a determination that cannot be “supported by substantial evidence when considered on the record as a whole.” 7 U.S.C. § 136n(b).

4. This petition is submitted pursuant to § 16(b) of FIFRA, 7 U.S.C. § 136n(b).

Respectfully submitted this 23rd day of October, 2020.

/s/Jonathan Evans
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*Attorneys for Petitioners
Center for Biological Diversity and
Center for Food Safety.*

IN THE UNITED STATES COURT OF APPEALS FOR
THE NINTH CIRCUIT

_____)	
CENTER FOR BIOLOGICAL)	No.	_____
DIVERSITY and CENTER FOR FOOD)		
SAFETY,)		
)		
Petitioners,)		
)		
v.)		
)		
UNITED STATES ENVIRONMENTAL)		
PROTECTION AGENCY,)		
)		
Respondent.)		
)		
_____)	

RULE 26.1 DISCLOSURE STATEMENT

Pursuant to Fed. R. App. P. 26.1, Petitioners make the following disclosures:

Center for Biological Diversity: Center for Biological Diversity has no parent companies, and no publicly held company has a ten percent or greater ownership interest in Center for Biological Diversity.

Center for Biological Diversity, a corporation organized and existing under the laws of the State of California, is a national non-profit organization dedicated to the protection and enjoyment of the environment.

Center for Food Safety: Center for Food Safety has no parent companies, and there are no publicly held companies that have a ten percent or greater ownership interest in the Center for Food Safety.

Center for Food Safety, a corporation organized and existing under the laws of the District of Columbia, is a national non-profit organization dedicated to improving the quality of the human environment and protecting the nation's endangered natural resources.

///

///

///

Respectfully submitted this 18th day of June, 2015.

/s/Jonathan Evans

JONATHAN EVANS (CA Bar # 247376)

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*Attorneys for Petitioners Center for
Biological Diversity and Center for Food
Safety.*

Exhibit A

to Petition for Review



**Final Registration Decision
for the New Active Ingredient
Inpyrfluxam**

Approved by:

Ed Messina Digitally signed by
EDWARD MESSINA
Date: 2020.08.27
14:24:32 -04'00'

Ed Messina, Esq., Acting DirectorK
Office of Pesticide Programs
US Environmental Protection Agency

Date: August 27, 2020

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I. SUMMARY

The U.S. Environmental Protection Agency (referred hereafter as “EPA” or “the Agency”) is unconditionally registering under 3(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), the new active ingredient inpyrfluxam (3-(difluoromethyl)-*N*-[(3*R*)-2,3-dihydro-1,1,3-trimethyl-1*H*-inden-4-yl]-1-methyl-1*H*-pyrazole-4-carboxamide). Inpyrfluxam was jointly reviewed by EPA and Canada’s Pest Management Regulatory Agency (PMRA) with Mexico’s pesticide officials involved as an observing member.

Inpyrfluxam is a new pyrazolecarboxamide fungicide that is a Complex II succinate dehydrogenase inhibitor (SDHI) that acts by inhibiting production of succinate dehydrogenase, which is a functional part of the tricarboxylic acid cycle and linked to the mitochondrial electron transport chain. It is classified by the Fungicide Resistance Action Committee (FRAC) as a Group 7 fungicide. The chemical provides protection against *Rhizoctonia* species causing seed decay, seedling damping-off and root rot.

In its original application for registration, Valent USA, LLC requested the use of inpyrfluxam as a flowable concentrate for seed treatment (FS) and as a suspension concentrate (SC) for soil and foliar application. The FS formulations are for seed treatment of cereal grains crop group 15, dry seeded rice, sorghum, legume vegetables crop group 6, rapeseed, crop subgroup 20A, field corn, pop corn, sweet corn, soybean and sugar beet. The SC formulation is for use as a foliar application to apple, peanut, soybean and sugar beet, or as an in-furrow soil application at planting to corn (field, sweet, and pop). Valent initially requested a foliar use on rice (in addition to the dry seeded rice treatment), but later withdrew the foliar rice use request.

Valent USA, LLC has been granted registration of four products, including one technical product. Table 1 lists out the products with their formulation type and crop use sites.

Registration No./File Symbol No.	Product Name	Formulation Type	Crops Use Site
59639-233	S-2399 Technical Fungicide	For Formulation Purposes Only	<ul style="list-style-type: none"> • Technical active ingredient; no direct crop application
59639-230	S-2399 2.84 SC Fungicide	SC	For foliar application: <ul style="list-style-type: none"> • Soybean • Sugar beet • Apple • Peanut For in-furrow application: <ul style="list-style-type: none"> • Corn (field, sweet, pop)

59639-231	S-2399 3.2 FS Fungicide	FS	For seed treatment: <ul style="list-style-type: none"> • Cereal Grains Crop Group 15 [except Corn, Rice and Sorghum (milo)]: Barley; buckwheat; millet, pearl; millet, proso; oats; rye; teosinte; triticale; wheat • Dry seeded rice • Sorghum (milo) • Legume Vegetables, Succulent or Dried, Crop Group 6 (except Soybean) • Rapeseed, Canola Varieties Only, Crop Subgroup 20A • Field Corn • Popcorn • Sweet Corn • Soybean • Sugar Beet
59639-232	V-10417 FS Fungicide	FS	For seed treatment: <ul style="list-style-type: none"> • Legume Vegetables, Succulent or Dried (Crop Group 6)

Application methods include aerial, groundboom, airblast, chemigation, handheld, and commercial and on-farm seed treatment equipment. Foliar/soil application rates range from 0.044 to 0.089 lb. ai/A, depending on the crop/use site. Seed treatment application rates range from 0.002 to 0.103 lb. ai/100 lb. seed.

II. REQUESTED ACTION

On October 30, 2017, the EPA received an application from Valent USA, LLC for registration of a new fungicide active ingredient, inpyrfluxam (CAS Number 1352994-67-2), as specified in Section I. Valent USA, LLC submitted this application for simultaneous review by Canada's Pest Management Regulatory Agency.

III. USE PROFILE

Valent USA, LLC requested that inpyrfluxam be applied through handheld, ground, chemigation, aerial and commercial and on-farm seed treatment equipment depending on the use site. The end use product label (S-2399 2.84 SC Fungicide; 59639-230) includes a prohibition on greenhouse use.

The restricted-entry interval (REI) for inpyrfluxam is 12 hours. Two of the three end-use labels (containing inpyrfluxam as the sole active ingredient) require an REI of 12 hours. The third end-use label (V-10417 FS Fungicide; EPA reg # 59639-232) requires a 24-hour REI because the product contains an additional active ingredient that has a longer 24-hour REI.

Tables 2 and 3 outline the requested use patterns for inpyrfluxam according to the use sites as submitted on original draft labels.

Table 2. Summary of Directions for Foliar/Soil Uses of Inpyrfluxam								
Formulation Product Name [EPA Reg. No.]	Crop	Application Method ¹	Application Rate		Max. No. Application per Year	Max. Annual Application Rate (lb. ai/A)	PHI ² (days)	Use Directions and Limitations ³
			fl oz/A	lb. ai/A				
Liquid S-2399 2.84 SC Fungicide (31.25% ai; 2.84 lb. ai/gal) [59639- 230]	Apple	Aerial, Airblast, Chemigation, Handheld	4	0.089 (0.00089 lb. ai/gallon)	2	0.178	NS	<ul style="list-style-type: none"> Do not apply after petal fall. RTI: 10 days GPA: ground = 100 and aerial = 15
	Corn (Field, Pop and Sweet)	Groundboom, Chemigation	2	0.044	1	0.044	NS	<ul style="list-style-type: none"> Make application to the soil in-furrow at planting. GPA: 3
	Peanut	Aerial, Groundboom, Chemigation	4	0.089	4	0.178	40	<ul style="list-style-type: none"> RTI: 14 - 21 days GPA: ground = 10 and aerial = 5
	Soybean	Aerial, Groundboom, Chemigation	3	0.067	2	0.134	R5	<ul style="list-style-type: none"> RTI = 14 days Do not apply prior to V3 (Vegetative Stage 3) or after R5 (Reproductive Stage 5). GPA: ground = 10 and aerial = 5

Table 2. Summary of Directions for Foliar/Soil Uses of Inpyrflumax

Formulation Product Name [EPA Reg. No.]	Crop	Application Method ¹	Application Rate		Max. No. Application per Year	Max. Annual Application Rate (lb. ai/A)	PHI ² (days)	Use Directions and Limitations ³
			fl oz/A	lb. ai/A				
	Sugar Beet (broadcast application)	Aerial, Groundboom, Chemigation	4	0.089	2	0.178	50 days	<ul style="list-style-type: none"> • RTI = 21 days. • Apply at the 2-8 leaf stage. • GPA: ground = 10 and aerial = 5
	Sugar Beet (banded application)	Groundboom	4	0.089	1	0.089	50 days	<ul style="list-style-type: none"> • Apply in a 6-7 inch band over the crop row. • Apply at the 2-8 leaf stage.

1 For chemigation applications apply this product only through center pivot, solid set, hand move systems. Do not apply this product through any other type of irrigation system.

2 PHI = post-harvest interval; NS = not specified.

3 GPA = gallons per acre; RTI = retreatment interval.

Table 3. Summary of Directions for Seed Treatment Uses of Inpyrflumax

Formulation Product Name [EPA Reg. No.]	Crop	Application Method	Application Rate	
			Product rate	lb. ai/100 lb. seed
Liquid S-2399 3.2 FS Fungicide (34.05% ai; 3.2 lb. ai/gal) [59639-231]	Cereal Grains Crop Group 15 [except Corn, Rice and Sorghum (milo)]: Barley; buckwheat; millet, pearl; millet, proso; oats; rye; teosinte; triticale; wheat	Commercial and On-Farm equipment (not for planter box or hopper box use)	0.08 fl oz/100 lb. seed	0.002
	Dry seeded rice		0.4 fl oz/100 lb. seed	0.01
	Sorghum (milo)		0.2 fl oz/100 lb. seed	0.005
	Legume Vegetables, Succulent or Dried, Crop Group 6 (except Soybean)		0.2 fl oz/100 lb. seed	0.005
	Rapeseed, Canola Varieties Only, Crop Subgroup 20A		0.2 fl oz/100 lb. seed	0.005
	Field Corn		0.1 fl oz/80,000 seeds (assumed 2,000 seeds/lb.) ²	0.006
	Popcorn		0.1 fl oz/80,000 seeds	0.015

Table 3. Summary of Directions for Seed Treatment Uses of Inpyrfluxam				
Formulation Product Name [EPA Reg. No.]	Crop	Application Method	Application Rate	
			Product rate	lb. ai/100 lb. seed
	Sweet Corn		(assumed 4,760 seeds/lb.) ²	
			0.1 fl oz/80,000 seeds (assumed 4,500 seeds/lb.) ²	0.014
			1.6 fl oz/140,000 seeds (assumed 3,600 seeds/lb.) ²	0.103
			0.0088 fl oz/100,000 seeds (assumed 40,000 seeds/lb.) ²	0.009
Liquid V-10417 FS Fungicide ¹ (4.71% ai; 0.428lb ai/gal) [59639-232]	Legume Vegetables, Succulent or Dried [Crop Group 6]		1.5 fl oz/100 lb. seed	0.005

1. Product contains multiple active ingredients; including ethaboxam and metalaxyl
2. Seeds/lb. taken from Memo: Becker, J and Ratnayake, S. 2011. "Acres Planted per Day and Seeding Rates of Crops Grown in the United States."

IV. EVALUATION

In evaluating a pesticide registration application, the EPA assesses a wide variety of exposure information (i.e., where and how the pesticide is used) and environmental-fate (i.e., how the chemical will move in the environment) and toxicity studies (i.e., effects on humans and other non-target organisms) to determine the likelihood of adverse effects (i.e., risk) from exposures associated with the use of the product. Risk assessments are developed to evaluate the environmental fate of the compound as well as how it might affect a wide range of non-target organisms including humans, terrestrial and aquatic wildlife (plants and animals). In addition, a biological and economic benefits assessment may be conducted. On the basis of these assessments, the EPA evaluates the risks and benefits and determines whether additional labeling restrictions or registration conditions are needed to ensure that when balanced against the benefits, potential risks are mitigated to meet the standard of no unreasonable adverse effects to human health or the environment. It is a FIFRA violation to use a pesticide in a manner inconsistent with its labeling.

EPA requires a wide range of studies in order to assess a pesticide use scenario. For the uses of inpyrfluxam, the database of studies required to support the assessment of risk to human health is

considered complete. Additionally, the database required to evaluate the environmental fate and ecological effects of inpyrfluxam is complete and is considered adequate to support the assessment of ecological risk and for registration of the use patterns discussed in this document.

A. Assessment of Risks to Human Health

1. Toxicology Profile

This section, *Assessment of Risks to Human Health*, is a summary of the standard assessment that the Agency conducts; the full Human Health Risk Assessment can be found in docket ID number EPA-HQ-OPP-2018-0038 at www.regulations.gov.

The target organs are the liver and thyroid (rats, mice, and dogs). Liver effects include increased liver weight, elevated liver enzymes, and increased incidences of diffuse hepatocellular hypertrophy. Thyroid effects include increased incidences of follicular cell hypertrophy.

Decreased motor activity was seen in the acute neurotoxicity study in female rats, but no gross or microscopic morphological changes occurred. There was no neurotoxicity observed in the subchronic neurotoxicity in rats or in any other studies. No dermal hazard was identified in the 28-day dermal toxicity study.

There was evidence of quantitative sensitivity in the developmental toxicity study in rats. In this study, decreased fetal weights were observed at a dose lower than the presence of maternal toxicity. No quantitative susceptibility was observed in the developmental toxicity study in rabbits and the two-generation reproduction study in rats. In the two-generation reproduction study in rats, no reproductive effects were observed, offspring toxicity (decreased pup weights in F1 and F2 generations) was observed in the presence (same dosage) of parental toxicity (thyroid weight changes and histopathology in P and F1 generations).

In the chronic toxicity/carcinogenicity studies in rats and mice, there was no evidence of carcinogenicity. The mutagenicity battery was negative. Inpyrfluxam is classified as “Not likely to be carcinogenic to humans.”

Technical grade inpyrfluxam has moderate acute oral toxicity (Toxicity Category II), and low dermal and inhalation acute toxicity (Toxicity Category III, IV respectively). It is not an eye or dermal irritant, and not a dermal sensitizer.

All three of the end-use products have low acute toxicity, with the highest route of exposure being Category III (for acute oral) and requiring the Signal word CAUTION. These products are negative for skin sensitization.

An uncertainty factor of 100X (10X for interspecies extrapolation, 10X for intraspecies variation, and a reduced Food Quality Protection Act Safety Factor (FQPA SF) 1X is applied). A clear no-observed adverse-effect level (NOAEL) and lowest-observed adverse-effect level (LOAEL) was established, and the points of departure (PODs) selected for risk assessment purposes are

protective of the developmental or offspring effects. The FQPA SF has been reduced to 1X because: (1) the toxicity database is adequate to characterize potential pre- and post-natal risk for infants and children; (2) decreased motor activity was observed in females in the acute neurotoxicity study; however, no neurotoxicity was observed in the subchronic neurotoxicity or in any other studies in the inpyrfluxam database; (3) in the 2-generation reproduction study in rats, no reproductive effects were observed, offspring toxicity (decreased pup weights in F1 and F2 generations) was observed in the presence of parental toxicity (thyroid weight changes and histopathology in P and F1 generations); (4) although there were developmental effects (decreased fetal weights) in the developmental study in rats in the absence of maternal toxicity, a clear NOAEL and LOAEL were identified; and (5) the PODs selected for risk assessment purposes are protective of the developmental effects seen in the database.

Based on submitted studies, the nature of the residues of inpyrfluxam is considered to be adequately understood in plants and livestock commodities. Plant metabolism of inpyrfluxam was investigated in a variety of crops including seed treatment (potato, corn, sorghum, and canola), foliar application (apples and soybean) and granular soil application (rice). The metabolic pathways in the submitted studies are similar and provide adequate information on the metabolism of inpyrfluxam in plants. Inpyrfluxam involves oxidation to form 1-CH₂OH-S-2840 (A&B), and to a lesser extent 3-OH-S-2840. Metabolite 1-CH₂OH-S-2840 is then conjugated with sugars or further oxidized to the acid metabolite, 1'-COOH-S-2840 (A&B).

The toxicological endpoints and PODs used in the human health risk assessment are summarized below in Tables 4 and 5.

Table 4. Summary of Toxicological Doses and Endpoints for Inpyrfluxam for Use in Dietary and Non-Occupational Human Health Risk Assessments				
Exposure/ Scenario	Point of Departure POD	Uncertainty Factors/FQPA Safety Factors	RfD, PAD, Level of Concern for Risk Assessment	Study and Toxicological Effects
Acute Dietary (All Populations)	NOAEL = 30 mg/kg/day	UF _A = 10X UF _H = 10X FQPA SF = 1X	Acute RfD = 0.3 mg/kg/day aPAD = 0.3 mg/kg/day	Acute neurotoxicity - rat MRID 49706062 LOAEL = 100 mg/kg/day based on decreased motor activity in female rats.
Chronic Dietary (All Populations)	NOAEL = 26 mg/kg/day	UF _A = 10X UF _H = 10X FQPA SF = 1X	Chronic RfD = 0.3 mg/kg/day cPAD = 0.3 mg/kg/day	Two-Generation Reproduction study - rat MRID 49706480 LOAEL = 86 mg/kg/day based on thyroid weight changes and histopathology (increased incidences of follicular cell hypertrophy) in P and F1 generations females and decreased pup weights in F1 and F2 generations.

Table 4. Summary of Toxicological Doses and Endpoints for Inpyrflumax for Use in Dietary and Non-Occupational Human Health Risk Assessments				
Exposure/ Scenario	Point of Departure POD	Uncertainty Factors/FQPA Safety Factors	RfD, PAD, Level of Concern for Risk Assessment	Study and Toxicological Effects
Incidental Oral and Adult Oral Short-Term (1-30 days)	NOAEL = 26 mg/kg/day	UF _A = 10X UF _H = 10X FQPA SF = 1X	LOC for MOE<100	Two-Generation Reproduction study - rat MRID 49706480 LOAEL = 86 mg/kg/day based on thyroid weight changes and histopathology (increased incidences of follicular cell hypertrophy) in P and F1 generations females and decreased pup weights in F1 and F2 generations.
Cancer (oral, dermal, inhalation)	Classification: Not likely to be carcinogenic to humans.			

Point of departure (POD) = A data point or an estimated point that is derived from observed dose-response data and used to mark the beginning of extrapolation to determine risk associated with lower environmentally relevant human exposures. NOAEL = no-observed adverse-effect level. LOAEL = lowest-observed adverse-effect level. UF = uncertainty factor. UF_A = extrapolation from animal to human (interspecies). UF_H = potential variation in sensitivity among members of the human population (intraspecies). FQPA SF = FQPA Safety Factor. PAD = population-adjusted dose (a = acute, c = chronic). RfD = reference dose. MOE = margin of exposure. LOC = level of concern.

Table 5. Summary of Toxicological Doses and Endpoints for Inpyrflumax for Use in Occupational Human Health Risk Assessments				
Exposure/ Scenario	Point of Departure POD	Uncertainty Factors	Level of Concern for Risk Assessment	Study and Toxicological Effects
Dermal Short-(1-30 days) and Intermediate-Term (1-6 months)	NOAEL = 26 mg/kg/day DAF = 12%	UF _A = 10X UF _H = 10X	LOC for MOE<100	Two-Generation Reproduction study - rat MRID 49706480 LOAEL = 86 mg/kg/day based on thyroid weight changes and histopathology in P and F1 generations females and decreased pup weights in F1 and F2 generations.
Inhalation Short-(1-30 days) and Intermediate-Term (1-6 months)	NOAEL= 26 mg/kg/day	UF _A =10X UF _H =10X	LOC for MOE<100	Two-Generation Reproduction study - rat MRID 49706480 LOAEL = 86 mg/kg/day based on thyroid weight changes and histopathology (increased incidences of follicular cell hypertrophy) in P and F1 generations females and decreased pup weights in F1 and F2 generations.

Table 5. Summary of Toxicological Doses and Endpoints for Inpyrfluxam for Use in Occupational Human Health Risk Assessments				
Exposure/ Scenario	Point of Departure POD	Uncertainty Factors	Level of Concern for Risk Assessment	Study and Toxicological Effects
Cancer (oral, dermal, inhalation)	Classification: Not likely to be carcinogenic to humans.			

Point of departure (POD) = A data point or an estimated point that is derived from observed dose-response data and used to mark the beginning of extrapolation to determine risk associated with lower environmentally relevant human exposures. NOAEL = no-observed adverse-effect level. LOAEL = lowest-observed adverse-effect level. UF = uncertainty factor. UF_A = extrapolation from animal to human (interspecies). UF_H = potential variation in sensitivity among members of the human population (intraspecies). MOE = margin of exposure. LOC = level of concern. DAF = dermal absorption factor.

2. Dietary (Food + Water) Risks

An unrefined dietary risk assessment was conducted which used anticipated residues to account for the metabolites of concern, 100 percent crop treated (% CT), and incorporated the Agency's 2018 default processing factors. Modeling for residues in drinking water included parent inpyrfluxam, and four additional residues: 3'-OH-S-2840, 1'-COOH-S-2840, 1'keto-S-2840, and N-des-Me-S-2840. Drinking water was incorporated directly into the dietary assessment and used the ground water concentration, generated by the Pesticide Root Zone Model Groundwater (PRZM-GW). Based on the radiotracer studies, the canola, corn, sorghum, legume vegetables, and sugar beet seed treatments uses were classified as nonfood and were not included in the dietary assessment.

The acute dietary (food and drinking water) exposure and risk estimates do not exceed the Agency's level of concern (< 100% of the acute population-adjusted dose [aPAD]) at the 95th exposure percentile for the general U.S. population (2.3% of the aPAD) and all population subgroups. The most highly exposed population subgroup is all infants (<1 yr. old) at 6.3% of the aPAD. The chronic dietary (food and drinking water) exposure and risk estimates for the general U.S. population and all population subgroups are below the Agency's level of concern (LOC). The chronic dietary exposure estimate to the general U.S. population is <1% of the chronic population-adjusted dose (cPAD) and children 1-2 years old, the most highly exposed population subgroup, is 1.6% of the cPAD.

Inpyrfluxam is classified as "Not likely to be carcinogenic to humans." No treatment-related increases in tumors were observed in carcinogenicity studies in rats or mice. Additionally, there is no evidence of mutagenicity *in vivo* or *in vitro*.

3. Occupational Exposure Risks

Occupational handler exposure is expected from the requested uses based on the labeling, and the types of equipment and techniques that may be used.

Occupational Handler Non-Cancer Exposure and Risk Estimates

Foliar/Soil Uses: None of the occupational handler scenarios for the foliar/soil uses result in short-and intermediate-term combined (dermal plus inhalation) risk estimates of concern (i.e., MOEs \geq 100; LOC = 100) with baseline Personal Protective Equipment (PPE) (i.e., single layer of clothing, no gloves and no respirator).

Seed Treatment Uses: None of the occupational handler scenarios for the seed treatment uses result in short-and intermediate-term combined (dermal plus inhalation) risk estimates of concern (i.e., MOEs \geq 100; LOC = 100) with baseline PPE.

Aerial applicators are assessed using the engineering control (enclosed cockpits) and baseline attire (long-sleeved shirt, long pants, shoes, and socks). Per the Agency's Worker Protection Standard stipulations for engineering controls, pilots are not required to wear protective gloves for the duration of the application. With this level of protection, risk estimates are below the LOC for aerial applicators.

Dermal Post-Application Exposure and Risk Estimates

There is potential for occupational post-application dermal exposure for workers performing activities with agricultural crops that have been treated with inpyrfluxam. Short- and intermediate-term dermal post-application risk estimates were not of concern on day 0 (12 hours following application) for all post-application activities. For use on corn, a dermal post-application assessment has not been conducted since the use directions on the label indicate that the product must be applied to the soil in-furrow at planting. Therefore, post-application exposure is anticipated to be negligible.

4. Residential Handler Risks

Residential handler exposures are not anticipated based on the use sites of inpyrfluxam and, therefore, have not been quantitatively assessed. Associated end-use products are not intended for homeowner use and inpyrfluxam labels require that handlers wear specific clothing and personal protective equipment. Additionally, the registrant added the statement "Not for residential use" to the S-2399 2.84 SC Fungicide label (EPA reg# 59639-230).

5. Aggregate Risk

There are no residential uses of inpyrfluxam. Therefore, the aggregate assessment was limited to food and water exposure. As a result, the aggregate assessments are equivalent to the dietary assessments and are below the LOC.

6. Cumulative Risk

Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as

to inpyrfluxam and any other substances; and inpyrfluxam does not appear to produce a toxic metabolite produced by other substances. For the purposes of this action, therefore, EPA has not assumed that inpyrfluxam has a common mechanism of toxicity with other substances.

B. Assessment of Environmental and Ecological Risks

This section, *Assessment of Assessment of Environmental and Ecological Risks*, is a summary of the standard assessment that the Agency conducts; the full Environmental and Ecological Risk Assessment can be found in docket ID number EPA-HQ-OPP-2018-0038 at www.regulations.gov.

The ecological risk assessment integrates the results of the exposure and ecotoxicity data to evaluate the likelihood of adverse ecological effects. The means of integrating the results of exposure and ecotoxicity data is called the quotient method. For this method, risk quotients (RQs) are calculated by dividing exposure estimates by ecotoxicity values, both acute and chronic ($RQ = \text{Exposures}/\text{Toxicity}$). RQs are then compared to the Agency's levels of concern (LOCs). The LOCs are criteria used by the EPA to indicate potential risk to non-target organisms. The criteria indicate whether a pesticide, when used as directed, has the potential to cause adverse effects to non-target organisms.

The database required to evaluate the environmental fate and ecological effects of inpyrfluxam is complete and is considered adequate to support the assessment of ecological risk and for registration of the use patterns discussed in this document.

1. Environmental Fate Profile

Volatilization is insignificant for inpyrfluxam as the vapor pressure is low (9.00×10^{-10} mmHg at 25 °C). Inpyrfluxam is moderately persistent to persistent in all fate studies and moderately mobile with a mean organic carbon normalized soil-water distribution coefficient (K_{oc}) of 691 L/kg-oc in soil based on FAO mobility classification (range of 500 to 913 L/kg, $n=7$). Major routes of dissipation of inpyrfluxam in the environment following application may include spray drift, runoff on eroded sediment/soil, leaching through the soil profile, and transformation. The octanol:water partition coefficient ($\log K_{ow} = 3.65$) suggests that inpyrfluxam may bioconcentrate. The fish bioconcentration factor (BCF) study indicates rapid depuration (98.3% by day three at the low dose rate, and 91.1% by day three at the higher dose rate), and a steady state BCF of 173 and 190 at the low and high dose, respectively. Inpyrfluxam is water soluble at 16.4 mg/L (20 °C).

In aquatic environments, inpyrfluxam is essentially stable to hydrolysis, aqueous photolysis, and anaerobic aquatic metabolism. Under aerobic aquatic conditions, microbial bacteria may contribute to transformation with half-lives ranging from 319 days to stable ($n=5$), although carbon dioxide generation was less than 1%. Aquatic metabolism studies indicate that inpyrfluxam partitions to the sediment, which was also observed in the aquatic field dissipation studies. In the aquatic field dissipation studies, the concentration of inpyrfluxam in sediment

appears to increase over time, though the data are variable. The aquatic field dissipation studies were not conducted long enough to properly assess the potential for accumulation.

In terrestrial environments, inpyrfluxam is persistent to photolysis on soil (half-life of 627 days, $n=1$), and to anaerobic soil metabolism (half-lives $\geq 1,212$ days, $n=4$). The aerobic soil metabolism half-lives range from 121 days to 1,720 days ($n=4$). The two soil systems that produce this range in data are similar in the fact that both systems result in about a 50% loss of parent material by study termination, but differ by the rate in which they get to that 50%. The shorter half-life is indicative of a single first order (SFO) decline and was generated from a soil with low organic matter (0.51%). The longer half-life is indicative of a biphasic, double first order in parallel (DFOP) decline as described by a quick decline, followed by a much slower decline until study termination, with a soil comprised of 6.5% organic matter. Organic matter was found to be a contributing factor to the adsorption capability of inpyrfluxam in the batch equilibrium study. Thus, it is possible that inpyrfluxam binding influenced the transformation rate in these studies. Ultimately, both systems are indicative of the general persistence of inpyrfluxam in soil.

The batch equilibrium study indicated that inpyrfluxam is moderately mobile in soil, and organic matter is a contributing factor to the adsorption capability of inpyrfluxam; whereas percent clay, cation exchange capacity, and pH are not indicative of the adsorption capability of inpyrfluxam. In the field studies, inpyrfluxam was not detected deeper than 6 inches (15 cm) in four of the five terrestrial field dissipation studies; however, one study did detect inpyrfluxam at a depth of 31–35 inches (78–90 cm) in one sample. This study noted that while rainfall plus irrigation was 109% of the historical average, extremely heavy rainfall and flooding did occur in some months over the study duration.

The residue of concern for assessing exposure is parent (inpyrfluxam) alone, which is primarily the R-isomer (S-2399). The two major transformation products 3'-OH-S-2840 and 1'-COOH-S-2840 were observed in several environmental fate studies. In addition, a single aerobic soil metabolism study conducted with the 1'-COOH-S-2840 metabolite as the starting material, produced a unique major transformation product (not observed in any other study), 1'-keto-S-2840. This determination to assess inpyrfluxam parent only is based on the overall stability of the parent as well as the available toxicity data.

2. Environmental Effects

The exposure and toxicity effects data are integrated to evaluate the risks of adverse ecological effects on non-target species. EPA uses a deterministic approach or the quotient method to compare toxicity to environmental exposure. In the deterministic approach, an RQ is calculated by dividing a point estimate of exposure by a point estimate of effects. This ratio is a simple, screening-level estimate that identifies high- or low-risk situations. Calculation of RQs are based upon ecological effects data, pesticide use data, fate and transport data, and estimates of exposure to the pesticide. In this method, the estimated environmental concentration (EEC) is compared to an effect level, such as an LC_{50} (the concentration of a pesticide where 50% of the organisms die).

For aquatic organisms, the risk assessment concluded the following:

- Inpyrfluxam is classified as “very highly toxic” to freshwater fish and “highly toxic” to estuarine/marine fish on an acute exposure basis. For acute exposure, data are available from seven freshwater fish species with LC₅₀ values ranging from 31 to 800 µg a.i./L. For estuarine/marine fish, the sheepshead minnow is the only species tested (LC₅₀=150 µg a.i./L). On a chronic exposure basis, the toxicity test with the fathead minnow, resulted in a NOAEC of 7.5 µg a.i./L based on a 22% reduction in post hatch survival and 16-21% reductions in growth at the LOAEC (13 µg a.i./L). The results of the early life stage (ELS) test with an estuarine/marine fish are generally similar in range.
- All of the foliar uses exceed the acute LOC of 0.5 for freshwater fish (acute RQs for freshwater fish range from 0.51– 1.22). Acute RQs are below the LOC for estuarine/marine fish.
- All of the foliar RQs exceeded the chronic LOC of 1 for freshwater and estuarine/marine fish with RQs ranging from 3.1-7.6 for freshwater, and 1.7-4.1 for estuarine/marine.
- Soil applications for sugar beet resulted in exceedance of the chronic LOC of 1 with RQs of 2.3 for freshwater fish, and 1.2 for estuarine/marine fish.
- All fish RQs for seed treatments and soil in-furrow applications are below the acute and chronic LOCs (acute LOC=0.5; chronic LOC=1).
- All of the acute and chronic RQs were below the LOC (acute LOC=0.5; chronic LOC=1) for aquatic invertebrates (free-swimming and benthic), and below the LOC of 1 for aquatic plants.

For terrestrial organisms, the risk assessment concluded the following:

- For the foliar uses, the acute LOC of 0.5 is exceeded for acute exposure to small birds (and terrestrial-phase reptiles and amphibians) feeding on short grass only (the upper-bound dose-based RQs ranged from 0.64-0.88 for the short grass/20-gram bird; LOC=0.5). In general, the risk estimates for birds from acute exposure to foliar residues is low based on the limited exceedances to one size/dietary class and use of upper-bound EECs.
- For the foliar uses, predicted environmental exposures are below levels that caused sublethal/chronic effects in birds (RQs = 0.01 to 0.32; LOC=1); thus, this use does not pose a risk concern to birds.
- The highest labeled rate for soybean seed results in a potential risk to birds that exclusively feed on treated seed. Risk estimates to small and medium birds from seed treatment is low due to seed size limitations; however, risk cannot be precluded for large birds that consume treated seeds (RQs range from 0.37-5.8; LOC=1). There is uncertainty with the chronic non-definitive (less-than) endpoint, which is based on a reduction in the

number of eggs laid at all treatment levels and a poor dose response (*e.g.*, the reduction in number of eggs compared to the control was 26%, 9%, 18% and 25% at the 123, 249, 536, and 1060 mg a.i./kg concentrations, respectively). All of the reductions were statistically significant with the exception of the 9% reduction at the 249 mg a.i./kg concentration. No other effects were observed in this study (or the other avian reproduction study), thus, use of the 123 mg a.i./kg is likely conservative for risk estimation.

- For the foliar uses, there are no acute (LOC=0.5) or chronic (LOC=1) RQ exceedances for mammals (acute: RQs range from <0.01 to 0.09; chronic: dose-based RQs range <0.01 to 0.61).
- For the seed uses, there is no acute risk for mammals, but the chronic LOC of 1 is exceeded for mammals based on the highest treatment rate for soybean seeds (RQs range of 1.1-2.5). However, EECs are below the LOAEL which is the level where body weight effects were observed, thus, considering the modest effect on bodyweight, the exceedance of the NOAEL is likely conservative of effects in the field.
- Risk estimates to terrestrial plants are below the LOC, except for dicots in semi aquatic areas (RQ=0.79-1.9; LOC of 1) when inpyrfluxam is applied at the maximum rate of 0.089 lb. a.i./A.
- For terrestrial invertebrates, there is no acute or chronic adult honeybee risk identified (acute LOC=0.4; chronic LOC=1). There is also no acute larval honeybee risk identified. However, the RQ based on the chronic larval honeybee endpoint approaches the LOC for foliar uses at the highest rate (RQ = 0.76-1.0) when contaminated pollen and nectar are brought back to the hive. The RQ of 1 indicates a risk at the level of concern, meaning that the exposure is approaching the threshold of potential chronic adverse effects when applied as a foliar treatment to bee-attractive crops (apples, peanuts at the maximum rate of 0.089 lb. a.i./A). For characterization, the EECs are lower than the LOAEL (*i.e.*, the concentration where effects were observed, which varies from 25% effect at the LOAEL to 16% effect at the next highest concentration). Considering the low toxicity to bees in the other tests, the variability in the dose response, and that the larval exposure estimates do not account for pesticide decline or dilution that may occur in the hive, the overall risk for effects is low (and approaching risk at the maximum rate).

C. Benefits

This section, *Benefits*, is a summary of the standard assessment that the Agency conducts; the full Benefits Assessment can be found in docket ID number EPA-HQ-OPP-2018-0038 at www.regulations.gov.

The Agency reviewed the benefits and product performance data of inpyrfluxam as claimed by the registrant Valent USA, LLC. The benefits assessment is based on several factors including its efficacy in managing a pest or pests in comparison with registered alternatives on different crops, crop yields, produce quality improvement, higher economic return, its role in

pesticide resistance management and/or integrated pest management. The registrant submitted information on the efficacy of inpyrfluxam in comparison with market leader fungicides in controlling fungal diseases on apple, corn (field, pop and sweet), peanut, rice, soybean, and sugar beet. In some cases, the yield benefits and its role in fungicide resistance management was discussed in the submission. The Agency also used publicly available information for the benefits review. Valent withdrew the foliar rice use after the benefits assessment had been completed.

Potential benefits of inpyrfluxam vary considerably under large scale commercial field conditions in different parts of the United States. The Agency determined that the high benefits of inpyrfluxam use are on soybean and sugar beet because it adds a new mode of action (MOA) against key fungal pests. On soybean, inpyrfluxam provides a new MOA to control *Rhizoctonia* Aerial Blight disease that can cause high yield losses. Only two other fungicide MOAs - strobilurins (FRAC Code 11 - azoxystrobin, pyraclostrobin, trifloxystrobin) and triazoles (FRAC Code 3 - propiconazole, difenoconazole, tetraconazole) are registered to control this pest. On sugar beet, inpyrfluxam provides a new MOA to control *Rhizoctonia* Root and Crown Rot (RRCR) for which only strobilurins and triazole fungicides are registered. Inpyrfluxam is also likely to play a role in fungicide resistance management on soybean and sugar beet. On other crops (apple, corn, peanut and rice), inpyrfluxam appears to be comparable to currently available alternative fungicides. Potential benefits of using inpyrfluxam on canola, cereal grains, legume vegetables and sorghum were not reviewed as no information was submitted by the registrant.

D. Hazard Comparison

To support the registration decision, a hazard comparison is provided for the foliar-applied fungicides that inpyrfluxam could compete with for controlling various fungal pests. The Agency developed a list of the top fungicides that are used for controlling the target pests for the uses on apples, peanuts, rice, soybean and sugar beets. The list of alternative active ingredients includes the following eight fungicides: chlorothalonil, pyraclostrobin, azoxystrobin, trifloxystrobin, tebuconazole, captan, mancozeb, and sulfur. The ecotoxicity profile of inpyrfluxam was compared to the profiles of the eight unique fungicide active ingredients. It is important to note that a hazard comparison only describes whether a pesticide could elicit an adverse effect at certain exposure levels. It does not provide an indication of the likelihood of the adverse effect occurring in the environment. For that, the hazard of a pesticide must be considered together with the exposure assessment to develop an ecological risk assessment.

Ecotoxicity Comparison

In this analysis, the Agency compared the toxicity data for inpyrfluxam to the available endpoints for the alternative fungicides on a chemical-by-chemical basis. This comparison indicates inpyrfluxam has higher acute toxicity to freshwater fish than half of the registered alternatives and roughly equivalent toxicity to several other active ingredients (chlorothalonil, pyraclostrobin, trifloxystrobin). For chronic exposure to fish, the inpyrfluxam endpoints were generally in a similar range of toxicity to the alternatives. Inpyrfluxam has similar to lower toxicity to aquatic invertebrates and is generally less toxic to aquatic plants.

In terms of terrestrial organisms, inpyrfluxam is of similar to or greater toxicity to birds,

mammals, and terrestrial plants compared to the registered alternatives. For birds, passerine data are only available for inpyrfluxam. As a result, the toxicity comparison (for subacute dietary study) is likely reflecting differences in species sensitivity. For example, when comparing to the other two species tested, the toxicity is similar to the alternatives. For terrestrial invertebrates, the comparison of the acute oral toxicity to honeybees generally shows similar to less toxicity than the alternatives.

Of note is that inpyrfluxam has a much lower maximum single application rate than the other fungicide alternatives (up to 100 times lower), thus resulting in lower initial environmental loadings.

E. Synergy

Recently, some chemical companies have made claims in patents that certain combined mixtures of pesticides elicit synergistic effects, meaning that when the chemicals are mixed the combined effect is greater than the sum of the individual effects of each chemical.

The Office of Pesticide Programs (OPP) has developed an interim process to evaluate mixture effects on an active ingredient basis where the U.S. Patent and Trademark Office (PTO) granted a patent on the basis of the applicant showing the combined effects of the mixture are synergistic (*i.e.*, the effect of a mixture of pesticides is greater than the sum of the individual effects). To ensure that mixture effects data that may be relevant to OPP ecological risk assessments are considered, OPP requested that applicants of new chemicals submit mixture toxicity data provided to the U.S. PTO. OPP provided criteria to assist applicants in identifying relevant data for submission. Valent completed a search of U.S. patent data to identify any claims of synergy (or more than additive effects) with other currently registered pesticides according to the criteria* and submitted corresponding data to OPP for the new pesticide inpyrfluxam.

*** Criteria for relevancy**

1. Patent contains comparison of empirical effects
2. Effects relevant to direct effects on tested taxa
3. Tested taxa are relevant to ecological risk assessment
4. Test data for chemical considered for regulation
5. Mixture components tested are registered in U.S.

The applicant conducted a patent search using the keyword inpyrfluxam (including the S isomer, the chemical name without isomer indication, and the chemical structure) and identified two patents relevant to inpyrfluxam under U.S. 9,510,596 and U.S. 10,076,119. Fungicides at this point in time have not raised synergy concerns, unless the synergy claims extend beyond fungi.

The Agency concludes, on the basis of the applicant's submitted report, that all identified patents contain no greater-than-additive effects information relevant to the inpyrfluxam ecological risk assessment as currently conducted by the Agency.

V. PUBLIC COMMENTS

On December 21, 2018 and March 18, 2019, the EPA published a Notice of Receipt (NOR) in the Federal Register of an application for registration of inpyrfluxam and announced a public comment period of 30 days. Five total public comments were received on the two NORs and can be found in docket ID number EPA-HQ-OPP-2018-0038 at www.regulations.gov. Two of these comments are duplicative. The EPA also published a Notice of Filing (NOF) on March 18, 2019 and May 8, 2020 for a 30-day comment period. No comments were received on the NOF dated March 18, 2019. The May 8, 2020 NOF was published in response to a request from Valent to establish livestock commodity tolerances that harmonize with PMRA. Valent also requested that the May 8, 2020 NOF include two additional raw agricultural commodities associated with corn. One comment was received in response to the May 8, 2020 NOF. A response to the NOF comment can be found in the final rule for inpyrfluxam in docket ID number EPA-HQ-OPP-2018-0038 at www.regulations.gov.

The proposed decision was available for 30 day public comment on June 5, 2020; closing on July 7, 2020. The Agency received six comments on the proposed decision document: one from the registrant, Valent USA, LLC; one from the United States Department of Agriculture (USDA) Office of Pest Management Policy (OPMP); two from the Center for Biological Diversity (CBD); one from the California Rice Commission; and one from Washington State Department of Agriculture (WSDA). The Agency's response to comments on both the NOR and proposed decision document can be found in docket ID number EPA-HQ-OPP-2018-0038 at www.regulations.gov. None of the comments received changed the Agency's final regulatory decision.

VI. FINAL REGULATORY DECISION

In accordance with FIFRA, the EPA only registers a pesticide unconditionally when sufficient data has been submitted and it is determined that the uses will not cause unreasonable adverse effects on humans or the environment. This also takes into account the economic, social, and environmental costs and benefits of the use of the pesticide. When a registration involves food uses, this determination also includes a finding that dietary risk from pesticide residues in food meet the safety standard of section 408 of the Federal Food, Drug and Cosmetic Act (FFDCA) ("a reasonable certainty of no harm..."). Under FIFRA, the EPA is charged with balancing risks posed by the use of a pesticide against its benefits. The EPA must determine if the benefits in light of its use outweigh the risks in order for the EPA to register a pesticide.

A. Rationale and Risk Mitigation

The EPA has issued registrations for the following four products as part of the registration of the active ingredient, inpyrfluxam:

Name	File Symbol	Active Ingredient(s)
S-2399 Technical Fungicide	59639-233	97.4% inpyrfluxam
S-2399 2.84 SC Fungicide	59639-230	31.25% inpyrfluxam

S-2399 3.2 FS Fungicide	59639-231	34.05% inpyrfluxam
V-10417 FS Fungicide	59639-232	4.71% inpyrfluxam 1.89% metalaxyl 7.07% ethaboxam

The database is complete for assessment of risks to human health and the environment, and there are no data gaps. Considering the assessed risk to human health and the environment, the Agency concludes that inpyrfluxam meets the regulatory standard under FIFRA.

A conservative human health risk assessment was conducted and did not identify any dietary risks of concern. The assessment also did not identify any risks of concern for occupational workers. There are no residential uses approved for inpyrfluxam, and therefore residential handler exposures are not anticipated. The inpyrfluxam labels require that handlers wear specific clothing and personal protective equipment. Additionally, EPA requested that the registrant add the statement “Not for residential use” to the S-2399 2.84 SC Fungicide label (EPA reg# 59639-230) which is the foliar application label. Seed treatments are only applied commercially or on the farm by occupational workers.

The ecological risk assessment conducted for inpyrfluxam identified certain acute and chronic RQ exceedances as noted previously. To mitigate the identified ecological risks associated with the uses, EPA required the following:

- The soybean seed treatment rate was lowered from 3.2 fl oz/100 lb. seed to 1 fl oz/100 lb. seed on the S-2399 3.2 FS Fungicide (EPA reg # 59639-231) label.
- The single application rate was reduced from 3 to 2 fl oz/A (0.044 lb. ai/A) for soybean on the S-2399 2.84 SC Fungicide (EPA reg # 59639-230) label.
- The maximum application rate per year was revised from 6 to 4 fl oz/A (0.089 lb. ai/A) for soybean broadcast application on the S-2399 2.84 SC Fungicide (EPA reg # 59639-230) label.
- The single application rate was reduced from 4 to 2 fl oz/A (0.044 lb. ai/A) for sugar beet S-2399 2.84 SC Fungicide (EPA reg # 59639-230) label.
- The maximum application rate per year was revised from 8 to 4 fl oz/A (0.089 lb. ai/A) for sugar beet broadcast application on the S-2399 2.84 SC Fungicide (EPA reg # 59639-230) label.
- The maximum application rate per year was revised from 4 to 2 fl oz/A (0.044 lb. ai/A) for sugar beet banded application on the S-2399 2.84 SC Fungicide (EPA reg # 59639-230) label.
- A prohibition against aerial application for all foliar uses was placed on the S-2399 2.84 SC Fungicide (EPA reg # 59639-230) label. This restriction will reduce the potential spray drift being deposited directly into waterbodies.
- The maximum application rates for the apple and peanut foliar applications on the S-2399 2.84 SC Fungicide (EPA reg # 59639-230) label remain as originally proposed for both efficacy and resistance management for these crops. However, the following mitigation measures are on the label for these uses in conjunction with a medium to coarse droplet size for groundboom spray application:
 - a 50’ buffer zone for apple and peanut to help mitigate drift and runoff. The label restriction reads: “Do not apply this product within 50 feet of any freshwater

- lake, pond, river, stream or wetland.”
- a vegetative buffer strip language for apple and peanut to help mitigate runoff. The label statement reads: “This product may impact quality of surface water due to runoff after rainfall. Runoff potential of S-2399 2.84 SC Fungicide will be reduced by implementation of level and properly maintained vegetative buffer strips between treated areas and surface water sources (ponds, lakes, springs, streams, rivers).”
- Mandatory and advisory spray drift language was added to the S-2399 2.84 SC Fungicide label which includes a medium to coarse droplet size for all foliar uses and a groundboom height restriction to 4 feet above the ground or crop canopy.

Based on the above identified ecological risk mitigations, new RQs were calculated for the various taxa. These risk mitigations resulted in reductions in risk for a number of taxa. The below table provides an overview of these RQ changes for the taxa where risks had been identified in the ecological assessment. The updated RQs are explained in detail in the memorandum titled *Updated Risk Quotients for the Inpyrfluxam New Active Ingredient Ecological Risk Assessment Based on Label Changes* that is available on the docket (ID number EPA-HQ-OPP-2018-0038).

Table 6. Summary of Ecological Risk Mitigation Impacts for the Label Changes				
Taxa	Study Type	Current RQ Range (for all originally proposed uses)	RQ Range with Risk Mitigation Updates (specific to crops affected by risk mitigation)	Comments
Freshwater fish	Acute LOC of 0.5	<0.01- 1.2 (all foliar use sites exceed the LOC; RQs 0.51-1.2)	0.14- 0.7	Apple and sugar beet no longer exceed the LOC. The LOC is slightly exceeded for peanut and soybean (RQs = 0.56-0.7)
	Chronic LOC of 1	<0.01- 7.6 (all foliar use sites exceed the LOC; RQs 3.1-7.6)	0.88- 4.4	Reduced RQs but exceedances remain for all foliar uses. Sugar beet banded drops below LOC.
Estuarine/ marine fish	Acute LOC of 0.5	No LOC exceedance	--	--
	Chronic LOC of 1	<0.01- 4.1 (all foliar use sites exceed the LOC; RQs 1.7-4.1)	0.48- 2.4	Reduced RQs but exceedances remain for all foliar uses. Sugar beet banded drops below LOC.
Mammal	Chronic LOC of 1	Seed: RQ= 1.1-2.5	Seed rate reduced (RQ=0.35-0.77)	No exceedances

Birds	Acute LOC of 0.5	Foliar-Dose-based RQ =<0.01- 0.88	Soybean and Sugar beet (RQs=0.4) Apple and Peanut remain the same (0.68- 0.88)	Soybean and sugar beet no longer exceed the LOC. For apples and peanut there are marginal LOC exceedances for small birds/short grass diet.
		Seed: RQ= 0.51	Seed rate reduced (RQ below LOC)	Seed: No LOC exceedance
	Chronic LOC of 1	Seed: RQ=0.37- 5.8	Seed Rate reduced RQ= 1.8	Not below LOC but closer to RQ of 1.
Terrestrial Plants	LOC of 1	RQs up to 1.9	RQs: 0.77- 1.9 Apple (RQ= 1.9) and Peanut (RQs= 1.6)	Soybean and sugar beet no longer exceed the LOC. Apple remains the same and peanut RQs are reduced but there still is a minor LOC exceedance (RQ= 1.6).

Inpyrfluxam has many potential benefits including disease control and resistance management which may vary considerably under large scale commercial field conditions in different parts of the United States. The biggest anticipated benefits are the uses on soybean and sugar beet as inpyrfluxam is a new MOA against key fungal pests. On soybean, the use of this chemical will provide a new MOA to control *Rhizoctonia* Aerial Blight disease which can cause high yield losses. There are currently only two other fungicide MOAs (strobilurins; (FRAC Code 11 and triazoles; FRAC Code 3) registered to control this pest. On sugar beet, inpyrfluxam provides a new MOA to control *Rhizoctonia* Root and Crown Rot (RRCR) for which only strobilurins and triazole fungicides are registered. Additionally, inpyrfluxam is labeled for use on many crops that are grown on fewer than 300,000 acres in the United States, meeting the definition of a minor use under FIFRA 2(II)(1) [(*Lupinus* spp., consisting of lupin, sweet lupin; *Phaseolus* spp., consisting of field beans, kidney bean, lima bean, navy bean; *Vigna* spp., consisting of adzuki bean, asparagus bean, black-eyed peas, catjang; *Pisum* spp., consisting of dwarf bean, edible podded pea, garden pea]. These uses are also potentially important to growers by providing products that aid in resistance management, lower risk than alternatives and may have low economic return.

The EPA is not requiring any additional data at this time to assess risk of inpyrfluxam to human health or the environment. The Agency finds the low human health risk and having this new MOA along with the mitigation measures outweighs the remaining potential risks of concern. Therefore, the EPA concludes that the use of inpyrfluxam as a seed treatment, soil and foliar application on the beforementioned uses will not cause unreasonable adverse effects on the environment and meets the criteria for unconditional registration under FIFRA section 3(c)(5).

B. Label Requirements

Label restrictions and statements on the technical product label (S-2399 Technical Fungicide; EPA reg# 59639-233):

- Precautionary statements for product specific acute toxicity Category II
 - Signal Word: WARNING

- For formulating purposes only
- Only for formulation into a fungicide for the [specified] uses

Label restrictions and statements on the end use product label (S-2399 2.84 SC Fungicide; 59639-230):

- PPE and precautionary statements for product specific acute toxicity Category III.
 - Signal Word: CAUTION
 - Baseline PPE attire: long sleeved shirt and long pants, shoes plus socks, chemical-resistant gloves made of any waterproof material
- Restricted Entry Interval is 12 hours
- Do not apply to greenhouse food crops
- Do not apply this product when weather conditions favor spray drift from treated areas
- Resistance management language is present on the label, including restrictions on the number of applications of inpyrfluxam that may be made prior to rotating to a pesticide of another MOA (see “Food Crop Use Pattern Summary” section).
- Environmental Hazards language as follows: “This pesticide is toxic to fish and aquatic invertebrates. Do not apply directly to water, or to areas where surface water is present or to intertidal areas below the mean high water mark. Drift and runoff from treated areas may be hazardous to aquatic organisms in water adjacent to treated areas. Do not contaminate water by disposing of equipment washwaters or rinsate.”

Label restrictions and statements on the end use product label (S-2399 3.2 FS Fungicide; 59639-231):

- PPE and precautionary statements for product specific acute toxicity Category III.
 - Signal Word: CAUTION
 - Baseline PPE attire for mixers, loaders, applicators and other handlers: long sleeved shirt and long pants, shoes plus socks, chemical-resistant gloves made of any waterproof material
 - Baseline PPE attire for baggers, bag sewers and bag stackers: long-sleeved shirt, long pants, socks and shoes
- Restricted Entry Interval is 12 hours
- Do not apply this product in a hopper-box or planter-box at planting time
- Environmental Hazards language as follows: “This pesticide is toxic to fish and aquatic invertebrates. Do not apply directly to water or to areas where surface water is present or to intertidal areas below the mean high water mark. Drift and runoff from treated areas may be hazardous to aquatic organisms in water adjacent to treated areas. Do not contaminate water by disposing of equipment washwaters or rinsate.”
- Standard seed bag label requirements

Label restrictions and statements on the end use product label (V-10417 FS Fungicide; 59639-232):

- PPE and precautionary statements for product specific acute toxicity Category III.
 - Signal Word: CAUTION
 - Baseline PPE attire for workers loading product, treating seed and conducting maintenance and calibration of the treater must wear: long sleeved shirt and long pants, shoes plus socks, chemical-resistant gloves made of any waterproof

material

- Baseline PPE attire for workers involved with handling treated seed (such as baggers, sewers and bag stackers) must wear: long-sleeved shirt, long pants, sock and shoes
- Baseline PPE attire for workers who load and plant treated seed must wear: long-sleeved shirt, long pants, sock and shoes and chemical-resistant gloves made of any waterproof material.
- Restricted Entry Interval is 24 hours
- Do not apply this product in a hopper-box or planter-box at planting time
- Standard seed bag label requirements
- Environmental Hazards language as follows: “This pesticide is toxic to aquatic invertebrates, oysters, and shrimp. Do not apply directly to water or to areas where surface water is present or to intertidal areas below the mean high water mark. Drift and runoff from treated areas may be hazardous to aquatic organisms in water adjacent to treated areas. Do not contaminate water by disposing of equipment washwaters or rinsate.” Groundwater Advisory: “Metalaxyl has properties and characteristics associated with chemicals detected in ground water. This chemical may leach into ground water if used in areas where soils are permeable, particularly where the water table is shallow. Therefore, contain any product spills or equipment leaks and dispose of wastes according to the disposal instructions on this label.”

Additional label changes:

- Expanded glove statement: chemical-resistant gloves made of any waterproof material (barrier laminate, butyl rubber \geq 14 mils, nitrile rubber \geq 14 mils, neoprene rubber \geq 14 mils, or viton \geq 14 mils)
- The two seed treatment products must have the same PPE requirements for the various occupational workers. Both products must follow the language on the label for V-10417 FS Fungicide product (EPA reg# 59639-232) which requires workers loading product, treating seed and conducting maintenance and calibration of the treater to wear a long sleeved shirt and long pants, shoes plus socks, and chemical-resistant gloves made of any waterproof material. For workers involved with handling treated seed (such as baggers, sewers and bag stackers), they must wear long-sleeved shirt, long pants, sock and shoes. Lastly, for workers who load and plant treated seed, they must wear long-sleeved shirt, long pants, sock and shoes and chemical-resistant gloves made of any waterproof material.
- The following tank mixing statement is required for end use products that allow tank mixing:

“It is the pesticide user’s responsibility to ensure that all products are registered for the intended use. Read and follow the applicable restrictions and limitations and directions for use on all product labels involved in tank mixing. Users must follow the most restrictive directions for use and precautionary statements of each product in the tank mixture.”

- For the seed treatment use on legume vegetables (succulent and dried, crop group 6), the labels for the 3.2 lb. ai/gal FS formulation (S-2399 3.2 FS Fungicide; 59639-231) and the 0.428 lb. ai/gal FS formulation (V-10417 FS Fungicide; 59639-232) were revised to

remove the restriction prohibiting the grazing or feeding of legume vegetable forage, hay, or vines to livestock, as the use on soybean seed is a livestock feed item.

- The following statement was added to the three end-use product labels as a residential handler risk assessment was not conducted “Not for residential use”.
- The following statement was added to the end use product label (S-2399 2.84 SC Fungicide; 59639-230): “Do not apply this product by aerial application.” This should fall under a Restrictions heading to make sure that it is clear for all crops on the label.
- Resistance management language per PRN 2017-1 was added to all end-use labels
- The following mandatory spray drift management statements were added to the foliar end-use label (S-2399 2.84 SC Fungicide; 59639-230):

“MANDATORY SPRAY DRIFT MANAGEMENT

Airblast applications:

- Sprays must be directed into the canopy.
- Do not apply when wind speeds exceed 15 miles per hour at the application site.
- User must turn off outward pointing nozzles at row ends and when spraying outer row.
- Do not apply during temperature inversions.”

[Note: The above enforceable airblast drift language was placed in the Directions for Use, in a box titled “Mandatory Spray Drift Management” under the heading “Airblast Applications”]

Ground Boom Applications:

- User must only apply with the release height recommended by the manufacturer, but no more than 4 feet above the ground or crop canopy and have minimal bounce.
- Applicators are required to use a Medium to Coarse, or coarser droplet size (ASABE S572.1).
- Do not apply when wind speeds exceed 15 miles per hour at the application site.
- Do not apply during temperature inversions.

[Note: The above enforceable ground boom drift language is placed in the Directions for Use, in a box titled “Mandatory Spray Drift Management” under the heading “Ground Boom Applications”]

Boomless Ground Applications:

- Applicators are required to use a Medium to Coarse, or coarser droplet size (ASABE S572.1) for all applications.
- Do not apply when wind speeds exceed 15 miles per hour at the application site.
- Do not apply during temperature inversions.”

[Note: The above enforceable boom-less ground-sprayer drift language is placed in the Directions for Use, in a box titled “Mandatory Spray Drift Management” under the heading “Boomless Applications”]

- The following advisory spray drift management language statements are on the foliar end-use label (S-2399 2.84 SC Fungicide; 59639-230):

“SPRAY DRIFT ADVISORIES

THE APPLICATOR IS RESPONSIBLE FOR AVOIDING OFF-SITE SPRAY DRIFT.

BE AWARE OF NEARBY NON-TARGET SITES AND ENVIRONMENTAL CONDITIONS.

IMPORTANCE OF DROPLET SIZE

An effective way to reduce spray drift is to apply large droplets. Use the largest droplets that provide target pest control. While applying larger droplets will reduce spray drift, the potential for drift will be greater if applications are made improperly or under unfavorable environmental conditions.

Controlling Droplet Size – Ground Boom

- Volume - Increasing the spray volume so that larger droplets are produced will reduce spray drift. Use the highest practical spray volume for the application. If a greater spray volume is needed, consider using a nozzle with a higher flow rate.
- Pressure - Use the lowest spray pressure recommended for the nozzle to produce the target spray volume and droplet size.
- Spray Nozzle - Use a spray nozzle that is designed for the intended application. Consider using nozzles designed to reduce drift.

BOOM HEIGHT – Ground Boom

For ground equipment, the boom should remain level with the crop and have minimal bounce.

SHIELDED SPRAYERS

Shielding the boom or individual nozzles can reduce spray drift. Consider using shielded sprayers. Verify that the shields are not interfering with the uniform deposition of the spray on the target area.

TEMPERATURE AND HUMIDITY

When making applications in hot and dry conditions, use larger droplets to reduce effects of evaporation.

TEMPERATURE INVERSIONS

Drift potential is high during a temperature inversion. Temperature inversions are characterized by increasing temperature with altitude and are common on nights with limited cloud cover and light to no wind. The presence of an inversion can be indicated by ground fog or by the movement of smoke from a ground source or an aircraft smoke generator. Smoke that layers and moves laterally in a concentrated cloud (under low wind conditions) indicates an inversion, while smoke that moves upward and rapidly dissipates indicates good

vertical air mixing. Avoid applications during temperature inversions.

WIND

Drift potential generally increases with wind speed. AVOID APPLICATIONS DURING GUSTY WIND CONDITIONS.

Applicators need to be familiar with local wind patterns and terrain that could affect spray drift.”

[Note: The above Advisory drift language should be placed in the Directions for Use, just below the Spray Drift box, under the heading “Spray Drift Advisories”]

Boomless Ground Applications:

Setting nozzles at the lowest effective height will help to reduce the potential for spray drift.”

[Note: The above Advisory boom-less ground sprayer drift language should be placed in the Directions for Use, just below the Spray Drift box, under the heading “Spray Drift Advisories”]

Handheld Technology Applications:

Take precautions to minimize spray drift.”


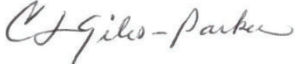
[Note: The above Advisory handheld technology drift language should be placed in the Directions for Use, just below the Spray Drift box, under the heading “Spray Drift Advisories”]

VII. SUPPORTING DOCUMENTS

All supporting documents can be found in docket ID number EPA-HQ-OPP-2018-0038 at www.regulations.gov .

Exhibit B

to Petition for Review

 <p style="text-align: center;">U.S. ENVIRONMENTAL PROTECTION AGENCY Office of Pesticide Programs Registration Division (7505P) 1200 Pennsylvania Ave., N.W. Washington, D.C. 20460</p> <p style="text-align: center;">NOTICE OF PESTICIDE: <input checked="" type="checkbox"/> Registration <input type="checkbox"/> Reregistration (under FIFRA, as amended)</p>	<p>EPA Reg. Number: 59639-230</p>	<p>Date of Issuance: 8/31/20</p>
	<p>Term of Issuance: Unconditional</p>	
	<p>Name of Pesticide Product: S-2399 2.84 SC Fungicide</p>	
<p>Name and Address of Registrant (include ZIP Code): Valent U.S.A., LLC 4600 Norris Canyon Road San Ramon, CA 94583-0975</p>		
<p>Note: Changes in labeling differing in substance from that accepted in connection with this registration must be submitted to and accepted by the Registration Division prior to use of the label in commerce. In any correspondence on this product always refer to the above EPA registration number.</p>		
<p>On the basis of information furnished by the registrant, the above named pesticide is hereby registered under the Federal Insecticide, Fungicide and Rodenticide Act.</p> <p>Registration is in no way to be construed as an endorsement or recommendation of this product by the Agency. In order to protect health and the environment, the Administrator, on his motion, may at any time suspend or cancel the registration of a pesticide in accordance with the Act. The acceptance of any name in connection with the registration of a product under this Act is not to be construed as giving the registrant a right to exclusive use of the name or to its use if it has been covered by others.</p> <p>This product is unconditionally registered in accordance with FIFRA section 3(c)(5) provided that you:</p> <ol style="list-style-type: none"> 1. Submit and/or cite all data required for registration/reregistration/registration review of your product when the Agency requires all registrants of similar products to submit such data. 2. Make the following label changes before you release the product for shipment: <ul style="list-style-type: none"> • Revise the EPA Registration Number to read, "EPA Reg. No. 59639-230." 		
<p>Signature of Approving Official:</p>  <p>Cynthia L. Giles-Parker, Chief Fungicide Branch Registration Division (7505P)</p>	<p>Date: 8/31/20</p>	

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Decision No. 535770

3. Submit one copy of the revised final printed label for the record before you release the product for shipment.

Should you wish to add/retain a reference to the company's website on your label, then please be aware that the website becomes labeling under the Federal Insecticide Fungicide and Rodenticide Act and is subject to review by the Agency. If the website is false or misleading, the product would be misbranded and unlawful to sell or distribute under FIFRA section 12(a)(1)(E). 40 CFR 156.10(a)(5) list examples of statements EPA may consider false or misleading. In addition, regardless of whether a website is referenced on your product's label, claims made on the website may not substantially differ from those claims approved through the registration process. Therefore, should the Agency find or if it is brought to our attention that a website contains false or misleading statements or claims substantially differing from the EPA approved registration, the website will be referred to the EPA's Office of Enforcement and Compliance.

If these conditions are not complied with, the registration will be subject to cancellation in accordance with FIFRA section 6. Your release for shipment of the product constitutes acceptance of these conditions. A stamped copy of the label is enclosed for your records. Please also note that the record for this product currently contains the following CSFs:

- Basic CSF dated 08/18/2017
- Alternate CSF 1 dated 08/19/2017

If you have any questions, please contact Heather A. Garvie by phone at 703-308-0034 or via email at garvie.heather@epa.gov.

Enclosure – “accepted” label



INPYRFLUXAM	GROUP	7	FUNGICIDE
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<p>ACCEPTED</p> <p>08/31/2020</p> <p>Under the Federal Insecticide, Fungicide and Rodenticide Act as amended, for the pesticide registered under EPA Reg. No. 59639-230</p>

[Bracketed text is optional]
[Bracketed *Italicized* text is a note to reviewer]

S-2399 2.84 SC Fungicide

FOR CONTROL OF CERTAIN DISEASES IN APPLE, CORN (FIELD, POP AND SWEET), PEANUT, SOYBEAN AND SUGAR BEET

An INDIFLIN® brand

Active Ingredient	By Wt
Inpyrfluxam*	31.25%
Other Ingredients	<u>68.75%</u>
Total	100.00%

*3-(difluoromethyl)-N-[(R)-2,3-dihydro-1,1,3-trimethyl-1H-inden-4-yl]-1-methyl-1H-pyrazole-4-carboxamide

S-2399 2.84 SC Fungicide is a suspension concentrate containing 2.84 lb active ingredient per gallon.

KEEP OUT OF REACH OF CHILDREN

CAUTION

[SEE NEXT [PAGE][PANEL] FOR ADDITIONAL PRECAUTIONARY STATEMENTS.]

NET CONTENT ____

ALWAYS MIX PRODUCT THOROUGHLY BEFORE USE.

EPA Reg. No. 59639-EGN
EPA Est. _____

FIRST AID	
If swallowed:	<ul style="list-style-type: none"> • Call a poison control center or doctor immediately for treatment advice. • Have person sip a glass of water if able to swallow. • Do not induce vomiting unless told to do so by the poison control center or doctor. • Do not give anything by mouth to an unconscious person.
HOT LINE NUMBER	
Have the product container or label with you when calling a poison control center or doctor, or going for treatment. You may also contact 800-892-0099 for emergency medical treatment information.	

PRECAUTIONARY STATEMENTS HAZARDS TO HUMANS & DOMESTIC ANIMALS

CAUTION

Harmful if swallowed. Wash thoroughly with soap and water after handling and before eating, drinking, chewing gum, using tobacco, or using the toilet.

PERSONAL PROTECTIVE EQUIPMENT (PPE)

Applicators and other handlers must wear: long-sleeved shirt and long pants, chemical-resistant gloves made of any waterproof material (barrier laminate, butyl rubber \geq 14 mils, nitrile rubber \geq 14 mils, neoprene rubber \geq 14 mils, or viton \geq 14 mils), socks and shoes.

Follow the manufacturer's instructions for cleaning/maintaining PPE. If no such instructions for washables exist, use detergent and hot water. Keep and wash PPE separately from other laundry.

Engineering controls: When handlers use closed systems, enclosed cabs, or aircraft in a manner that meets the requirements listed in the Worker Protection Standard (WPS) for agricultural pesticides (40 CFR 170.240(d)(4-6)), the handler PPE requirements may be reduced or modified as specified in the WPS.

USER SAFETY RECOMMENDATIONS

Users should:

- Remove clothing/PPE immediately if pesticide gets inside. Then wash thoroughly and put on clean clothing.
- Remove PPE immediately after handling this product. Wash the outside of gloves before removing. As soon as possible, wash thoroughly and change into clean clothing.

ENVIRONMENTAL HAZARDS

This pesticide is toxic to fish and aquatic invertebrates. Do not apply directly to water, or to areas where surface water is present or to intertidal areas below the mean high water mark. Drift and runoff from treated areas may be hazardous to aquatic organisms in water adjacent to treated areas. Do not contaminate water by disposing of equipment washwaters or rinsate.

DIRECTIONS FOR USE

It is a violation of Federal law to use this product in a manner inconsistent with its labeling.

READ ENTIRE LABEL. USE STRICTLY IN ACCORDANCE WITH PRECAUTIONARY STATEMENTS AND DIRECTIONS, AND WITH APPLICABLE STATE AND FEDERAL REGULATIONS.

Do not apply this product in a way that will contact workers or other persons, either directly or through drift. Only protected handlers may be in the area during application. For any requirements specific to your State or Tribe, consult the agency responsible for pesticide regulation.

AGRICULTURAL USE REQUIREMENTS

Use this product only in accordance with its labeling and with the Worker Protection Standard (WPS), 40 CFR part 170. This Standard contains requirements for the protection of agricultural workers on farms, forests, nurseries, and greenhouses and handlers of agricultural pesticides. It contains requirements for training, decontamination, notification and emergency assistance. It also contains specific instructions and exceptions pertaining to the statements on this label about personal protective equipment (PPE) and restricted-entry interval (REI). The requirements in this box only apply to uses of this product that are covered by the Worker Protection Standard.

Do not enter or allow worker entry into treated areas during the restricted-entry interval (REI) 12 hours.

If product is drenched or soil-injected, workers may enter the area at any time if there will be no contact with anything that has been treated.

PPE required for early entry to treated areas that is permitted under the Worker Protection Standard and that involves contact with anything that has been treated, such as plants, soil or water, is: coveralls, chemical resistant gloves made of any waterproof material, shoes plus socks.

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PRODUCT INFORMATION

The active ingredient in *S-2399 2.84 SC Fungicide* is inpyrfluxam. *S-2399 2.84 SC Fungicide* is systemic and is quickly absorbed into plant tissue, providing translaminar activity and movement upward, but not downward in the plant.

S-2399 2.84 SC Fungicide is a protectant and must be applied prior to infection for best control of disease. Optimal disease control is achieved when *S-2399 2.84 SC Fungicide* is applied in a regularly scheduled spray program in rotation with other effective fungicides that have different modes of action (i.e., non-FRAC Group 7 fungicides).

RESTRICTIONS AND LIMITATIONS

- Do not apply to greenhouse food crops.
- Not for residential use.
- Do not apply this product by aerial application.

PRECAUTIONS

- It is the responsibility of the applicator to ensure that spray drift does not occur from the application site. The interaction of many equipment and weather related factors determine the potential for spray drift. The applicator is responsible for considering all of these factors when making decisions. Where states have more stringent regulations, they must be followed.

MODE OF ACTION

The active ingredient in *S-2399 2.84 SC Fungicide*, inpyrfluxam, belongs to the FRAC Group 7, the succinate dehydrogenase inhibitor (SDHI) group of fungicides. As with other Group 7 fungicides, inpyrfluxam acts by inhibiting succinate dehydrogenase, a key enzyme in the fungal respiration chain.

RESISTANCE MANAGEMENT

S-2399 2.84 SC Fungicide and other FRAC Group 7 fungicides, which have a specific mode of action, may become less effective over time if used excessively; frequent use of these products can lead to buildup of resistance in targeted fungal pathogens. Resistance management should be practiced to help delay the emergence of pathogen strains that are insensitive to Group 7 fungicides and to maintain effectiveness of inpyrfluxam and other SDHI fungicides.

To delay fungicide resistance, take one or more of the following steps:

- **Total number of applications:** Refer to Table 1 Food Crop Use Pattern Summary for application rates and frequency of *S-2399 2.84 SC Fungicide* per year. If using *S-2399 2.84 SC Fungicide* in a program with other SDHI fungicides, each application of *S-2399 2.84 SC Fungicide* applies to the yearly limit of the other SDHI products in that program. Do not make more than 2 sequential applications of *S-2399 2.84 SC Fungicide* unless otherwise indicated in the use directions. Alternate ***S-2399 2.84 SC Fungicide*** with an effective, registered fungicide having a different mode of action (not in FRAC Group 7).
- **Tank Mixtures:** When tank mixing use an effective fungicide with a different mode of action (not in FRAC Group 7) that is registered for the same use and that is effective against the pathogens of concern. Use at least the minimum labeled rates of each fungicide in the tank mix.

- **Integrated Pest Management (IPM):** Integrate S-2399 2.84 SC Fungicide into an overall disease and pest management program. Follow cultural practices known to reduce disease development such as crop rotation and planting of resistant varieties. Scouting, historical information related to pesticide use, understanding impact of environmental conditions on disease development, disease thresholds, biological and other chemical control practices, and advisory (disease forecasting programs) are additional components of IPM programs that can help manage fungicide resistance development. Consult your local Extension specialist, Certified Crop Advisor and/or Valent representative for additional IPM strategies established for your area.
- **Monitoring:** Monitor efficacy of all fungicides used in the disease management program against the targeted pathogen and record other factors that may influence fungicide performance and/or disease development.
- **Reporting:** If a FRAC Group 7 fungicide appears to be less effective or no longer effective against a pathogen that it previously controlled or suppressed, contact a Valent representative, local extension specialist or certified crop advisor to assist in determining the cause of reduced performance.

RAINFASTNESS

S-2399 2.84 SC Fungicide is rainfast 2 hours after application. Applications must not be made if measurable rain is expected within 2 hours of application or disease control may be reduced.

JAR TEST TO DETERMINE COMPATIBILITY OF ADJUVANTS AND S-2399 2.84 SC FUNGICIDE

Perform a jar test before mixing commercial quantities of S-2399 2.84 SC Fungicide, when using S-2399 2.84 SC Fungicide for the first time, when using new adjuvants, when using new tank mixes, or when using a new water source. When an adjuvant is to be used with this product, Valent recommends the use of a Chemical Producers and Distributors Association certified adjuvant.

1. Add 1 pint of water to a quart jar. Use water from the same source and temperature as water that will be used in the spray tank mixing operation.
2. Add 1.5 mL of S-2399 2.84 SC Fungicide to the quart jar and gently mix until product goes into suspension.
3. Add 1 mL of new adjuvant and/or appropriate amount of new tank mix partner and gently mix.
4. Place cap on jar, invert 10 times, let stand for 15 minutes, evaluate.
5. An acceptable tank mix combination will have a smooth, uniform appearance. If any of the following conditions are observed, the choice of spray mix components should be questioned:
 - a) Layer of oil or globules on the mixture's surface.
 - b) Flocculation: fine particles in suspension or as a layer on the bottom of the jar.
 - c) Clabbering: thickening texture (coagulated) like gelatin.

APPLICATION INSTRUCTIONS

SPRAYER PREPARATION

Before applying S-2399 2.84 SC Fungicide, start with clean, well maintained application equipment. The spray tank hoses and booms must be cleaned to ensure no residue from previous spraying operations remain in the sprayer. Clean the spray equipment according to the manufacturer's directions for the last product used before the equipment is used to apply S-2399 2.84 SC Fungicide. If two or more products were tank mixed prior to S-2399 2.84 SC Fungicide application, follow the most restrictive cleanup procedure.

It is the pesticide user's responsibility to ensure that all products are registered for the intended use. Read and follow the applicable restrictions and limitations and directions for use on all product labels involved in tank mixing. Users must follow the most restrictive directions for use and precautionary statements of each product in the tank mixture.

MIXING INSTRUCTIONS

1. Fill clean spray tank 1/2 to 2/3 of desired level with clean water.
2. While agitating, slowly add the S-2399 2.84 SC Fungicide to the tank. Adequate agitation will create a rippling or rolling action on the water surface.
3. If tank mixing S-2399 2.84 SC Fungicide with other labeled pesticides, add water soluble bags first, followed by dry formulations, flowables, emulsifiable concentrates and then solutions.
4. Add any required adjuvants.
5. Fill tank to desired level with water. Continue to agitate until all spray solution has been used or applied.
6. Mix only the amount of spray solution that can be applied the day of mixing. Apply S-2399 2.84 SC Fungicide within 24 hours of mixing.

SPRAYER CLEANUP

Clean spray equipment each day following S-2399 2.84 SC Fungicide application. After application is complete, use the following steps to clean the spray equipment:

1. Completely drain the spray tank, rinse the sprayer thoroughly, including the inside and outside of the tank and all in-line screens.
2. Fill the spray tank with clean water and flush all hoses, booms, screens and nozzles.
3. Drain tank completely.
4. Remove all nozzles and screens and rinse them in clean water.

APPLICATION EQUIPMENT

Use application equipment that is clean and in good repair. Frequently check nozzles for accuracy.

CARRIER VOLUME

Use sufficient water volume to provide thorough and uniform coverage to obtain the most effective disease control.

Ground Application

For ground application, use a minimum of 50 gallons of water per acre for tree crops and 10 gallons of water per acre for field and vegetable crops.

In-furrow

Make one soil application (spray and/or dribble) at planting in sufficient carrier volume (minimum of 3 gallons) to insure uniform distribution in the furrow with the planting equipment. Ensure that spray and/or dribble is directed into the furrow where seeds are being placed during planting.

Air-Blast Application

For air-assisted or air-blast sprayers that move spray droplets into the crop canopy using a forced-air system, set the fan to deliver only enough air volume to penetrate the canopy and provide through coverage. Adjust deflectors or other aiming devices to direct spray only to the target area. Equip sprayer with nozzles that provide accurate and uniform application.

IN-FURROW

Direct spray pattern in the furrow to the seed piece prior to being covered by soil.

CHEMIGATION (SPRINKLER IRRIGATION)

For chemigation applications apply this product only through center pivot, solid set, hand move systems. Do not apply this product through any other type of irrigation system.

Crop injury, lack of efficacy or illegal pesticide residues in the crop can result from non-uniform distribution of treated water.

The system must be properly calibrated (with water only) to ensure that the amount of S-2399 2.84 SC Fungicide applied corresponds to the required rate on this label for the crop being chemigated.

Apply S-2399 2.84 SC Fungicide in 1/2 to 3/4 inches of water during the first sprinkler set. Allow time for all lines to flush the fungicide through all nozzles before turning off irrigation water. To ensure the lines are flushed and free of remaining fungicide, a dye indicator may be injected into the lines to mark the end of the application period.

If you have any questions about calibration, contact your State Extension Specialist, equipment manufacturers or other experts.

Directions for Chemigation

1. Do not connect an irrigation system used for pesticide application to a public water system unless the pesticide label-prescribed safety devices for public water systems are in place.
2. A person knowledgeable of the chemigation system and responsible for its operation or those under the supervision of that person shall shut the system down and make necessary adjustments.
3. The system must be free of leaks and clogged nozzles.
4. The pesticide must be supplied continuously for the duration of the aqueous application. An uneven application may cause injury to the crop or poor control.
5. Agitation must be maintained in the nurse tank.
6. The sprinkler chemigation system must contain a functional check valve, vacuum relief valve and low pressure drain appropriately located on the irrigation pipeline to prevent water source contamination from backflow.
7. The pesticide injection pipeline must contain a functional, automatic, quick closing check valve to prevent the flow of fluid back toward the injection pump.
8. The pesticide injection pipeline must contain a functional, normally closed, solenoid operated valve located on the intake side of the injection pump and connected to the system interlock to prevent fluid from being withdrawn from the supply tank when the irrigation system is either automatically or manually shut down.
9. The system must contain functional interlocking controls to automatically shut off the pesticide injection pump when the water pump motor stops, or in the case where there is no water pump, when the water pressure decreases to the point where pesticide distribution is adversely affected.
10. The irrigation line or water pump must include a functional pressure switch which will stop the water pump motor when the water pressure decreases to the point where pesticide distribution is adversely affected.
11. Systems must use a metering pump, such as a positive displacement injection pump (e.g., diaphragm pump), effectively designed and constructed of materials that are compatible with the pesticides being used and capable of being fitted with a system interlock.
12. Do not apply when wind speed favors drift beyond the area intended for treatment.

Chemigation Systems Connected to Public Water Systems

1. Public water system means a system for the provision to the public of piped water for human consumption, if such a system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year.
2. Chemigation systems connected to the public water system must contain a functional, reduced pressure zone (RPZ), backflow preventer or the functional equivalent in the water supply line upstream from the point of pesticide introduction. As an option to the RPZ, discharge the water from the public water system into a reservoir tank prior to pesticide introduction. There shall be a complete physical break (air gap) between the outlet end of the fill pipe and the top overflow rim of the reservoir tank of at least twice the inside diameter of the fill pipe.
3. All chemigation systems connected to the public water system must also follow restrictions listed in the preceding section titled "Directions for Chemigation".

MANDATORY SPRAY DRIFT MANAGEMENT

Airblast Applications:

- Sprays must be directed into the canopy.
- Do not apply when wind speeds exceed 15 miles per hour at the application site.
- User must turn off outward pointing nozzles at row ends and when spraying outer row.
- Do not apply during temperature inversions.

Ground Boom Applications:

- User must only apply with the release height recommended by the manufacturer, but no more than 4 feet above the ground or crop canopy, and have minimal bounce.
- Applicators are required to use a Medium to Coarse, or coarser droplet size (ASABE S572.1).
- Do not apply when wind speeds exceed 15 miles per hour at the application site.
- Do not apply during temperature inversions.

Boomless Ground Applications:

- Applicators are required to use a Medium to Coarse, or coarser droplet size (ASABE S572.1) for all applications.
- Do not apply when wind speeds exceed 15 miles per hour at the application site.
- Do not apply during temperature inversions.

SPRAY DRIFT ADVISORIES

THE APPLICATOR IS RESPONSIBLE FOR AVOIDING OFF-SITE SPRAY DRIFT.
BE AWARE OF NEARBY NON-TARGET SITES AND ENVIRONMENTAL CONDITIONS.

IMPORTANCE OF DROPLET SIZE

An effective way to reduce spray drift is to apply large droplets. Use the largest droplets that provide target pest control. While applying larger droplets will reduce spray drift, the potential for drift will be greater if applications are made improperly or under unfavorable environmental conditions.

Controlling Droplet Size – Ground Boom

- Volume - Increasing the spray volume so that larger droplets are produced will reduce spray drift. Use the highest practical spray volume for the application. If a greater spray volume is needed, consider using a nozzle with a higher flow rate.
- Pressure - Use the lowest spray pressure recommended for the nozzle to produce the target spray volume and droplet size.
- Spray Nozzle - Use a spray nozzle that is designed for the intended application. Consider using nozzles designed to reduce drift.

BOOM HEIGHT – Ground Boom

For ground equipment, the boom should remain level with the crop and have minimal bounce.

SHIELDED SPRAYERS

Shielding the boom or individual nozzles can reduce spray drift. Consider using shielded sprayers. Verify that the shields are not interfering with the uniform deposition of the spray on the target area.

TEMPERATURE AND HUMIDITY

When making applications in hot and dry conditions, use larger droplets to reduce effects of evaporation.

TEMPERATURE INVERSIONS

Drift potential is high during a temperature inversion. Temperature inversions are characterized by increasing temperature with altitude and are common on nights with limited cloud cover and light to no wind. The presence of an inversion can be indicated by ground fog or by the movement of smoke from a ground source or an aircraft smoke generator. Smoke that layers and moves laterally in a concentrated cloud (under low wind conditions) indicates an inversion, while smoke that moves upward and rapidly dissipates indicates good vertical air mixing. Avoid applications during temperature inversions.

WIND

Drift potential generally increases with wind speed. **AVOID APPLICATIONS DURING GUSTY WIND CONDITIONS.**

Applicators need to be familiar with local wind patterns and terrain that could affect spray drift.

Boomless Ground Applications:

Setting nozzles at the lowest effective height will help to reduce the potential for spray drift.

Handheld Technology Applications:

Take precautions to minimize spray drift.

ROTATIONAL CROP RESTRICTIONS

The following rotational crops may be planted after applying S-2399 2.84 SC Fungicide at the labeled rate. Planting earlier than the labeled rotational interval is prohibited.

CROPS	ROTATIONAL INTERVAL
Apple Corn (Field, Pop and Sweet) Peanut Rice Soybean Sugar Beet	Immediately
All Other Crops	9 months

Table 1. Food Crop Use Pattern Summary

Crops	Minimum Time from Application to Harvest (PHI)	Maximum Rate per Acre per Application (fl oz/A)	Maximum Number of Sequential Applications	Maximum Number of Applications per Year	Minimum Intervals Between Applications (Days)	Maximum Rate per Acre per Year (fl oz/A)	Livestock Grazing or Feeding Restriction
Apple	Petal fall	4 (0.089 lb ai/A)	NA	2	10	8 (0.178 lb ai/A)	No
Corn (Field, Pop and Sweet)	N/A	2 (0.044 lb ai/A)	NA	1	NA	2 (0.044 lb ai/A)	No
Peanut	40 days	4 (0.089 lb ai/A)	4	4	14	8 (0.178 lb ai/A)	No
Soybean	R5	2 (0.044 lb ai/A)	2	2	14	4 (0.089 lb ai/A)	Yes
Sugar Beet (broadcast application)	50 days	2 (0.044 lb ai/A)	2	2	21	4 (0.089 lb ai/A)	No
Sugar Beet (banded application)	50 days	2 (0.044 lb ai/A)	N/A	1	N/A	2 (0.044 lb ai/A)	No

SPECIFIC REQUIREMENTS – All Crops

When to Apply: Begin application when crop and/or environmental conditions favor disease development. Under severe disease pressure or if rain is expected, use the higher labeled rate and shortest interval. To ensure thorough coverage, apply in sufficient water as directed in the crop specific use instructions. Chemigation is not recommended for foliar diseases.

Resistance Management: S-2399 2.84 SC Fungicide must be used as part of an Integrated Pest Management (IPM) program. When tank mixing is required in the crop specific use instructions, use with another labeled fungicide product with a different mode of action on the target pathogen in sufficient water to obtain thorough coverage.

See Table 1. Food Crop Use Pattern Summary for application parameters.

Apple			
Diseases	Application Rates		When to Apply
	fl oz/A	GPA (minimum)	
Apple Scab <i>Venturia inaequalis</i> <i>Spilocaea pomi</i>	2 to 4 (0.044 - 0.089 lb ai/A)	Ground: 100	Make applications from green tip through petal fall. Do not apply earlier than green tip.
Powdery Mildew <i>Podosphaera Leucotricha</i>			
Cedar Apple Rust[*] <i>Gymnosporangium juniperi-virginianae</i>			
Quince Rust[*] <i>Gymnosporangium clavipes</i>			
<p>USE INSTRUCTIONS Retreatment interval: 10 days.</p> <p>For powdery mildew: application must include an adjuvant at the recommended dose.</p> <p>This product may impact quality of surface water due to runoff after rainfall. Runoff potential of S-2399 2.84 SC Fungicide will be reduced by implementation of level and properly maintained vegetative buffer strips between treated areas and surface water sources (ponds, lakes, springs, streams, rivers).</p>			
<p>RESTRICTIONS</p> <ul style="list-style-type: none"> • Do not make more than 2 applications of S-2399 2.84 SC Fungicide per year. • Do not apply more than 8 fl oz/A (0.178 lb ai/A) of S-2399 2.84 SC Fungicide per year. • PHI: Do not apply after Petal Fall. • Do not apply with crop oil concentrate. • Do not apply this product within 50 feet of any freshwater lake, pond, river, stream, or wetland. • Do not apply this product by aerial application. 			

[*Not for use in California.]

Corn (Field, Pop and Sweet) [(Do not use on corn in California)]			
Disease	Application Rate		When to Apply
	fl oz/A	GPA (minimum)	
Rhizoctonia Root Rot and Stalk Rot <i>Rhizoctonia solani</i> , <i>R. zeae</i>	2 (0.044 lb ai/A)	3	Make application in-furrow at planting.
<p>USE INSTRUCTIONS Not compatible with liquid fertilizer.</p> <p>It is acceptable to apply S-2399 2.84 SC Fungicide following the use of S-2399 3.2 FS Fungicide, also containing inpyrfluxam, as a seed treatment.</p>			
<p>RESTRICTIONS</p> <ul style="list-style-type: none"> Do not apply more than 2 fl oz/A (0.044 lb ai/A) of S-2399 2.84 SC Fungicide per year. Do not make more than 1 application of S-2399 2.84 SC Fungicide per year. 			

Peanut [(Do not use on peanuts in California)]			
Diseases	Application Rates		When to Apply
	fl oz/A	GPA (minimum)	
Rhizoctonia Foliar Blight, Peg and Root Rot <i>Rhizoctonia solani</i> Sclerotinia Blight <i>Sclerotinia minor</i> , <i>S. sclerotiorum</i> Southern Blight, Southern Stem Rot, White Mold <i>Sclerotium rolfsii</i> Early Leaf Spot (suppression only) <i>Cercospora arachidicola</i> Late Leaf Spot (suppression only) <i>Cercosporidium personatum</i>	2 to 4 (0.044 - 0.089 lb ai/A)	Ground: 10	Apply prior to disease development. Do not apply earlier than 30 days after planting.
USE INSTRUCTIONS Use higher specified rate and shorter specified interval when disease pressure is heavy. For leaf spot control, S-2399 2.84 SC Fungicide must be tank mixed with a labeled rate of another fungicide active against the target pathogen but with a different mode of action. Retreatment interval: 14 to 28 days. This product may impact quality of surface water due to runoff after rainfall. Runoff potential of S-2399 2.84 SC Fungicide will be reduced by implementation of level and properly maintained vegetative buffer strips between treated areas and surface water sources (ponds, lakes, springs, streams, rivers).			
RESTRICTIONS <ul style="list-style-type: none"> • Apply up to 4 applications of S-2399 2.84 SC Fungicide per year provided that the yearly rate does not exceed 8 fl oz/A (0.178 lb ai/A). • Do not apply this product within 50 feet of any freshwater lake, pond, river, stream, or wetland. • PHI: 40 days. • Do not apply this product by aerial application. 			

Soybean [(Do not use on soybeans in California)]			
Diseases	Application Rates		When to Apply
	fl oz/A	GPA (minimum)	
Rhizoctonia Aerial Blight <i>Rhizoctonia solani</i> (<i>Thanatephorus cucumeris</i>) Asian Soybean Rust <i>Phakopsora pachyrhizi</i>	2 (0.044 lb ai/A)	Ground: 10	Make application prior to disease development.
USE INSTRUCTIONS Retreatment interval: 14 days. It is acceptable to apply S-2399 2.84 SC Fungicide following the use of S-2399 3.2 FS Fungicide, also containing inpyrfluxam, as a seed treatment.			
RESTRICTIONS <ul style="list-style-type: none"> • Do not make more than 2 applications of S-2399 2.84 SC Fungicide per year. • Do not apply more than 4 fl oz/A (0.089lb ai/A) of S-2399 2.84 SC Fungicide per year for foliar applications. • Regardless of application method, do not apply more than 0.19 lb active ingredient of inpyrfluxam per acre per year. • Do not apply prior to V3 or after R5. • Do not apply this product by aerial application. • Do not graze treated fields or feed treated hay to livestock. 			

Sugar Beet [(Do not use on sugar beets in California)]			
Broadcast Applications			
Diseases	Application Rates		When to Apply
	fl oz/A	GPA (minimum)	
Rhizoctonia Foliar Blight, Crown and Root Rot <i>Rhizoctonia solani</i>	2 (0.044 lb ai/A)	Ground: 10	2 to 8 leaf stage
USE INSTRUCTIONS			
Make up to 2 applications at 2 fl oz/A of S-2399 2.84 SC Fungicide.			
Retreatment interval: 21 days			
It is acceptable to apply S-2399 2.84 SC Fungicide following the use of S-2399 3.2 FS Fungicide, also containing inpyrfluxam, as a seed treatment.			
RESTRICTIONS			
<ul style="list-style-type: none"> • Do not make more than 2 applications of S-2399 2.84 SC Fungicide per year. • Do not apply more than 4 fl oz/A (0.089 lb ai/A) of S-2399 2.84 SC Fungicide per year. • PHI: 50 days 			
Banded Application			
Diseases	When to Apply	Special Use Instructions	
Rhizoctonia Foliar Blight, Crown and Root Rot <i>Rhizoctonia solani</i>	2 to 8 leaf stage	Apply in a 6 to 7 inch band over the crop row. Refer to chart below for conversion from product amount per acre to product amount per 1000 row-feet. It is acceptable to apply S-2399 2.84 SC Fungicide following the use of S-2399 3.2 FS Fungicide, also containing inpyrfluxam, as a seed treatment.	
RESTRICTIONS			
<ul style="list-style-type: none"> • Do not make more than 1 application of S-2399 2.84 SC Fungicide per year. • Do not apply more than 2 fl oz/A (0.044 lb ai/A) of S-2399 2.84 SC Fungicide per year. • Do not apply as a dribble application over the seed row. • PHI: 50 days 			
Banded Application (6 to 7 inch band width)			
Equivalent Broadcast Application Rate (fl oz/A)		2	
Banded Application Rate (fl oz/1000 row-feet)		0.023 to 0.027	

STORAGE AND DISPOSAL

Do not contaminate water, food, or feed by storage or disposal.

STORAGE

Keep pesticide in original container.

Do not put concentrate or dilute into food or drink containers.

Store in a cool dry place.

Do not store or transport near feed or food.

Do not store at temperature below 32°F. If the product is exposed to temperatures below 32°F, thaw at 50°F or higher and shake gently to unify the product.

For help with any spill, leak, fire or exposure involving this material, call day or night 800-892-0099.

PESTICIDE DISPOSAL

Waste resulting from the use of this product must be disposed of on site or at an approved waste disposal facility.

CONTAINER HANDLING

[Use the following statement for containers equal to or less than 5 gallon]

Nonrefillable container. Do not reuse or refill this container. Clean container promptly after emptying. Triple rinse as follows: Empty the remaining contents into application equipment or a mix tank and drain for 10 seconds after the flow begins to drip. Fill the container 1/4 full with water and recap. Shake for 10 seconds. Pour rinsate into application equipment or a mix tank or store rinsate for later use or disposal. Drain for 10 seconds after the flow begins to drip. Repeat this procedure two more times. Then offer for recycling if available or puncture and dispose of in a sanitary landfill, or by other procedures allowed by State and local authorities.

[Use the following statement for rigid nonrefillable/greater than 5 gallon or 50 pound containers]

[Nonrefillable container. Do not reuse or refill this container. Clean container promptly after emptying. Triple rinse as follows: Empty the remaining contents into application equipment or a mix tank. Fill the container 1/4 full with water. Replace and tighten closures. Tip container on its side and roll it back and forth, ensuring at least one complete revolution, for 30 seconds. Stand the container on its end and tip it back and forth several times. Turn the container over onto its other end and tip it back and forth several times. Empty the rinsate into application equipment or a mix tank or store rinsate for later use or disposal. Repeat this procedure two more times. Offer for recycling, if available; otherwise dispose of in a sanitary landfill or by other procedures allowed by State and local authorities.]

RECYCLING

Once cleaned, some agricultural plastic pesticide containers can be taken to a container collection site or picked up for recycling. To find the nearest site, contact your chemical dealer or manufacturer, or contact the Ag Container Recycling Council (ACRC) at 877-952-2272 (toll free) or www.acrecycle.org.

**DISCLAIMER, RISKS OF USING THIS PRODUCT,
LIMITED WARRANTY
AND LIMITATION OF LIABILITY**

IMPORTANT: Read the entire Label including this Disclaimer, Risks of Using this Product, Limited Warranty, and Limitation of Liability before using this product. If the terms are not acceptable THEN DO NOT USE THE PRODUCT; rather, return the unopened product within 15 days of purchase for a refund of the purchase price.

RISKS OF USING THIS PRODUCT

The Buyer and User (referred to collectively herein as "Buyer") of this product should be aware that there are inherent unintended risks associated with the use of this product which are impossible to eliminate. These risks include, but are not limited to, injury to plants and crops to which this product is applied, lack of control of the target pests or weeds, resistance of the target pest or weeds to this product, injury caused by drift, and injury to rotational crops caused by carryover in the soil. Such risks of crop injury, non-performance, resistance or other unintended consequences are unavoidable and may result because of such factors as weather, soil conditions, disease, moisture conditions, irrigation practices, condition of the crop at the time of application, presence of other materials either applied in the tank mix with this product or prior to application of this product, cultural practices or the manner of use or application, (or a combination of such factors) all of which are factors beyond the control of Valent. The Buyer should be aware that these inherent unintended risks may reduce the harvested yield of the crop in all or a portion of the treated acreage, or otherwise affect the crop such that additional care, treatment and expense are required to take the crop to harvest. If the Buyer chooses not to accept these risks, THEN THIS PRODUCT SHOULD NOT BE APPLIED. By applying this product Buyer acknowledges and accepts these inherent unintended risks AND TO THE EXTENT CONSISTENT WITH APPLICABLE LAW AGREES THAT ALL SUCH RISKS ASSOCIATED WITH THE APPLICATION AND USE ARE ASSUMED BY THE BUYER.

Valent shall not be responsible for losses or damages (including, but not limited to, loss of yield, increased expenses of farming the crop or such incidental, consequential or special damages that may be claimed) resulting from use of this product in any manner not set forth on the label. To the extent consistent with applicable law buyer assumes all risks associated with the use of this product in any manner or under conditions not specifically directed or approved on the label.

LIMITED WARRANTY

Valent warrants only that this product conforms to the chemical description on the label and is reasonably fit for the purposes stated in the label, under average use conditions, when used strictly in accordance with the label **and subject to the Risks of Using This Product as described above. To the extent consistent with applicable law AND AS SET FORTH ABOVE, VALENT MAKES NO OTHER WARRANTIES, EITHER EXPRESSED OR IMPLIED.** No agent or representative of Valent or Seller is authorized to make or create any other express or implied warranty.

LIMITATION OF LIABILITY

To the extent consistent with applicable law Valent or Seller is not liable for any incidental, consequential, indirect or special damages resulting from the use or handling of this product. The limitation includes, but is not limited to, loss of yield on all or any portion of the treated acreage, increased care, treatment or other expenses required to take the crop to harvest, increased finance charges or altered finance ratings, emotional or mental distress and/or exemplary damages. TO THE EXTENT CONSISTENT WITH APPLICABLE LAW, THE EXCLUSIVE REMEDY OF THE BUYER, AND THE EXCLUSIVE MAXIMUM LIABILITY OF VALENT OR SELLER FOR ANY AND ALL CLAIMS, LOSSES, INJURIES OR DAMAGES (INCLUDING CLAIMS BASED ON BREACH OF WARRANTY, CONTRACT, NEGLIGENCE, TORT, STRICT LIABILITY OR OTHERWISE) RESULTING FROM THE USE OR HANDLING OF THIS PRODUCT SHALL BE THE RETURN OF THE PURCHASE PRICE OF THIS PRODUCT OR, AT THE ELECTION OF VALENT OR SELLER, THE REPLACEMENT OF THE PRODUCT.

PROMPT NOTICE OF CLAIM

To the extent consistent with applicable law allowing such requirements, Valent must be provided notice as soon as Buyer has reason to believe it may have a claim, but in no event later than twenty-one days from date of planting, or twenty-one days from the date of application, whichever is later, so that an immediate inspection of the affected property and growing crops can be made.

To the extent consistent with applicable law, if Buyer does not notify Valent of any claims, in such period, it shall be barred from obtaining any remedy.

NO AMENDMENTS

Valent and Seller offer this product, and Buyer accepts it, subject to the foregoing **Disclaimer, Risks of Using This Product, Limited Warranty** and **Limitation of Liability**, which may not be modified by any oral or written agreement.

TANK MIXES

NOTICE: Tank mixing or use of this product with any other product which is not specifically and expressly authorized by the label shall be the exclusive risk of user, applicator and/or application advisor, consistent with applicable law.

Read and follow the entire label of each product to be used in the tank mix with this product.

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INDIFLIN is a registered trademark of Sumitomo Chemical Co., Ltd.

Manufactured for:

Valent U.S.A. LLC

P.O. Box 5075

San Ramon CA 94583-0975

Made in U.S.A.



EPA Reg. No. 59639-EGN

EPA Est. _____

059639-00EGN.20200729.S2399_2.84SC.Clean

Exhibit C

to Petition for Review

 <p style="text-align: center;">U.S. ENVIRONMENTAL PROTECTION AGENCY Office of Pesticide Programs Registration Division (7505P) 1200 Pennsylvania Ave., N.W. Washington, D.C. 20460</p> <p style="text-align: center;">NOTICE OF PESTICIDE: <input checked="" type="checkbox"/> Registration <input type="checkbox"/> Reregistration (under FIFRA, as amended)</p>	<p>EPA Reg. Number: 59639-231</p>	<p>Date of Issuance: 8/31/20</p>
	<p>Term of Issuance: Unconditional</p>	
	<p>Name of Pesticide Product: S-2399 3.2 FS Fungicide</p>	
<p>Name and Address of Registrant (include ZIP Code): Valent U.S.A., LLC 4600 Norris Canyon Road San Ramon, CA 94583-0975</p>		
<p>Note: Changes in labeling differing in substance from that accepted in connection with this registration must be submitted to and accepted by the Registration Division prior to use of the label in commerce. In any correspondence on this product always refer to the above EPA registration number.</p>		
<p>On the basis of information furnished by the registrant, the above named pesticide is hereby registered under the Federal Insecticide, Fungicide and Rodenticide Act.</p> <p>Registration is in no way to be construed as an endorsement or recommendation of this product by the Agency. In order to protect health and the environment, the Administrator, on his motion, may at any time suspend or cancel the registration of a pesticide in accordance with the Act. The acceptance of any name in connection with the registration of a product under this Act is not to be construed as giving the registrant a right to exclusive use of the name or to its use if it has been covered by others.</p> <p>This product is unconditionally registered in accordance with FIFRA section 3(c)(5) provided that you:</p> <ol style="list-style-type: none"> 1. Submit and/or cite all data required for registration/reregistration/registration review of your product when the Agency requires all registrants of similar products to submit such data. 2. Make the following label changes before you release the product for shipment: <ul style="list-style-type: none"> • Revise the EPA Registration Number to read, "EPA Reg. No. 59639-231." 		
<p>Signature of Approving Official:</p>  <p>Cynthia L. Giles-Parker, Chief Fungicide Branch Registration Division (7505P)</p>	<p>Date: 8/31/20</p>	

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EPA Reg. No. 59639-231
Decision No. 535772

3. Submit one copy of the revised final printed label for the record before you release the product for shipment.

Should you wish to add/retain a reference to the company's website on your label, then please be aware that the website becomes labeling under the Federal Insecticide Fungicide and Rodenticide Act and is subject to review by the Agency. If the website is false or misleading, the product would be misbranded and unlawful to sell or distribute under FIFRA section 12(a)(1)(E). 40 CFR 156.10(a)(5) list examples of statements EPA may consider false or misleading. In addition, regardless of whether a website is referenced on your product's label, claims made on the website may not substantially differ from those claims approved through the registration process. Therefore, should the Agency find or if it is brought to our attention that a website contains false or misleading statements or claims substantially differing from the EPA approved registration, the website will be referred to the EPA's Office of Enforcement and Compliance.

If these conditions are not complied with, the registration will be subject to cancellation in accordance with FIFRA section 6. Your release for shipment of the product constitutes acceptance of these conditions. A stamped copy of the label is enclosed for your records. Please also note that the record for this product currently contains the following CSFs:

- Basic CSF dated 08/21/2017
- Alternate CSF 1 dated 08/22/2017
- Alternate CSF 2 dated 04/16/2019

If you have any questions, please contact Heather A. Garvie by phone at 703-308-0034 or via email at garvie.heather@epa.gov.

Enclosure – “accepted” label



INPYRFLUXAM	GROUP	7	FUNGICIDE
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[Bracketed text is optional]

[Bracketed *Italicized text is information for the reviewer*]**ACCEPTED**

08/31/2020

Under the Federal Insecticide, Fungicide
and Rodenticide Act as amended, for the
pesticide registered under
EPA Reg. No. 59639-231

S-2399 3.2 FS Fungicide

**A SEED TREATMENT PRODUCT PROVIDING SYSTEMIC FUNGICIDE PROTECTION
AGAINST SEED AND SEEDLING DISEASES CAUSED BY *RHIZOCTONIA* SPECIES AND
OTHER FUNGAL PATHOGENS**

An INDIFLIN® brand

Active Ingredient	By wt
Inpyrfluxam*	34.05%
Other Ingredients	<u>65.95%</u>
Total	100.00%

*3-(difluoromethyl)-*N*-[(*R*)-2,3-dihydro-1,1,3-trimethyl-1*H*-inden-4-yl]-1-methyl-1*H*-pyrazole-4-carboxamide

S-2399 3.2 FS Fungicide contains 3.2 lb active ingredient per gallon.

KEEP OUT OF REACH OF CHILDREN

CAUTION

[SEE NEXT [PAGE][PANEL] FOR ADDITIONAL PRECAUTIONARY STATEMENTS]

NET CONTENTS:

EPA Reg. No. 59639-EGR
EPA Est.

FIRST AID	
If swallowed:	<ul style="list-style-type: none"> • Call a poison control center or doctor immediately for treatment advice. • Have person sip a glass of water if able to swallow. • Do not induce vomiting unless told to do so by the poison control center or doctor. • Do not give anything by mouth to an unconscious person.
HOT LINE NUMBER	
Have the product container or label with you when calling a poison control center or doctor, or going for treatment. You may also contact 800-892-0099 for emergency medical treatment information.	

**PRECAUTIONARY STATEMENTS
HAZARDS TO HUMANS & DOMESTIC ANIMALS**

CAUTION

Harmful if swallowed. Wash thoroughly with soap and water after handling and before eating, drinking, chewing gum, using tobacco, or using the toilet.

PERSONAL PROTECTIVE EQUIPMENT (PPE)

Mixers, loaders, applicators and other handlers must wear: Long-sleeved shirt and long pants, chemical resistant gloves made of any waterproof material (barrier laminate, butyl rubber \geq 14 mils, nitrile rubber \geq 14 mils, neoprene rubber \geq 14 mils, or viton \geq 14 mils), socks and shoes.

Workers involved with handling treated seed (such as baggers, bag sewers and bag stackers must wear: long-sleeved shirt, long pants, socks and shoes.

Workers who load and plant treated seed must wear: long-sleeved shirt, long pants, socks and shoes and chemical-resistant gloves made of any waterproof material when handling treated seed.

Follow the manufacturer's instructions for cleaning/maintaining PPE. If no such instructions for washables exist, use detergent and hot water. Keep and wash PPE separately from other laundry.

USER SAFETY RECOMMENDATIONS
<p>Users should:</p> <ul style="list-style-type: none"> • Remove clothing/PPE immediately if pesticide gets inside. Then wash thoroughly and put on clean clothing. • Remove PPE immediately after handling this product. Wash the outside of gloves before removing. As soon as possible, wash thoroughly and change into clean clothing.

ENVIRONMENTAL HAZARDS:

This pesticide is toxic to fish and aquatic invertebrates. Do not apply directly to water or to areas where surface water is present or to intertidal areas below the mean high water mark. Drift and runoff from treated areas may be hazardous to aquatic organisms in water adjacent to treated areas. Do not contaminate water by disposing of equipment washwaters or rinsate.

[Note to reviewer: This language to be used for containers 50 pounds or larger.]

[Do not discharge effluent containing this product into lakes, streams, ponds, estuaries, oceans, or other waters unless in accordance with the requirements of a National Pollutant Discharge Elimination System (NPDES) permit and the permitting authority has been notified in writing prior to discharge. Do not discharge effluent containing this product to sewer systems without previously notifying the local sewage treatment plant authority. For guidance contact your State Water Board or Regional Office of the EPA.]

DIRECTIONS FOR USE

It is a violation of Federal law to use this product in a manner inconsistent with its labeling.

READ ENTIRE LABEL. USE STRICTLY IN ACCORDANCE WITH PRECAUTIONARY STATEMENTS AND DIRECTIONS AND WITH APPLICABLE STATE AND FEDERAL REGULATIONS.

Do not apply this product in a way that will contact workers or other persons, either directly or through drift. Only protected handlers may be in the area during application. For any requirements specific to your State or Tribe, consult the State or Tribal agency responsible for pesticide regulation.

AGRICULTURAL USE REQUIREMENTS

Use this product only in accordance with its labeling and with the Worker Protection Standard, 40 CFR Part 170. This Standard contains requirements for the protection of agricultural workers on farms, forests, nurseries, and greenhouses, and handlers of agricultural pesticides. It contains requirements for training, decontamination, notification, and emergency assistance. It also contains specific instructions and exceptions pertaining to the statements on this label about personal protective equipment (PPE) and restricted-entry interval. The requirements in this box only apply to uses of this product that are covered by the Worker Protection Standard.

Do not enter or allow worker entry into treated areas during the restricted entry interval (REI) of 12 hours.

Exception: Once the seeds are planted in soil, the Worker Protection Standard, under certain circumstances, allows workers to enter the treated area without restriction if there will be no worker contact with the soil subsurface or treated seed. PPE required for early entry to treated areas that is permitted under the Worker Protection Standard and that involves contact with anything that has been treated, such as plants, soil, or water, is: Coveralls, chemical-resistant gloves made of any waterproof material and shoes plus socks.

RESTRICTIONS

S-2399 3.2 FS Fungicide must be used only in accordance with use instructions on this label utilizing mechanical, slurry, or mist-type seed treating equipment, provided that the equipment can be calibrated to accurately and uniformly apply the product to seed. This product is for both commercial and on-farm application, and not for residential use. Do not use planter box or hopper box when applying product to seeds. Always mix product thoroughly before use.

As stated by regulations specified in 40 CFR 153.155, all seed treated with S-2399 3.2 FS Fungicide must be colored with an EPA-approved dye or colorant to visually distinguish seed that is treated with a pesticide. It is mandatory that such dye or colorant be added into the slurry mixture containing S-2399 3.2 FS Fungicide prior to application. This regulation is necessary to prevent treated seed from accidental use as a food for man or feed for animals.

MODE OF ACTION

The active ingredient in S-2399 3.2 FS Fungicide, inpyrfluxam, belongs to the FRAC Group 7, the succinate dehydrogenase inhibitor (SDHI) group of fungicides. As with other Group 7 fungicides, inpyrfluxam acts by inhibiting succinate dehydrogenase, a key enzyme in the fungal respiration chain.

RESISTANCE MANAGEMENT

For resistance management, please note that **S-2399 3.2 FS Fungicide** contains a **Group 7** fungicide. Any fungal population may contain individuals naturally resistant to **S-2399 3.2 FS Fungicide** and other **Group 7** fungicides. A gradual or total loss of pest control may occur over time if these fungicides are used repeatedly in the same fields. Appropriate resistance-management strategies are to be followed.

Seed treatments of **S-2399 3.2 FS Fungicide** can be followed by foliar use fungicides containing the same modes of action in accordance with resistance management guidelines as specified on the respective labels.

To delay fungicide resistance, take one or more of the following steps:

- Rotate the use of **S-2399 3.2 FS Fungicide** or other **Group 7** fungicides with different groups that control the same pathogens.
- Use tank mixtures with fungicides from a different group that are equally effective on the target pest when such use is permitted. Use at least the minimum application rate as labeled by the manufacturer.
- Adopt an integrated disease management program for fungicide use that includes scouting, uses historical information related to pesticide use, and crop rotation, and which considers host plant resistance, impact of environmental conditions on disease development, disease thresholds, as well as cultural, biological and other chemical control practices.
- Where possible, make use of predictive disease models to effectively plan fungicide applications. Note that using predictive models alone is not enough to manage resistance.
- Monitor treated fungal populations for resistance development.

- Contact your local extension specialist or certified crop advisor for any additional pesticide resistance management and/or IPM recommendations for specific crop and pathogens.
- For further information or to report suspected resistance contact **Valent** at 1800-6-VALENT (800-682-5368). You can also contact your pesticide distributor or university extension specialist to report resistance. Valent encourages responsible product stewardship to ensure effective long-term control of the fungal diseases on this label.

SEED QUALITY AND STORAGE OF TREATED SEED

Seed treatments applied to low vigor or poor quality seed or to mechanically damaged seed may result in loss of seed germination or reduced seedling vigor. To verify seed safety, treat a small portion of seed with the desired slurry mixture (S-2399 3.2 FS Fungicide alone or in combination with other commercial seed treatment products) prior to treatment of an entire seed lot. Utilize standard seed germination methodologies to determine and verify seed safety. Use proper storage conditions for treated seed. Due to seed quality and seed storage conditions beyond the control of Valent U.S.A. LLC, no claims are made to guarantee the germination of carry-over treated seed.

SEED BAG TAG REQUIREMENTS

The Federal Seed Act requires that the container or bag containing treated seed be labeled or tagged with the following information:

- This seed has been treated with S-2399 3.2 FS Fungicide containing inpyrfluxam. Do not use treated seed for feed, food or oil processing.

The U.S. Environmental Protection Agency requires the following statements on the container of seed treated with S-2399 3.2 FS Fungicide:

- Store away from feeds and other foodstuffs. Do not allow children, pets, or livestock to have access to treated seed. Wear long sleeved shirt, long pants and chemical-resistant gloves made of any waterproof material when opening this bag or handling (e.g., loading, pouring) treated seed.
- Treated seeds exposed on soil surface may be hazardous to wildlife. Plant treated seed into the soil to the recommended minimum depth or greater to minimize exposure. Cover or collect treated seeds spilled during loading and planting, in particular at row ends and field corners.
- Dispose of all excess treated seed by burying seed away from bodies of water. Do not contaminate water bodies when disposing of planting equipment washwaters. Dispose of seed packaging in accordance with local requirements. Excess treated seed may be used for ethanol production only if (1) by-products are not used for livestock feed and (2) no measurable residues of pesticide remain in ethanol by-products that are used in agronomic practice.
- S-2399 3.2 FS Fungicide is to be used only as a dry-seeded rice seed treatment. Cover the planted seed thoroughly by soil.

USE INFORMATION

S-2399 3.2 FS Fungicide is a systemic fungicide seed protection product for use on a wide range of crops. The active ingredient inpyrfluxam provides protection against *Rhizoctonia species* causing seed decay, seedling damping-off and root rot.

For best results, use S-2399 3.2 FS Fungicide combined with Oomycete-active seed treatment fungicides, such as ethaboxam and metalaxyl, to broaden the spectrum of activity across seed and seedling pathogens inciting seed decay and seedling dieback.

APPLICATION DIRECTIONS

Accurate application of S-2399 3.2 FS Fungicide to seed is required for best performance. Thoroughly mix S-2399 3.2 FS Fungicide in the desired seed slurry mixture, prior to application to seed. Pretest tank mixtures with other seed treatment products to evaluate formulation compatibility and to ensure proper physical compatibility of products. Do not tank mix with any products which contain a prohibition on tank mixing.

It is the pesticide user's responsibility to ensure that all products are registered for the intended use. Read and follow the applicable restrictions and limitations and directions for use on all product labels involved in tank mixing. Users must follow the most restrictive directions for use and precautionary statements of each product in the tank mixture.

The following table provides use rates of S-2399 3.2 FS Fungicide by labeled crop, with disease protection guidelines.

Cereal Grains Crop Group 15 (except Corn, Rice and Sorghum (milo)) Barley; buckwheat; millet, pearl; millet, proso; oats; rye; teosinte; triticale; wheat.	
Diseases	Application Rate of S-2399 3.2 FS Fungicide (fl oz/100 lb seeds)
Barley Loose Smut (<i>Ustilago nuda</i>) Wheat Loose Smut (<i>Ustilago tritici</i>)[*] Seed decay, seedling blight and damping off caused by <i>Rhizoctonia solani</i>	0.04 to 0.08 (1 to 2 g ai/100 kg seeds)

[*Not for use in California.]

Corn (Sweet and Field); Popcorn			
Crops	Diseases	Application Rate of S-2399 3.2 FS Fungicide	
		mg ai/seed	fl oz/80,000 seeds (fl oz/100 lb seeds)
Field Corn Sweet Corn	Seed decay, seedling blight and damping off caused by <i>Rhizoctonia solani</i>	0.014	0.1 (0.22 fl oz/100 lb seeds based on the assumption of 1800 seeds/lb)
Popcorn		0.014	0.1 (0.37 fl oz/100 lb seeds based on the assumption of 3000 seeds/lb)

It is acceptable to apply S-2399 2.84 SC Fungicide (also containing inpyrfluxam) following the use of S-2399 3.2 FS Fungicide as a seed treatment.

Rice*	
Diseases	Application Rate of S-2399 3.2 FS Fungicide (fl oz/100 lb seed)
Seed decay, seedling blight and damping off caused by <i>Rhizoctonia solani</i>	0.2 to 0.4 (5 to 10 g ai/100 kg seeds)

Restrictions:
*S-2399 3.2 FS Fungicide is to be used only as a dry-seeded rice seed treatment.

Sorghum (milo)	
Diseases	Application Rate of S-2399 3.2 FS Fungicide
Seed decay, seedling blight and damping off caused by <i>Rhizoctonia solani</i>	0.2 fl oz/100 lb seeds (5 g ai/100 kg seeds)

Legume Vegetables, Succulent or Dried, Crop Group 6 (except Soybean)	
<p>Bean (<i>Lupinus</i> spp.) (includes grain lupin, sweet lupin, white lupin, and white sweet lupin); bean (<i>Phaseolus</i> spp.) (includes field bean, kidney bean, lima bean, navy bean, pinto bean, runner bean, snap bean, tepary bean, wax bean); bean (<i>Vigna</i> spp.) (includes adzuki bean, asparagus bean, blackeyed pea, catjang, Chinese longbean, cowpea, Crowder pea, moth bean, mung bean, rice bean, southern pea, urd bean, yardlong bean); broad bean (fava); chickpea (garbanzo); guar; jackbean; lablab bean (hyacinth bean); lentil; pea (<i>Pisum</i> spp.) (includes dwarf pea, edible-podded pea, English pea, field pea, garden pea, green pea, snowpea, sugar snap pea); pigeon pea; sword bean</p>	
Diseases	Application Rate of S-2399 3.2 FS Fungicide (fl oz/100 lb seeds)
Seed decay, seedling blight and damping off caused by <i>Rhizoctonia solani</i>	0.1 to 0.2 (2.5 to 5 g ai/100 kg seeds)
It is acceptable to apply S-2399 2.84 SC Fungicide (also containing inpyrfluxam) following the use of S-2399 3.2 FS Fungicide as a seed treatment.	

Soybean	
Diseases	Application Rate of S-2399 3.2 FS Fungicide
Seed decay, seedling blight and damping off caused by <i>Rhizoctonia solani</i>	0.1 to 0.2 fl oz/100 lb seeds (2.5 to 5 g ai/100 kg seeds) or 0.004 to 0.008 mg ai/seed* 0.05 to 0.1 fl oz/140,000 seeds* *based on 2800 seeds/lb
Sudden Death Syndrome [*] (<i>Fusarium virguliforme</i>) (suppression)	1 fl oz/100 lb seeds (25 g ai/100 kg) or 0.04 mg ai/seed* or 0.5 fl oz/140,000 seeds* *based on 2800 seeds/lb
It is acceptable to apply S-2399 2.84 SC Fungicide (also containing inpyrfluxam) following the use of S-2399 3.2 FS Fungicide as a seed treatment.	
Restriction:	
<ul style="list-style-type: none"> Regardless of application method, do not apply more than 0.19 lb active ingredient inpyrfluxam per acre per year. 	

[*Not for use in California]

Rapeseed, Canola Varieties Only, Crop Subgroup 20A	
Borage; crambe; cuphea; echium; flax seed; gold of pleasure; hare's ear mustard; lesquerella; lunaria; meadowfoam; milkweed; mustard seed; oil radish; poppy seed; rapeseed; sesame; sweet rocket; cultivars, varieties, and/or hybrids of these	
Diseases	Application Rate of S-2399 3.2 FS Fungicide (fl oz/100 lb seeds)
Seed decay, seedling blight and damping off caused by <i>Rhizoctonia solani</i>	0.2 (5 g ai/100 kg seeds)
Black leg (suppression)	

Sugar Beet	
Diseases	Application Rate of S-2399 3.2 FS Fungicide*
Seed decay, seedling blight and damping off caused by <i>Rhizoctonia solani</i>	0.0044 to 0.0088 fl oz/seed unit** (0.05 to 0.1 g ai/100,000 seeds)
	*Incorporate S-2399 3.2 FS Fungicide into pelleting process for application to sugar beet seed. **seed unit = 100,000 seeds
It is acceptable to apply S-2399 2.84 SC Fungicide (also containing inpyrfluxam) following the use of S-2399 3.2 FS Fungicide as a seed treatment.	

STORAGE AND DISPOSAL

Do not contaminate water, food or feed by storage or disposal.

STORAGE

Store in a dry place away from excessive heat.

Do not store near food or feed.

Store in original container only.

PESTICIDE DISPOSAL

To avoid wastes, use all material in this container by application according to label directions. If wastes cannot be avoided, offer remaining product to a waste facility or pesticide disposal program (often such programs are run by state or local governments or by industry).

CONTAINER HANDLING

[Use the following statement for containers equal to or less than 5 gallons]

Nonrefillable container. Do not reuse or refill this container. Triple rinse container (or equivalent) promptly after emptying. Triple rinse as follows: Empty the remaining contents into application equipment or a mix tank and drain for 10 seconds after the flow begins to drip. Fill the container 1/4 full with water and recap. Shake for 10 seconds. Pour rinsate into application equipment or a mix tank or store rinsate for later use or disposal. Drain for 10 seconds after the flow begins to drip. Repeat this procedure two more times. Offer for recycling, if available; otherwise dispose of in a sanitary landfill or by incineration, if allowed by state and local authorities.

[Use the following statement for containers greater than 5 gallons]

Nonrefillable container. Do not reuse or refill this container. Triple rinse container (or equivalent) promptly after emptying. Triple rinse as follows: Empty the remaining contents into application equipment or a mix tank. Fill the container 1/4 full with water. Replace and tighten closures. Tip container on its side and roll it back and forth, ensuring at least one complete revolution, for 30 seconds. Stand the container on its end and tip it back and forth several times. Turn the container over onto its other end and tip it back and forth several times. Empty the rinsate into application equipment or a mix tank or store rinsate for later use or disposal. Repeat this procedure two more times. Offer for recycling, if available; otherwise dispose of in a sanitary landfill or by incineration, if allowed by state and local authorities.

[Use the following statement for all formulation types/all refillable container types]

Refillable container. Refill this container with pesticide only. Do not reuse this container for any other purpose. Cleaning the container before final disposal is the responsibility of the person disposing of the container. Cleaning before refilling is the responsibility of the refiller. To clean the container before final disposal, empty the remaining contents from this container into application equipment or mix tank. Fill the container about 10 percent full with water. Agitate vigorously or recirculate water with the pump for 2 minutes. Pour or pump rinsate into application equipment or rinsate collection system. Repeat this rinsing procedure two more times. Offer for recycling, if available; otherwise dispose of in a sanitary landfill or by incineration, if allowed by state and local authorities.

RECYCLING

Once cleaned, some agricultural plastic pesticide containers can be taken to a container collection site or picked up for recycling. To find the nearest site, contact your chemical dealer or manufacturer, or contact the Ag Container Recycling Council (ACRC) at **877-952-2272** (toll free) or www.acrecycle.org.

**DISCLAIMER, RISKS OF USING THIS PRODUCT,
LIMITED WARRANTY
AND LIMITATION OF LIABILITY**

IMPORTANT: Read the entire Label including this Disclaimer, Risks of Using this Product, Limited Warranty, and Limitation of Liability before using this product. If the terms are not acceptable THEN DO NOT USE THE PRODUCT; rather, return the unopened product within 15 days of purchase for a refund of the purchase price.

ASSUMPTION OF RISK

The Buyer and User (referred to collectively herein as "Buyer") of this product should be aware that there are inherent unintended risks associated with the use of this product which are impossible to eliminate. These risks include, but are not limited to, injury to plants and crops to which this product is applied, lack of control of the target pests to this product. Such risks of crop injury, non-performance, or other unintended consequences are unavoidable and may result because of such factors as weather, soil conditions, disease, moisture conditions, irrigation practices, cultural practices or the manner of use or application, (or a combination of such factors) all of which are factors beyond the control of Valent. The Buyer should be aware that these inherent unintended risks may reduce the harvested yield of the crop in all or a portion of the treated acreage, or otherwise affect the crop such that additional care, treatment and expense are required to take the crop to harvest. If the Buyer chooses not to accept these risks, THEN THIS PRODUCT SHOULD NOT BE APPLIED. By applying this product Buyer acknowledges and accepts these inherent unintended risks AND TO THE FULLEST EXTENT ALLOWED BY LAW, AGREES THAT ALL SUCH RISKS ASSOCIATED WITH THE APPLICATION AND USE ARE ASSUMED BY THE BUYER.

Valent shall not be responsible for losses or damages (including, but not limited to, loss of yield, increased expenses of farming the crop or such incidental, consequential or special damages that may be claimed) resulting from use of this product in any manner not set forth on the label. Buyer assumes all risks associated with the use of this product in any manner or under conditions not specifically directed or approved on the label.

LIMITED WARRANTY

Valent warrants only that this product conforms to the chemical description on the label and is reasonably fit for the purposes stated in the label, under average use conditions, when used strictly in accordance with the label **and subject to the Risks of Using This Product as described above. To the extent consistent with applicable law AND AS SET FORTH ABOVE, VALENT MAKES NO OTHER WARRANTIES, EITHER EXPRESSED OR IMPLIED.** No agent or representative of Valent or Seller is authorized to make or create any other express or implied warranty.

LIMITATION OF LIABILITY

To the fullest extent allowed by law, Valent or Seller is not liable for any incidental, consequential, indirect or special damages resulting from the use or handling of this product. The limitation includes, but is not limited to, loss of yield on all or any portion of the treated acreage, increased care, treatment or other expenses required to take the crop to harvest, increased finance charges or altered finance ratings, emotional or mental distress and/or exemplary damages. TO THE FULLEST EXTENT ALLOWED BY LAW, THE EXCLUSIVE REMEDY OF THE BUYER, AND THE EXCLUSIVE MAXIMUM LIABILITY OF VALENT OR SELLER FOR ANY AND ALL CLAIMS, LOSSES, INJURIES OR DAMAGES (INCLUDING CLAIMS BASED ON BREACH OF WARRANTY, CONTRACT, NEGLIGENCE, TORT, STRICT LIABILITY OR OTHERWISE) RESULTING FROM THE USE OR HANDLING OF THIS PRODUCT SHALL BE THE RETURN OF THE PURCHASE PRICE OF THIS PRODUCT OR, AT THE ELECTION OF VALENT OR SELLER, THE REPLACEMENT OF THE PRODUCT.

PROMPT NOTICE OF CLAIM

To the extent consistent with applicable law allowing such requirements Valent must be provided notice as soon as Buyer has reason to believe it may have a claim, but in no event later than twenty-one days from date of planting, or twenty-one days from the date of application, whichever is latter, so that an immediate inspection of the affected property and growing crops can be made.

To the extent consistent with applicable law if Buyer does not notify Valent of any claims, in such period, it shall be barred from obtaining any remedy.

NO AMENDMENTS

Valent and Seller offer this product, and Buyer accepts it, subject to the foregoing **Disclaimer, Risks of Using This Product, Limited Warranty and Limitation of Liability**, which may not be modified by any oral or written agreement.

TANK MIXES

NOTICE: Tank mixing or use of this product with any other product which is not specifically and expressly authorized by the label shall be the exclusive risk of user, applicator and/or application advisor, to the extent allowed by applicable law. **Read and follow the entire label of each product to be used in the tank mix with this product.**

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INDIFLIN is a registered trademark of Sumitomo Chemical Co., Ltd.

Manufactured For:
Valent U.S.A. LLC
P.O. Box 5075
San Ramon CA 94583-0975

Made in U.S.A.

EPA Reg. No. 59639-EGR
EPA Est.

059639-00EGR.20200806.S2399_3.2FS.Clean

Exhibit D

to Petition for Review



U.S. ENVIRONMENTAL PROTECTION AGENCY

Office of Pesticide Programs
Registration Division (7505P)
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460

EPA Reg. Number:

59639-233

Date of Issuance:

8/31/20

NOTICE OF PESTICIDE:

Registration
 Reregistration
(under FIFRA, as amended)

Term of Issuance:

Unconditional

Name of Pesticide Product:

S-2399 Technical Fungicide

Name and Address of Registrant (include ZIP Code):

Valent U.S.A., LLC
4600 Norris Canyon Road
San Ramon, CA 94583-0975

Note: Changes in labeling differing in substance from that accepted in connection with this registration must be submitted to and accepted by the Registration Division prior to use of the label in commerce. In any correspondence on this product always refer to the above EPA registration number.

On the basis of information furnished by the registrant, the above named pesticide is hereby registered under the Federal Insecticide, Fungicide and Rodenticide Act.

Registration is in no way to be construed as an endorsement or recommendation of this product by the Agency. In order to protect health and the environment, the Administrator, on his motion, may at any time suspend or cancel the registration of a pesticide in accordance with the Act. The acceptance of any name in connection with the registration of a product under this Act is not to be construed as giving the registrant a right to exclusive use of the name or to its use if it has been covered by others.

This product is unconditionally registered in accordance with FIFRA section 3(c)(5) provided that you:

1. Submit and/or cite all data required for registration/reregistration/registration review of your product when the Agency requires all registrants of similar products to submit such data.
2. Make the following label changes before you release the product for shipment:
 - Revise the EPA Registration Number to read, "EPA Reg. No. 59639-233."

Signature of Approving Official:

Cynthia L. Giles-Parker, Chief
Fungicide Branch
Registration Division (7505P)

Date:

8/31/20

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Decision No. 535769

3. Submit one copy of the revised final printed label for the record before you release the product for shipment.

Should you wish to add/retain a reference to the company's website on your label, then please be aware that the website becomes labeling under the Federal Insecticide Fungicide and Rodenticide Act and is subject to review by the Agency. If the website is false or misleading, the product would be misbranded and unlawful to sell or distribute under FIFRA section 12(a)(1)(E). 40 CFR 156.10(a)(5) list examples of statements EPA may consider false or misleading. In addition, regardless of whether a website is referenced on your product's label, claims made on the website may not substantially differ from those claims approved through the registration process. Therefore, should the Agency find or if it is brought to our attention that a website contains false or misleading statements or claims substantially differing from the EPA approved registration, the website will be referred to the EPA's Office of Enforcement and Compliance.

If these conditions are not complied with, the registration will be subject to cancellation in accordance with FIFRA section 6. Your release for shipment of the product constitutes acceptance of these conditions. A stamped copy of the label is enclosed for your records. Please also note that the record for this product currently contains the following CSFs:

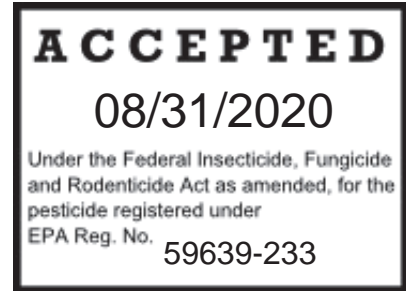
- Basic CSF dated 08/24/2017

If you have any questions, please contact Heather A. Garvie by phone at 703-308-0034 or via email at garvie.heather@epa.gov.

Enclosure – “accepted” label



[Bracketed text is optional]
 [*Bracketed Italicized text is note to the reviewer.*]



S-2399 Technical Fungicide

THIS FUNGICIDE IS FOR FORMULATING USE ONLY.

Active Ingredient	By Wt
Inpyrfluxam*	97.4%
Other Ingredients	<u>2.6%</u>
Total	100.0%

*3-(difluoromethyl)-N-[(R)-2,3-dihydro-1,1,3-trimethyl-1H-inden-4-yl]-1-methyl-1H-pyrazole-4-carboxamide

KEEP OUT OF REACH OF CHILDREN

WARNING

[See [next] [page][panel] for Additional Precautionary Statements]

EPA Reg. No. 59639-EGG

NET WEIGHT _____

FIRST AID	
If swallowed:	<ul style="list-style-type: none"> • Call a poison control center or doctor immediately for treatment advice. • Have person sip a glass of water if able to swallow. • Do not induce vomiting unless told to so by a poison control center or doctor. • Do not give anything by mouth to an unconscious person.
If on skin:	<ul style="list-style-type: none"> • Take off contaminated clothing. • Rinse skin immediately with plenty of water for 15-20 minutes. • Call a poison control center or doctor for treatment advice.
If in eyes:	<ul style="list-style-type: none"> • Hold eye open and rinse slowly and gently with water for 15-20 minutes. • Remove contact lenses, if present, after the first 5 minutes, then continue rinsing eye. • Call a poison control center or doctor for treatment advice.
If inhaled:	<ul style="list-style-type: none"> • Move person to fresh air. • If person is not breathing, call 911 or an ambulance, then give artificial respiration, preferably by mouth-to-mouth, if possible. • Call a poison control center or doctor for treatment advice.
HOT LINE NUMBER	
Have the product container or label with you when calling a poison control center or doctor or going for treatment. For medical emergencies, call 1-800-892-0099 for treatment information.	

PRECAUTIONARY STATEMENTS HAZARDS TO HUMANS & DOMESTIC ANIMALS

WARNING

May be fatal if swallowed. Harmful if absorbed through skin. Causes moderate eye irritation. Avoid contact with skin, eyes or clothing. Harmful if inhaled. Wash thoroughly with soap and water after handling and before eating, drinking, chewing gum, using tobacco or using the toilet.

ENVIRONMENTAL HAZARDS:

This pesticide is toxic to fish. Do not apply directly to water, or to areas where surface water is present or to intertidal areas below the mean highwater mark. Do not contaminate water by disposing of equipment washwaters or rinsate.

[This language to be used for containers 50 pounds or larger.]

[Do not discharge effluent containing this product into lakes, streams, ponds, estuaries, oceans, or other waters unless in accordance with the requirements of a National Pollutant Discharge Elimination System (NPDES) permit and the permitting authority has been notified in writing prior to discharge. Do not discharge effluent containing this product to sewer systems without previously notifying the local sewage treatment plant authority. For guidance contact your State Water Board or Regional Office of the EPA.]

PHYSICAL OR CHEMICAL HAZARDS

Warning: May Form Combustible (Explosive) Dust – Air Mixtures

Keep away from all ignition sources including heat, sparks and flame. Keep container closed and grounded. Prevent dust accumulations to minimize explosion hazard.

DIRECTIONS FOR USE

INSTRUCTIONS FOR FORMULATION

It is a violation of Federal law to use this product in a manner inconsistent with its labeling.

READ ENTIRE LABEL. USE STRICTLY IN ACCORDANCE WITH PRECAUTIONARY STATEMENTS AND DIRECTIONS, AND WITH APPLICABLE STATE AND FEDERAL REGULATIONS.

FOR FORMULATION OF S-2399 TECHNICAL FUNGICIDE CONTAINING FUNGICIDE PRODUCTS ONLY.

This product is only for use in the formulation of inpyrfluxam containing products. Products formulated with S-2399 Technical Fungicide will require registration with the U.S. Environmental Protection Agency. **Only For Formulation Into Products For The Following Uses:**

TERRESTRIAL FOLIAR/SOIL FOOD USES
Individual Crops: Apple; Corn (Field, Pop and Sweet); Peanut; Soybean; Sugar Beet

TERRESTRIAL SEED TREATMENT FOOD USES
Individual Crops: Dry-Seeded Rice; Soybean

TERRESTRIAL SEED TREATMENT NON-FOOD USES	
Crop Groups	Commodities
Crop Group 6 Legume Vegetables (except Soybean)	Bean (<i>Lupinus</i> spp.) (includes grain lupin, sweet lupin, white lupin, and white sweet lupin); bean (<i>Phaseolus</i> spp.) (includes field bean, kidney bean, lima bean, navy bean, pinto bean, runner bean, snap bean, tepary bean, wax bean); bean (<i>Vigna</i> spp.) (includes adzuki bean, asparagus bean, blackeyed pea, catjang, Chinese longbean, cowpea, Crowder pea, moth bean, mung bean, rice bean, southern pea, urd bean, yardlong bean); broad bean (fava); chickpea (garbanzo); guar; jackbean; lablab bean (hyacinth bean); lentil; pea (<i>Pisum</i> spp.) (includes dwarf pea, edible-podded pea, English pea, field pea, garden pea, green pea, snowpea, sugar snap pea); pigeon pea; sword bean
Crop Group 15 Cereal Grains (except Rice and Wild Rice)	Barley; buckwheat; corn (field, pop and sweet); millet, pearl; millet, proso; oats; popcorn; rye; sorghum (milo); teosinte; triticale; wheat
Subgroups	Commodities
Crop Subgroup 20A Rapeseed Subgroup (canola varieties)	Borage; canola, crambe; cuphea; echium; flax seed; gold of pleasure; hare's ear mustard; lesquerella; lunaria; meadowfoam; milkweed; mustard seed; oil radish; poppy seed; rapeseed; sesame; sweet rocket; cultivars, varieties, and/or hybrids of these

•Uses for which USEPA has accepted the required data and/or citations of data that the formulator has submitted in support of registration; and

•Uses for experimental purposes that are in compliance with USEPA requirements.

**DISCLAIMER, RISKS OF USING THIS PRODUCT,
LIMITED WARRANTY
AND LIMITATION OF LIABILITY**

IMPORTANT: Read the entire Label including this Disclaimer, Risks of Using this Product, Limited Warranty, and Limitation of Liability before using this product. If the terms are not acceptable THEN DO NOT USE THE PRODUCT; rather, return the unopened product within 15 days of purchase for a refund of the purchase price.

RISKS OF USING THIS PRODUCT

The Buyer and User (referred to collectively herein as "Buyer") of this product should be aware that there are inherent unintended risks associated with the use of this product which are impossible to eliminate. These risks include, but are not limited to, injury to plants and crops to which this product is applied, lack of control of the target pests or weeds, resistance of the target pest or weeds to this product, injury caused by drift, and injury to rotational crops caused by carryover in the soil. Such risks of crop injury, non-performance, resistance or other unintended consequences are unavoidable and may result because of such factors as weather, soil conditions, disease, moisture conditions, irrigation practices, condition of the crop at the time of application, presence of other materials either applied in the tank mix with this product or prior to application of this product, cultural practices or the manner of use or application, (or a combination of such factors) all of which are factors beyond the control of Valent. The Buyer should be aware that these inherent unintended risks may reduce the harvested yield of the crop in all or a portion of the treated acreage, or otherwise affect the crop such that additional care, treatment and expense are required to take the crop to harvest. If the Buyer chooses not to accept these risks, THEN THIS PRODUCT SHOULD NOT BE APPLIED. By applying this product Buyer acknowledges and accepts these inherent unintended risks AND TO THE EXTENT CONSISTENT WITH APPLICABLE LAW, AGREES THAT ALL SUCH RISKS ASSOCIATED WITH THE APPLICATION AND USE ARE ASSUMED BY THE BUYER.

Valent shall not be responsible for losses or damages (including, but not limited to, loss of yield, increased expenses of farming the crop or such incidental, consequential or special damages that may be claimed) resulting from use of this product in any manner not set forth on the label. Buyer assumes all risks associated with the use of this product in any manner or under conditions not specifically directed or approved on the label.

LIMITED WARRANTY

Valent warrants only that this product conforms to the chemical description on the label and is reasonably fit for the purposes stated in the label, under average use conditions, when used strictly in accordance with the label and subject to the Risks of Using This Product as described above. To the extent consistent with applicable law AND AS SET FORTH ABOVE, VALENT MAKES NO OTHER WARRANTIES, EITHER EXPRESSED OR IMPLIED. No agent or representative of Valent or Seller is authorized to make or create any other express or implied warranty.

LIMITATION OF LIABILITY

To the extent consistent with applicable law, Valent or Seller is not liable for any incidental, consequential, indirect or special damages resulting from the use or handling of this product. The limitation includes, but is not limited to, loss of yield on all or any portion of the treated acreage, increased care, treatment or other expenses required to take the crop to harvest, increased finance charges or altered finance ratings, emotional or mental distress and/or exemplary damages. TO THE EXTENT CONSISTENT WITH APPLICABLE LAW, THE EXCLUSIVE REMEDY OF THE BUYER, AND THE EXCLUSIVE MAXIMUM LIABILITY OF VALENT OR SELLER FOR ANY AND ALL CLAIMS, LOSSES, INJURIES OR DAMAGES (INCLUDING CLAIMS BASED ON BREACH OF WARRANTY, CONTRACT, NEGLIGENCE, TORT, STRICT LIABILITY OR OTHERWISE) RESULTING FROM THE USE OR HANDLING OF THIS PRODUCT SHALL BE THE RETURN OF THE PURCHASE PRICE OF THIS PRODUCT OR, AT THE ELECTION OF VALENT OR SELLER, THE REPLACEMENT OF THE PRODUCT.

PROMPT NOTICE OF CLAIM

To the extent consistent with applicable law allowing such requirements, Valent must be provided notice as soon as Buyer has reason to believe it may have a claim, but in no event later than twenty-one days from date of planting, or twenty-one days from the date of application, whichever is later, so that an immediate inspection of the affected property and growing crops can be made.

To the extent consistent with applicable law, if Buyer does not notify Valent of any claims, in such period, it shall be barred from obtaining any remedy.

NO AMENDMENTS

Valent and Seller offer this product, and Buyer accepts it, subject to the foregoing Disclaimer, Risks of Using This Product, Limited Warranty and Limitation of Liability, which may not be modified by any oral or written agreement.

STORAGE AND DISPOSAL

Do not contaminate water, food or feed by storage or disposal.

STORAGE

Keep pesticide in original container.

Store in a cool, dry, secure place.

Not for use or storage in or around the home.

Do not store or transport near feed or food.

For help with any spill, leak, fire or exposure involving this material, call day or night
(800) 892-0099.

PESTICIDE DISPOSAL

Wastes resulting from the use of this product must be disposed of on site or at an approved waste disposal facility.

CONTAINER HANDLING

[For containers small enough to shake (less than 50 pounds).]

[Nonrefillable container. Do not reuse or refill this container. Clean container promptly after emptying.

Triple rinse as follows: Empty remaining contents into application equipment or a mix tank. Fill the container 1/4 full with water and recap. Shake for 10 seconds. Pour rinsate into application equipment or a mix tank or store rinsate for later use or disposal. Drain for 10 seconds after the flow begins to drip.

Repeat this procedure two more times. Offer for recycling, if available or puncture and dispose of in a sanitary landfill or other procedures allowed by State and local authorities.]

[For containers too large to shake (larger than 50 pounds).]

[Nonrefillable container. Do not reuse or refill this container. Clean container promptly after emptying.

Triple rinse as follows: Empty remaining contents into application equipment or a mix tank. Fill the container 1/4 full with water. Replace and tighten closures. Tip container on its side and roll it back and forth, ensuring at least one complete revolution, for 30 seconds. Stand the container on its end and tip it back and forth several times. Turn the container over onto its other end and tip it back and forth several times. Empty the rinsate into application equipment or a mix tank or store rinsate for later use or disposal.

Repeat this procedure two more times. Offer for recycling, if available or puncture and dispose of in a sanitary landfill or other procedures allowed by State and local authorities.]

[For nonrefillable bag containers.]

[Nonrefillable bag. Do not reuse or refill this bag. Completely empty bag by shaking and tapping sides and bottom to loosen clinging particles. Empty residue into equipment. Do not reuse bag. Dispose of bag in a sanitary landfill or by other procedures allowed by State and local authorities. Offer for recycling if available.]

[For nonrefillable containers with a liner.]

[Nonrefillable container. Do not reuse or refill this container. Completely empty liner by shaking and tapping sides and bottom to loosen clinging particles. Empty residue into mixing equipment. Dispose of liner in a sanitary landfill or by other procedures allowed by state and local authorities. If drum is contaminated and cannot be reused¹, dispose of in the same manner.

¹Manufacturer may replace this phrase with one indicating whether and how fiber drum may be reused.]

RECYCLING

Once cleaned, some agricultural plastic pesticide containers can be taken to a container collection site or picked up for recycling. To find the nearest site, contact your chemical dealer or manufacturer, or contact the Ag Container Recycling Council (ACRC) at 877-952-2272 (toll free) or www.acrecycle.org.

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Manufactured for:
Valent U.S.A. LLC
P. O. Box 5075
San Ramon CA 94583-0975

EPA Reg. No. 59639-EGG
EPA Est.

059639-00EGG.20200729.S2399TechFung.Clean

Exhibit E

to Petition for Review

 <p style="text-align: center;">U.S. ENVIRONMENTAL PROTECTION AGENCY Office of Pesticide Programs Registration Division (7505P) 1200 Pennsylvania Ave., N.W. Washington, D.C. 20460</p> <p style="text-align: center;">NOTICE OF PESTICIDE: <input checked="" type="checkbox"/> Registration <input type="checkbox"/> Reregistration (under FIFRA, as amended)</p>	<p>EPA Reg. Number: 59639-232</p>	<p>Date of Issuance: 8/31/20</p>
	<p>Term of Issuance: Unconditional</p>	
	<p>Name of Pesticide Product: V-10417 FS Fungicide</p>	
<p>Name and Address of Registrant (include ZIP Code): Valent U.S.A., LLC 4600 Norris Canyon Road San Ramon, CA 94583-0975</p>		
<p>Note: Changes in labeling differing in substance from that accepted in connection with this registration must be submitted to and accepted by the Registration Division prior to use of the label in commerce. In any correspondence on this product always refer to the above EPA registration number.</p>		
<p>On the basis of information furnished by the registrant, the above named pesticide is hereby registered under the Federal Insecticide, Fungicide and Rodenticide Act.</p> <p>Registration is in no way to be construed as an endorsement or recommendation of this product by the Agency. In order to protect health and the environment, the Administrator, on his motion, may at any time suspend or cancel the registration of a pesticide in accordance with the Act. The acceptance of any name in connection with the registration of a product under this Act is not to be construed as giving the registrant a right to exclusive use of the name or to its use if it has been covered by others.</p> <p>This product is unconditionally registered in accordance with FIFRA section 3(c)(5) provided that you:</p> <ol style="list-style-type: none"> 1. Submit and/or cite all data required for registration/reregistration/registration review of your product when the Agency requires all registrants of similar products to submit such data. 2. The data requirements for storage stability and corrosion characteristics (Guidelines 830.6317 and 830.6320) have been submitted to the Agency and are currently under review. 		
<p>Signature of Approving Official:</p>  <p>Cynthia L. Giles-Parker, Chief Fungicide Branch Registration Division (7505P)</p>	<p>Date: 8/31/20</p>	

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EPA Reg. No. 59639-232
Decision No. 535774

3. Make the following label changes before you release the product for shipment:
 - Revise the EPA Registration Number to read, “EPA Reg. No. 59639-232.”
4. Submit one copy of the revised final printed label for the record before you release the product for shipment.

Should you wish to add/retain a reference to the company’s website on your label, then please be aware that the website becomes labeling under the Federal Insecticide Fungicide and Rodenticide Act and is subject to review by the Agency. If the website is false or misleading, the product would be misbranded and unlawful to sell or distribute under FIFRA section 12(a)(1)(E). 40 CFR 156.10(a)(5) list examples of statements EPA may consider false or misleading. In addition, regardless of whether a website is referenced on your product’s label, claims made on the website may not substantially differ from those claims approved through the registration process. Therefore, should the Agency find or if it is brought to our attention that a website contains false or misleading statements or claims substantially differing from the EPA approved registration, the website will be referred to the EPA’s Office of Enforcement and Compliance.

If these conditions are not complied with, the registration will be subject to cancellation in accordance with FIFRA section 6. Your release for shipment of the product constitutes acceptance of these conditions. A stamped copy of the label is enclosed for your records. Please also note that the record for this product currently contains the following CSFs:

- Basic CSF dated 09/14/2017
- Alternate CSF 1 dated 09/15/2017

If you have any questions, please contact Heather A. Garvie by phone at 703-308-0034 or via email at garvie.heather@epa.gov .

Enclosure – “accepted” label



METALAXYL	GROUP	4	FUNGICIDE
INPYRFLUXAM	GROUP	7	FUNGICIDE
ETHABOXAM	GROUP	22	FUNGICIDE

ACCEPTED

08/31/2020

Under the Federal Insecticide, Fungicide
and Rodenticide Act as amended, for the
pesticide registered under

EPA Reg. No. 59639-232

[Bracketed text is optional]

[Bracketed *Italicized text is information for the reviewer*]**V-10417 FS Fungicide****A FUNGICIDE SEED TREATMENT PRODUCT PROVIDING SYSTEMIC FUNGICIDE PROTECTION AGAINST LISTED SEED AND SEEDLING DISEASES OF LEGUME VEGETABLES INCLUDING SOYBEANS**

Active Ingredient	By Wt
Ethaboxam ¹	7.07%
Metalaxyl ²	1.89%
Inpyrfluxam ³	4.71%
Other Ingredients	86.33%
Total	100.00%

¹ (RS)-N-[cyano(2-thienyl)methyl]-4-ethyl-2-(ethylamino)thiazole-5-carboxamide² methyl N-(2,6-dimethylphenyl)-N-(methoxyacetyl)-DL-alaninate³ 3-(difluoromethyl)-N-[(R)-2,3-dihydro-1,1,3-trimethyl-1H-inden-4-yl]-1-methyl-1H-pyrazole-4-carboxamide

V-10417 FS Fungicide contains 0.643 lb ethaboxam, 0.172 lb metalaxyl and 0.428 lb inpyrfluxam per gallon.

KEEP OUT OF REACH OF CHILDREN**CAUTION****SEE NEXT [PAGE][PANEL] [BOOKLET] FOR ADDITIONAL PRECAUTIONARY STATEMENTS****NET CONTENTS**

EPA Reg. No. 59639-EGE

EPA Est.

FIRST AID	
If swallowed:	<ul style="list-style-type: none"> • Call a poison control center or doctor immediately for treatment advice. • Have person sip a glass of water if able to swallow. • Do not induce vomiting unless told to do so by the poison control center or doctor. • Do not give anything by mouth to an unconscious person.
HOT LINE NUMBER	
Have the product container or label with you when calling a poison control center or doctor or going for treatment. You may also contact 800-892-0099 for emergency medical treatment information.	

PRECAUTIONARY STATEMENTS HAZARDS TO HUMANS & DOMESTIC ANIMALS

CAUTION

Harmful if swallowed. Wash thoroughly with soap and water after handling and before eating, drinking, chewing gum, using tobacco, or using the toilet.

PERSONAL PROTECTIVE EQUIPMENT (PPE)

Workers loading product, treating seed and conducting maintenance and calibration of the treater must wear: long-sleeved shirt, long pants, socks and shoes, and chemical-resistant gloves made of any waterproof material (barrier laminate, butyl rubber \geq 14 mils, nitrile rubber \geq 14 mils, neoprene rubber \geq 14 mils, or viton \geq 14 mils).

Workers involved with handling treated seed (such as baggers, sewers and bag stackers) must wear: long-sleeved shirt, long pants, socks and shoes.

Workers who load and plant treated seed must wear: long-sleeved shirt, long pants, socks and shoes and chemical-resistant gloves made of any waterproof material (barrier laminate, butyl rubber \geq 14 mils, nitrile rubber \geq 14 mils, neoprene rubber \geq 14 mils, or viton \geq 14 mils) when handling treated seed.

Follow the manufacturer's instructions for cleaning/maintaining PPE. If no such instructions for washables exist, use detergent and hot water. Keep and wash PPE separately from other laundry.

USER SAFETY RECOMMENDATIONS

Users should:

- Remove clothing/PPE immediately if pesticide gets inside. Then wash thoroughly and put on clean clothing.
- Remove PPE immediately after handling this product. Wash the outside of gloves before removing. As soon as possible, wash thoroughly and change into clean clothing.

ENVIRONMENTAL HAZARDS

This pesticide is toxic to aquatic invertebrates, oysters, and shrimp. Do not apply directly to water or to areas where surface water is present or to intertidal areas below the mean high-water mark. Drift and runoff from treated areas may be hazardous to aquatic organisms in water adjacent to treated areas. Do not contaminate water by disposing of equipment washwaters or rinsate.

Groundwater Advisory

Metalaxyl has properties and characteristics associated with chemicals detected in ground water. This chemical may leach into ground water if used in areas where soils are permeable, particularly where the water table is shallow. Therefore, contain any product spills or equipment leaks and dispose of wastes according to the disposal instructions on this label.

DIRECTIONS FOR USE

It is a violation of Federal law to use this product in a manner inconsistent with its labeling.

READ ENTIRE LABEL. USE STRICTLY IN ACCORDANCE WITH PRECAUTIONARY STATEMENTS AND DIRECTIONS AND WITH APPLICABLE STATE AND FEDERAL REGULATIONS.

Do not apply this product in a way that will contact workers or other persons, either directly or through drift. Only protected handlers may be in the area during application. For any requirements specific to your State or Tribe, consult the State or Tribal agency responsible for pesticide regulation.

AGRICULTURAL USE REQUIREMENTS

Use this product only in accordance with its labeling and with the Worker Protection Standard, 40 CFR Part 170. This Standard contains requirements for the protection of agricultural workers on farms, forests, nurseries, and greenhouses, and handlers of agricultural pesticides. It contains requirements for training, decontamination, notification, and emergency assistance. It also contains specific instructions and exceptions pertaining to the statements on this label about Personal Protective Equipment (PPE) and restricted-entry interval. The requirements in this box only apply to uses of this product that are covered by the Worker Protection Standard (WPS).

Do not enter or allow worker entry into treated areas during the Restricted Entry Interval (REI) of 24 hours.

Exception: Once the seeds are planted in soil, the WPS, under certain circumstances, allows workers to enter the treated area without restriction if there will be no worker contact with the soil subsurface or treated seed. PPE required for early entry to treated areas that is permitted under the WPS and that involves contact with anything that has been treated, such as plants, soil, or water, is: Coveralls, socks and shoes, and chemical-resistant gloves made of any waterproof material.

RESTRICTIONS

V-10417 FS Fungicide must be used only in accordance with use instructions on this label utilizing mechanical, slurry or mist-type seed treating equipment, provided that the equipment can be calibrated to accurately and uniformly apply the product to seed. This product is for both commercial and on-farm application, and not for residential use. Do not apply this product in a hopper-box or planter-box at planting time. Always mix product thoroughly before use.

As stated by regulations specified in 40 CFR 153.155, all seed treated with V-10417 FS Fungicide must be colored with an EPA-approved dye or colorant to visually distinguish seed is treated with a pesticide. This product contains such dye or colorant. This regulation is necessary to prevent treated seed from accidental use as a food for man or feed for animals.

PRODUCT INFORMATION

V-10417 FS Fungicide (containing ethaboxam, metalaxyl and inpyrfluxam) is a fungicide seed treatment product offering both contact and systemic activity in providing broad-spectrum seed and seedling protection against seedling diseases. The fungicide components in V-10417 FS are effective for protection against *Pythium*, *Phytophthora sojae*, and *Rhizoctonia solani*.

RESISTANCE MANAGEMENT

For resistance management, please note that **V-10417 FS Fungicide** contains **Group 4**/metalaxyl, **Group 7**/inpyrfluxam, and **Group 22**/ethaboxam fungicides. Any fungal population may contain individuals naturally resistant to **V-10417 FS Fungicide** and other **Group 4**, **Group 7**, or **Group 22** fungicides. A gradual or total loss of pest control may occur over time if these fungicides are used repeatedly in the same fields. Appropriate resistance-management strategies are to be followed. Metalaxyl belongs to the phenylamide class of chemistry which interferes with fungal RNA synthesis. Inpyrfluxam is a succinate dehydrogenase inhibitor (SDHI) and belongs to the carboxamide class of chemistry which disrupts cellular respiration and energy generation. Ethaboxam belongs to the thiazole carboxamide class of chemistry which inhibits migration of nuclei from the growing germ tube and mycelia in addition to inhibiting oxygen consumption by mitochondria.

Seed treatments of **V-10417 FS Fungicide** can be followed by foliar use fungicides containing the same modes of action in accordance with resistance management guidelines as specified on the respective labels.

To delay fungicide resistance, take one or more of the following steps:

- Rotate the use of **V-10417 FS Fungicide** or other **Group 4**, **Group 7**, or **Group 22** fungicides with different groups that control the same pathogens.
- Use tank mixtures with fungicides from a different group that are equally effective on the target pest when such use is permitted. Use at least the minimum application rate as labeled by the manufacturer.

- Adopt an integrated disease management program for fungicide use that includes scouting, uses historical information related to pesticide use, and crop rotation, and which considers host plant resistance, impact of environmental conditions on disease development, disease thresholds, as well as cultural, biological and other chemical control practices.
- Where possible, make use of predictive disease models to effectively plan fungicide applications. Note that using predictive models alone is not enough to manage resistance.
- Monitor treated fungal populations for resistance development.
- Contact your local extension specialist or certified crop advisor for any additional pesticide resistance-management and/or IPM recommendations for specific crop and pathogens.
- For further information or to report suspected resistance contact **Valent** at 1-800-6-VALENT (800-682-5368). You can also contact your pesticide distributor or university extension specialist to report resistance. Valent encourages responsible product stewardship to ensure effective long-term control of the fungal diseases on this label.

APPLICATION DIRECTIONS

Accurate application of V-10417 FS Fungicide to seed is required for best performance. Thoroughly mix V-10417 FS Fungicide in the desired seed slurry mixture, prior to application to seed. Pre-test tank mixtures with other seed treatment products to evaluate formulation compatibility and to ensure proper physical compatibility of products. Do not tank mix with any products which contain a prohibition on tank mixing.

It is the pesticide user's responsibility to ensure that all products are registered for the intended use. Read and follow the applicable restrictions and limitations and directions for use on all product labels involved in tank mixing. Users must follow the most restrictive directions for use and precautionary statements of each product in the tank mixture.

SEED QUALITY AND STORAGE OF TREATED SEED

Seed treatments applied to low vigor or poor quality seed or to mechanically damaged seed may result in loss of seed germination or reduced seedling vigor. To verify seed safety, treat a small portion of seed with the desired slurry mixture (V-10417 FS alone or in combination with other commercial seed treatment products) prior to treatment of an entire seed lot. Utilize standard seed germination methodologies to determine and verify seed safety. Use proper storage conditions for treated seed. Due to seed quality and seed storage conditions beyond the control of Valent U.S.A. LLC, no claims are made to guarantee the germination of carry-over treated seed.

SEED BAG TAG REQUIREMENTS

The Federal Seed Act requires that bags containing treated seed be labeled or tagged with the following information:

- This seed has been treated with V-10417 FS Fungicide containing ethaboxam, metalaxyl and inpyflumoxam. Do not use for feed, food or oil processing.

The U.S. Environmental Protection Agency requires the following statements on the container of seed treated with V-10417 FS Fungicide:

- Store away from feeds and other foodstuffs. Do not allow children, pets, or livestock to have access to treated seed. Wear long sleeved shirt, long pants, shoes and socks, and chemical resistant gloves made of any waterproof material when opening this bag or handling (e.g., loading, pouring) treated seed.
- Treated seeds exposed on soil surface may be hazardous to wildlife. Plant treated seed into the soil to the recommended minimum depth or greater to minimize exposure. Cover or collect treated seeds spilled during loading and planting, in particular at row ends and field corners.
- Dispose of all excess treated seed by burying seed away from bodies of water. Do not contaminate water bodies when disposing of planting equipment washwaters. Dispose of seed packaging in accordance with local requirements. Excess treated seed may be used for ethanol production only if (1) by-products are not used for livestock feed and (2) no measurable residues of pesticide remain in ethanol by-products that are used in agronomic practices.

The following table provides use rates of V-10417 FS Fungicide by labeled crop, with disease protection guidelines.

Legume Vegetables, Succulent or Dried [Crop Group 6]	
Bean (<i>Lupinus</i> spp.) (includes grain lupin, sweet lupin, white lupin, and white sweet lupin); bean (<i>Phaseolus</i> spp.) (includes field bean, kidney bean, lima bean, navy bean, pinto bean, runner bean, snap bean, tepary bean, wax bean); bean (<i>Vigna</i> spp.) (includes adzuki bean, asparagus bean, blackeyed pea, catjang, Chinese longbean, cowpea, Crowder pea, moth bean, mung bean, rice bean, southern pea, urd bean, yardlong bean); broad bean (fava); chickpea (garbanzo); guar; jackbean; lablab bean (hyacinth bean); lentil; pea (<i>Pisum</i> spp.) (includes dwarf pea, edible-podded pea, English pea, field pea, garden pea, green pea, snowpea, sugar snap pea); pigeon pea; soybean; soybean (immature seed); sword bean	
Diseases	Application Rate of V-10417 FS Fungicide (fl oz/100 lb seed)
Seed decay, seedling blight and damping off caused by <i>Rhizoctonia solani</i> <i>Pythium</i> seed decay and seedling dieback Early season <i>Phytophthora sojae</i> root rot Early season <i>Aphanomyces</i> root rot	1.5 (ethaboxam: 7.5 g ai/100 kg seeds) (metalaxyl: 2 g ai/100 kg seeds) (inpyrfluxam: 5 g ai/100 kg seeds)
It is acceptable to apply S-2399 2.84 SC Fungicide (also containing inpyrfluxam) following the use of V-10417 FS Fungicide as a seed treatment.	

STORAGE AND DISPOSAL

Do not contaminate water, food, or feed by storage or disposal.

STORAGE

Store in a dry place away from excessive heat.

Do not store near food or feed.

Store in original container only.

PESTICIDE DISPOSAL

To avoid wastes, use all material in this container by application according to label directions. If wastes cannot be avoided, offer remaining product to a waste facility or pesticide disposal program (often such programs are run by state or local governments or by industry).

CONTAINER HANDLING

[Use the following statement for containers equal to or less than 5 gallons]

Nonrefillable container. Do not reuse or refill this container. Triple rinse container (or equivalent) promptly after emptying. Triple rinse as follows: Empty the remaining contents into application equipment or a mix tank and drain for 10 seconds after the flow begins to drip. Fill the container 1/4 full with water and recap. Shake for 10 seconds. Pour rinsate into application equipment or a mix tank or store rinsate for later use or disposal. Drain for 10 seconds after the flow begins to drip. Repeat this procedure two more times. Offer for recycling, if available; otherwise dispose of in a sanitary landfill or by incineration, if allowed by state and local authorities.

[Use the following statement for containers greater than 5 gallons]

Nonrefillable container. Do not reuse or refill this container. Triple rinse container (or equivalent) promptly after emptying. Triple rinse as follows: Empty the remaining contents into application equipment or a mix tank. Fill the container 1/4 full with water. Replace and tighten closures. Tip container on its side and roll it back and forth, ensuring at least one complete revolution, for 30 seconds. Stand the container on its end and tip it back and forth several times. Turn the container over onto its other end and tip it back and forth several times. Empty the rinsate into application equipment or a mix tank or store rinsate for later use or disposal. Repeat this procedure two more times. Offer for recycling, if available; otherwise dispose of in a sanitary landfill or by incineration, if allowed by state and local authorities.

[Use the following statement for all formulation types/all refillable container types]

Refillable container. Refill this container with pesticide only. Do not reuse this container for any other purpose. Cleaning the container before final disposal is the responsibility of the person disposing of the container. Cleaning before refilling is the responsibility of the refiller. To clean the container before final disposal, empty the remaining contents from this container into application equipment or mix tank. Fill the container about 10 percent full with water. Agitate vigorously or recirculate water with the pump for 2 minutes. Pour or pump rinsate into application equipment or rinsate collection system. Repeat this rinsing procedure two more times. Offer for recycling, if available; otherwise dispose of in a sanitary landfill or by incineration, if allowed by state and local authorities.

RECYCLING

Once cleaned, some agricultural plastic pesticide containers can be taken to a container collection site or picked up for recycling. To find the nearest site, contact your chemical dealer or manufacturer, or contact the Ag Container Recycling Council (ACRC) at 877-952-2272 (toll free) or www.acrecycle.org.

**DISCLAIMER, RISKS OF USING THIS PRODUCT,
LIMITED WARRANTY
AND LIMITATION OF LIABILITY**

IMPORTANT: Read the entire Label including this Disclaimer, Risks of Using this Product, Limited Warranty, and Limitation of Liability before using this product. If the terms are not acceptable THEN DO NOT USE THE PRODUCT; rather, return the unopened product within 15 days of purchase for a refund of the purchase price.

RISKS OF USING THIS PRODUCT

The Buyer and User (referred to collectively herein as "Buyer") of this product should be aware that there are inherent unintended risks associated with the use of this product which are impossible to eliminate. These risks include, but are not limited to, injury to plants and crops to which this product is applied, lack of control of the target pests, resistance of the target pest to this product. Such risks of crop injury, non-performance, resistance or other unintended consequences are unavoidable and may result because of such factors as weather, soil conditions, disease, moisture conditions, irrigation practices, condition of the crop at the time of application, presence of other materials either applied in the tank mix with this product or prior to application of this product, cultural practices or the manner of use or application, (or a combination of such factors) all of which are factors beyond the control of Valent. The Buyer should be aware that these inherent unintended risks may reduce the harvested yield of the crop in all or a portion of the treated acreage, or otherwise affect the crop such that additional care, treatment and expense are required to take the crop to harvest. If the Buyer chooses not to accept these risks, THEN THIS PRODUCT SHOULD NOT BE APPLIED. By applying this product Buyer acknowledges and accepts these inherent unintended risks AND AGREES THAT TO THE EXTENT CONSISTENT WITH APPLICABLE LAW, RISKS ASSOCIATED WITH THE APPLICATION AND USE ARE ASSUMED BY THE BUYER.

To the extent consistent with applicable law, Valent shall not be responsible for losses or damages (including, but not limited to, loss of yield, increased expenses of farming the crop or such incidental, consequential or special damages that may be claimed) resulting from use of this product in any manner not set forth on the label. To the extent consistent with applicable law, Buyer assumes all risks associated with the use of this product in any manner or under conditions not specifically directed or approved on the label.

LIMITED WARRANTY

Valent warrants only that this product conforms to the chemical description on the label and is reasonably fit for the purposes stated in the label, under average use conditions, when used strictly in accordance with the label and subject to the Risks of Using This Product as described above. TO THE EXTENT CONSISTENT WITH APPLICABLE LAW, EXCEPT AS SET FORTH ABOVE, VALENT MAKES NO OTHER WARRANTIES, EITHER EXPRESSED OR IMPLIED. No agent or representative of Valent or Seller is authorized to make or create any other express or implied warranty.

LIMITATION OF LIABILITY

To the extent consistent with applicable law, Valent or Seller shall not be liable for any incidental, consequential, indirect or special damages resulting from the use or handling of this product. The limitation includes, but is not limited to, loss of yield on all or any portion of the treated acreage, increased care, treatment or other expenses required to take the crop to harvest, increased finance charges or altered finance ratings, emotional or mental distress and/or exemplary damages. TO THE FULLEST EXTENT ALLOWED BY LAW, THE EXCLUSIVE REMEDY OF THE BUYER, AND THE EXCLUSIVE MAXIMUM LIABILITY OF VALENT OR SELLER FOR ANY AND ALL CLAIMS, LOSSES, INJURIES OR DAMAGES (INCLUDING CLAIMS BASED ON BREACH OF WARRANTY, CONTRACT, NEGLIGENCE, TORT, STRICT LIABILITY OR OTHERWISE) RESULTING FROM THE USE OR HANDLING OF THIS PRODUCT SHALL BE THE RETURN OF THE PURCHASE PRICE OF THIS PRODUCT OR, AT THE ELECTION OF VALENT OR SELLER, THE REPLACEMENT OF THE PRODUCT.

PROMPT NOTICE OF CLAIM

Valent must be provided notice as soon as Buyer has reason to believe it may have a claim, but in no event later than twenty-one days from date of planting, or twenty-one days from the date of application, whichever is latter, so that an immediate inspection of the affected property and growing crops can be made.

To the extent consistent with applicable law, if Buyer does not notify Valent of any claims, in such period, it shall be barred from obtaining any remedy.

NO AMENDMENTS

Valent and Seller offer this product, and Buyer accepts it, subject to the foregoing Disclaimer, Risks of Using This Product, Limited Warranty and Limitation of Liability, which may not be modified by any oral or written agreement.

COMMERCIAL TANK MIXES

NOTICE: Commercial tank mixing or use of this product with any other product which is not specifically and expressly authorized by the label shall be the exclusive risk of user, applicator and/or application advisor.

Read and follow the entire label of each product to be used in the commercial tank mix with this product.

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Manufactured For:
Valent U.S.A. LLC
P. O. Box 5075
San Ramon CA 94583-0975

Made in U.S.A.

EPA Reg. No. 59639-EGE
EPA Est.

059639-00EGE.20200729.V-10417_FS_Fungicide.Clean

CERTIFICATE OF SERVICE

I hereby certify that on October 23, 2020, I electronically filed the foregoing Petition for Review, Corporate Disclosure Statement, this Certificate of Service, and Exhibits A-E with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the CM/ECF system. I caused to be served one true and correct copy of the foregoing via certified mail on the following persons:

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U.S. Attorney General
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Washington, DC 20530-0001
Telephone: (202) 514-2001

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/s/Jonathan Evans
Jonathan Evans

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Office of the Clerk

After Opening Your Agency Case: What You Need to Know

You have received this guide because you asked the U.S. Court of Appeals for the Ninth Circuit to review the final decision of a federal agency. (This guide is not for immigration cases, however. If you opened an immigration case, please request our immigration packet.) It provides information you need to know if you decide to handle your case without a lawyer.

Before you go further, you should be familiar with these terms:

- **Pro se** is the legal term for representing yourself. It is Latin for “on one’s own behalf.”
- A **petition for review** is the document you filed seeking review of the federal agency’s decision.
- You are the **petitioner** in your case—that is, the person who files the petition for review.

You will see these terms on some of the papers you receive from the court.

Read this guide carefully. If you don’t follow instructions, the court may dismiss your case.

This Guide Is Not Legal Advice

Court employees are legally required to remain neutral; that means they can’t give you advice about how to win your case. However, if you have a question about procedure—for example, which forms to send to the court or when a form is due—this packet should provide the answer. If it doesn’t, you may contact the clerk’s office for more information.

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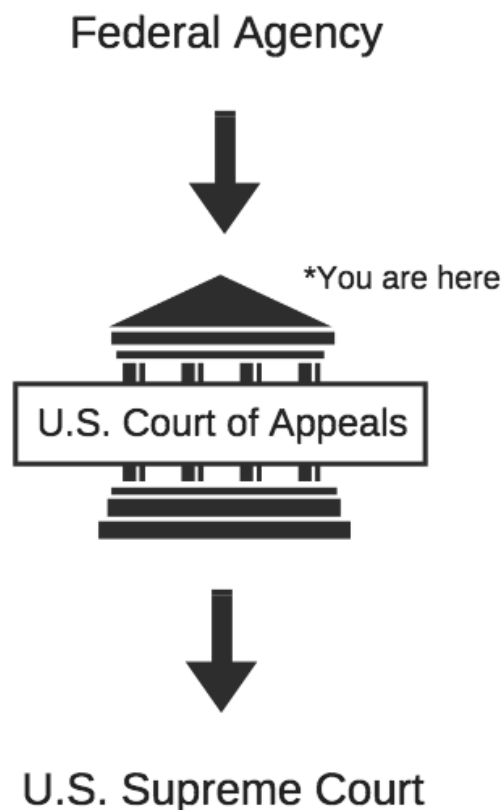
HOW AN AGENCY PETITION WORKS

The chart below shows the path of an agency petition from the agency to the highest court. Review these steps to make sure you understand where you are in the process.

Federal Agency. Cases come to the U.S. Court of Appeals from several different federal agencies. For example, your petition may arise from a final decision at the Federal Aviation Administration, National Labor Relations Board, Federal Trade Commission, or another agency. The important thing to understand is that you must have used up all of your options for appeal within the agency itself before filing a petition for review with the court of appeals. Some agency decisions must first be challenged in U.S. District Court before you can come to the Court of Appeals.

U.S. Court of Appeals. When reviewing the federal agency decision in your case, the court of appeals (usually a panel of three judges) will carefully consider everything that has happened so far. The court will also read all the papers that you and the other side file during your case. The court will look to see whether any agency, officer, or lower court has made a legal or factual mistake. You are not allowed to present new evidence or testimony in the court of appeals.

U.S. Supreme Court. If you do not agree with the decision of the court of appeals, you can ask the United States Supreme Court to review your case. The Supreme Court chooses which cases it wants to hear. It reviews only a small number of cases each



year.

Your case may not go through all of the stages shown above. For example, if the U.S. Court of Appeals resolves your case the way that you want, you won't need to file a petition in the U.S. Supreme Court.

YOUR CASE NUMBER

We have assigned your petition a seven-digit court of appeals case number, also called a “docket number.” You can find the number at the top of the letter you received with this guide. Include your case number on all papers you send to the court or to the opposing party. (In petitions for review of agency decisions, the opposing party is the government who is represented by a lawyer for the government. The terms “opposing party” and “opposing counsel” in this packet refer to the lawyer who represents the government in your case.)

You may want to jot down your case number here to keep it handy:

MY CASE NUMBER IS _____.

IMPORTANT RULES FOR ALL CASES

The rules in this section apply to everyone who files a case in the court of appeals. You must understand and follow each one.

Meet Your Deadlines

Read all documents you get from the court. They will contain important instructions and deadlines for filing your court papers. Write down deadlines on your calendar. **If you miss a deadline or fail to respond to the court as directed, the court may dismiss your case.**

Complete Your Forms Properly

Everything you send to the court must be clear and easy to read. If we can’t read your papers, we may send them back to you.

Follow these guidelines:

- ✓ Use white 8.5 x 11-inch (letter size) paper.
- ✓ Use blue or black pen or type your papers. If you write by hand, please write clearly.
- ✓ Number your pages and put them in order.
- ✓ Use only one paper clip or a single staple to keep your documents organized. The clerk’s office must scan your documents and extra binding makes that job difficult.

Deliver Papers the Right Way

- ✓ When you deliver papers to the court or to opposing counsel, you must take certain steps to show you sent them to the right place on time. When you properly deliver papers to the opposing party, it's called "serving" a document.
- ✓ **Use the correct address.** Before you put anything in the mail, make sure the address is current and correct.
 - To find current addresses for the court, see "How to Contact the Court," at the end of this guide. It's okay to deliver a document to the court in person, but you must hand it to someone designated to receive documents in the clerk's office.
 - To find the correct address for the opposing party, see opposing counsel's "notice of appearance." Opposing counsel should have file this notice with the agency or after you filed your petition for review. The notice states the name and address of the attorney who represents the other side in your case.
- ✓ **Attach a certificate of service.** You must attach a signed "certificate of service" to each document you send to the court or to opposing counsel. You can find a blank certificate of service at the end of this guide. Make copies of the blank document and fill them out as needed.
- ✓ **Send a copy of *all* documents to opposing counsel.** When you send a document to the court, you must also send a copy (including any attachments) to opposing counsel.

Filing Documents Electronically

The court allows self-represented petitioners who are not currently in prison to file documents and make payments electronically if they have access to the internet. This means using the same system that lawyers use. To learn about or apply for electronic filing, review the materials on the court's website at www.ca9.uscourts.gov/cmecf.

Keep Copies of Your Documents

Make copies of all documents you send to the court and to opposing counsel and keep all papers sent to you. Put everything in a folder that you keep in a safe place.

Pay Your Filing Fee or Request a Waiver

The filing fee for your case is \$500.00.

Your fee is due when you file your petition for review. If you don't pay the fee, you will receive a notice informing you that you have **21 days** to either pay the fee or request a waiver because you can't afford to pay.

- **If you can afford the fee.** Send a check or money order to the court. Make it out to "Clerk, U.S. Courts." Don't forget to include your case number. Please note that after you pay the fee, we cannot refund it, no matter how your case turns out.
- **If you can't afford to pay.** You may ask the court to waive your fee by completing a form called a "motion to proceed in forma pauperis." (See "Filing Opening Motions," below.)

If you do not pay the fee or submit a waiver request by the deadline, the court will dismiss your case.

If You Move, Tell the Court

If your mailing address changes, you must immediately notify the court in writing, using the change of address form at the end of this guide. (You can also find the form on the court's website at www.ca9.uscourts.gov/forms.) If you don't promptly tell the court that you changed your address, you might not receive court notices or decisions, and you could miss court deadlines. Missing a deadline may cause the court to dismiss your case.

Additional Rules

This guide describes the key rules that you **absolutely must follow** during your case.

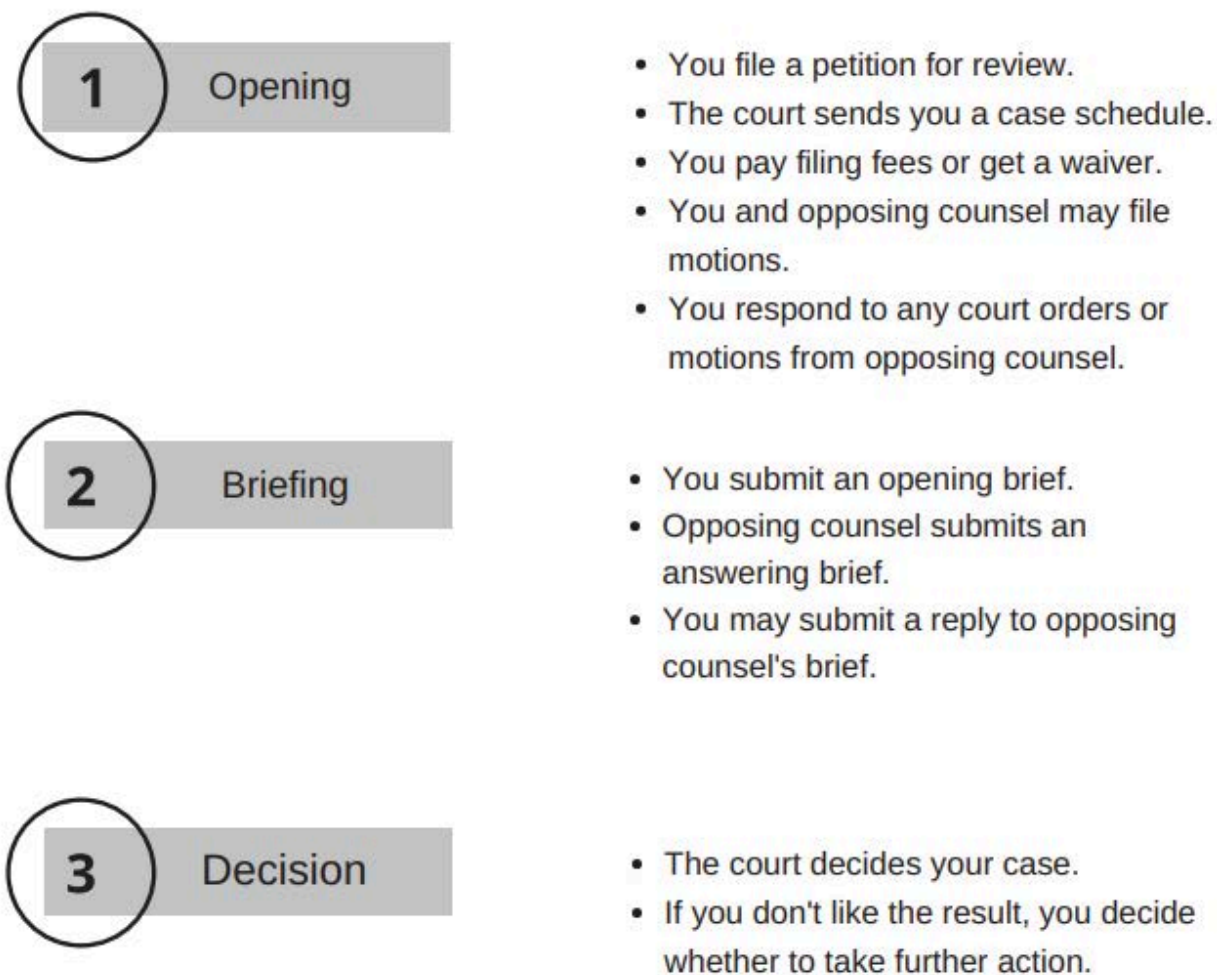
You can find the complete set of court rules in the Federal Rules of Appellate Procedure (Fed. R. App. P.) and the Ninth Circuit Rules (9th Cir. R.), available at www.ca9.uscourts.gov/rules. If you would like the court to mail you a free copy of the rules, use the form "Request for Docket Sheet, Documents, or Rules," at the end of this guide.

Because you do not have a lawyer, the court will do its best to work with you, but it is your job to do your best to follow the rules.

HANDLING YOUR OWN CASE: THREE STAGES

This section will help you understand and manage the different parts of your case. You'll learn about the documents you must file with the court and the timing of each step.

To begin, review the chart below. It introduces the three stages of a case.



Stage One: Opening Your Case

By the time you receive this guide, you have already opened your case by filing a petition for review. In response, the clerk's office created your case record and gave you a case number and a schedule. This section covers some important things to think about next.



The court may dismiss your case at any time. Even if you pay your fees and get a schedule, the court may decide not to keep your case for a variety of legal reasons. If the court dismisses your case and you think the court was wrong, see “If You Don’t Agree with a Court Decision,” below.

Ordering Documents and Paying Fees

When you filed your petition for review, you should have included:

- ✓ **A copy of the agency order you want the court to review.** If you did not submit a copy of the agency’s final order with your petition, send it to the court and to opposing counsel right away.
- ✓ **Your filing fee.** If you did not pay your filing fee, you must do so now. See “Pay Your Filing Fee or Request a Waiver,” above.

Filing Motions

Now is the time for you and opposing counsel to file opening motions with the court, if you have any. A “motion” is a legal document that asks the court to do or decide something—for instance, to waive your filing fee or give you more time to submit a document.

Here, we describe a few motions that you might make at the beginning of your case.

Motion to Proceed in Forma Pauperis

This motion asks the court to waive your filing fee. “In forma pauperis” is Latin for “in the form of a pauper,” which simply means that you don’t have enough money to pay. The motion form includes information about your finances and a sworn statement that you don’t have enough money or other assets to pay the fee. You can find a blank copy of the form, called “Motion and Affidavit for Permission to Proceed in Forma Pauperis (Form 4),” at the end of this guide. In addition, be sure to follow the instructions in “How to Write and File Motions,” below.

Motion for Appointment of Counsel

You may ask the court to appoint a volunteer lawyer to represent you for free, called “pro bono.” These appointments are rare, however. You will be given a lawyer only if the court decides that a lawyer is needed to help explain the issues in the case or if there are other unusual circumstances.

To ask for a lawyer, you must file a motion for appointment of counsel, and you may use the motion for appointment of counsel form 24 at the end of this guide. In addition, be sure to follow the instructions in “How to Write and File Motions,” below.

Motion for Injunction Pending Appeal

This motion, sometimes called a “motion for injunctive relief,” asks the court to order someone to do something or to stop doing something while your case is in progress. For example, your motion might ask the court to stop a federal agency from building a road while an environmental impact study is underway. Or you might ask the court to let you keep your job while the court reviews an agency decision that terminated your employment. To write your motion, start with the generic motion form 27 at the end of this guide and follow the instructions in “How to Write and File Motions,” below.

Stage Two: Preparing and Filing Briefs

During the second stage of your case, you and opposing counsel will prepare and file written arguments. These written arguments are called briefs.

Opening brief. It is your job to write and file the first brief in your case. In the opening brief, you will:

- state the facts of your case
- tell the court what you want it to do, and
- give the legal reasons that support your petition.

You must file your opening brief by the deadline in the schedule the clerk sent to you. (The schedule is called a “time schedule order” or a “briefing schedule,” because it tells you when your briefs are due. **If you do not file your brief on time or request an extension, the court will dismiss your case.**

Answering brief. To respond to your arguments, opposing counsel may file an answering brief. The time scheduling order sets the deadline for the answering brief. If opposing counsel files an answer, they must send a copy to you.

Reply brief. You are invited to reply to opposing counsel’s answering brief, but you are not required to do so.

How to Write Your Opening Brief

Because you are representing yourself, you may use the informal brief form at the end of this guide. If you use the informal brief, you do not have to follow the rules that apply to regular briefs. The court will give your informal brief the same consideration as any other brief.

To prepare your brief, answer **all** the questions on the informal brief form as clearly and accurately as possible. Be sure to sign your brief on the blank line at the end.

You may include additional pages with the informal brief form, up to a total of **50 double-spaced pages** including the form itself. If your brief is longer than 50 pages, think about whether you can make it shorter. If you need more than 50 pages to make your case, you must file a motion with your brief requesting permission for the extra pages and explaining why you need them. The court may deny permission and may require you to file a shorter brief.

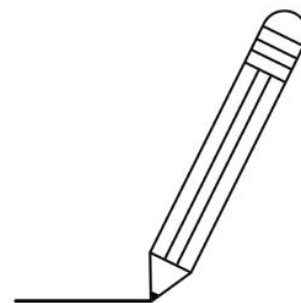


Standard opening briefs must comply with additional rules. If you choose not to use the informal brief provided by the court, and you instead draft a brief using your own format, your brief must meet all the requirements of the federal rules and it must include a [certificate of compliance](#). (You can view the certificate of compliance on the court's website at www.ca9.uscourts.gov/forms.) If your brief does not meet all the rules, we may return it to you for correction, which will delay your case. You can find the detailed rules and requirements in [Federal Rules of Appellate Procedure 28](#) and [32](#) and [Ninth Circuit Rules 28-1, 28-2, 32-1, and 32-3](#).

How to Write a Reply Brief

If opposing counsel files an answer to your opening brief, you may submit a reply telling the court why you think opposing counsel's arguments are incorrect. You may use the informal reply brief form at the end of this guide. If you write a reply brief, do not simply restate the arguments in your opening brief. Instead, use the reply brief to directly address the arguments in opposing counsel's answering brief.

You must file your reply brief within **21 days** of the date the government serves you with its answering brief.





Tips for Writing Your Briefs

Keep these points in mind to write a better brief:

Avoid unnecessary words. Don't use 20 words to say something you can say in ten.

Write clearly. If you write by hand, make sure we can read your writing. Print using blue or black ink and don't crowd too many words into a small space.

Think things through. Do your best to make logical arguments and back them up with legal rules.

Be respectful. You can disagree without being disagreeable. Focus on the strengths of your case, not the character of others.

Tell the truth. Don't misstate or exaggerate the facts or the law.

Proofread. Before you file, carefully check for misspellings, grammatical mistakes, and other errors.

How to File a Brief

You must follow these special rules for filing briefs:

- ✓ Send the original document and **six copies** of your brief to the court.
- ✓ Send **two copies** to opposing counsel unless you are proceeding in forma pauperis, in which case you may send just one copy.
- ✓ Attach a signed certificate of service to the original and to each copy for opposing counsel.
- ✓ Keep a copy for yourself.

If You Need More Time to File

You may ask for one extension of up to 30 days for each brief by filing a “Streamlined Request for Extension of Time to File a Brief” (Form 13), available at the end of this guide. You must file Form 13 on or before your brief’s existing due date.

If you need more than 30 days, or if the court has already given you an extension, you must submit a motion asking for more time. File your request at least seven days before your brief is due. The motion must meet the requirements of [Ninth Circuit Rule 31-2.2\(b\)](#). To file your motion, use the “Motion for Extension of Time” (Form 14) at the end of this guide.

If you followed the correct procedures to ask for more time but the court doesn’t respond by the date your brief is due, act as though the court has granted your request and take the time you asked for.

What Happens After You File

After you and opposing counsel have filed your briefs, a panel of three judges will evaluate the case. Sometimes the court decides a case before briefing is complete; if that happens, we will let you know.

Judges often decide agency petitions without hearing oral (in-person) argument. To make a decision, they use the information included in the briefs and the case record. But if the court decides that oral argument would be helpful in resolving your case, we will schedule a hearing and may appoint a lawyer to help you.

Stage Three: The Court’s Final Decision

After the judges decide your case, you will receive a memorandum disposition, opinion, or court order stating the result. (A memorandum disposition is a short, unpublished decision.) If you are happy with the outcome, congratulations.

If you didn’t get the final results you wanted, you may take the case further. We explain your options below; see “If You Don’t Agree With a Court Decision.”



HOW TO WRITE AND FILE MOTIONS

This section provides general guidelines for writing and filing motions, including motions discussed elsewhere in this guide. The motion you want to make may have special rules—for example, a different page limit or deadline—so be sure that you also read its description, as noted below.

How to Write a Motion

If you want to file a motion with the court, we ask that you:

- ✓ Use the correct motion form at the end of this guide.
- ✓ Clearly state **what** you want the court to do.
- ✓ Give the legal reasons **why** the court should do what you are asking.
- ✓ Tell the court **when** you would like it done.
- ✓ Don't write a motion that is more than 20 pages long unless you get permission from the court.

How to File a Motion

To file your motion, you must follow the rules described in “Deliver Papers the Right Way,” at the beginning of this guide. In particular, remember to:

- ✓ Send the original document to the court.
- ✓ Send a copy to opposing counsel.
- ✓ Attach a signed certificate of service to the original and to each copy.
- ✓ Keep a copy for yourself.

What Happens After You File

The path of a motion depends on the details of your case, but the following steps are common.

Opposing counsel may respond to your motion. After you file a motion with the court, opposing counsel has ten days to file a response. In the response, opposing counsel will tell the court whether and why it disagrees with the arguments in your motion.

You may reply to opposing counsel’s response. If opposing counsel responds, you may tell the court why you think opposing counsel’s view is incorrect. If you file a reply, don’t just repeat the arguments in your original motion. Instead, directly address the arguments in opposing counsel’s response. You usually have **seven days** to file a reply with the court, starting on the day opposing counsel serves you with their response. Usually, a reply may not be longer than ten pages.

The court decides your motion. After you and opposing counsel file all papers related to the motion, a panel of judges will decide the issue.

How to Respond to a Motion from Opposing Counsel

Opposing counsel may submit its own motions to the court. For example, opposing counsel may file a motion to dismiss your case or to ask the court to review your case more quickly than usual. If opposing counsel files a motion, you are allowed to respond with your arguments against it. Your response may not be longer than 20 pages.

Usually, you must file your response with the court no more than **ten days** from the day opposing counsel delivers a copy of its motion to you. To get started, you may use the blank motion response form 28 at the end of this guide.



Read More About These Motions

If you are making one of the following motions, read the section noted here:

Motion to proceed in forma pauperis in “Filing Motions,” above.

Motion for appointment of counsel in “Filing Motions,” above.

Motion for injunctive relief pending appeal in “Filing Motions,” above.

Motion for extension of time to file a brief in “If You Need More Time to File,” above.

Motion for reconsideration in “If You Don’t Agree With a Court Decision,” below.



Emergency Motions

An emergency motion is a motion that asks the court to act within 21 days in order to prevent “irreparable harm”—that is, serious damage that can’t be fixed after it happens. If you need emergency relief, call the Motions Unit of the court at 415-355-8020. The attorney on duty will help you figure out the best way to file the motion. Please note that a request for more time to file a document with the court will *not* qualify as an emergency motion.

Learn More About Motions

This guide covers the basics of preparing, filing, and responding to motions. You can find the detailed court rules governing motions in [Federal Rules of Appellate Procedure 8](#) and [27](#), and [Ninth Circuit Rule 27-1](#).

IF YOU DON'T AGREE WITH A COURT DECISION

If you think the court of appeals made an incorrect decision about important issues in your case, you can ask the court to take a second look. You may do this during your case—for example, if you disagree with the court's ruling on a motion. Or you may ask the court to review its final decision at the end of your case.

During Your Case: Motion for Reconsideration

If you disagree with a court order or ruling during your case, you may prepare a document stating the reasons why you think the court's ruling was wrong. This document is called a "motion for reconsideration." Your motion may not be longer than 15 pages.

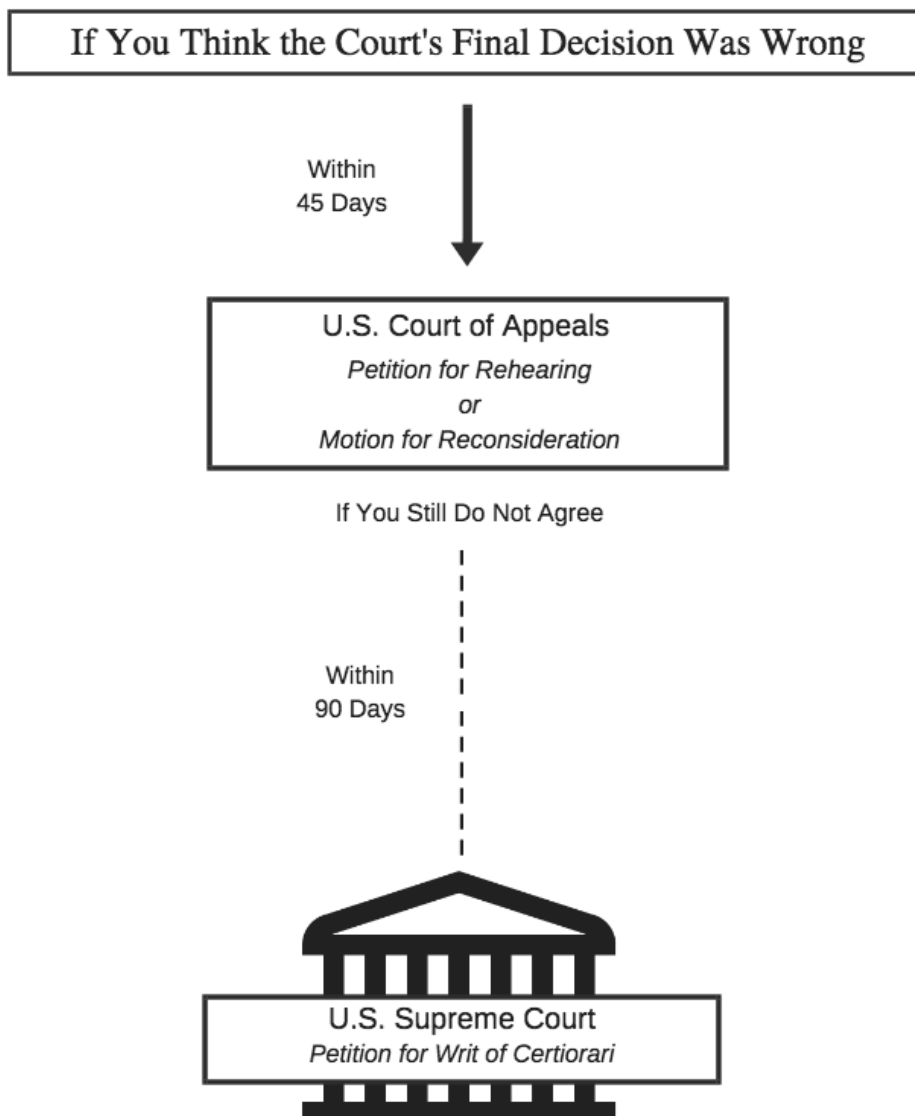
A motion for reconsideration of any court order that does not end your case is due **within 14 days** of the date stamped on the court order. In addition to these rules, please follow the general guidelines in "How to Write and File Motions," above.

After Your Case: Motions and Petitions

If you think the court's final decision in your case was wrong and you want to take further action, you have two options:

- File a motion for reconsideration or petition for rehearing in this court.
 - If the court decided your case in an order, then you would file a motion for reconsideration, as discussed just above. You have **45 days** (instead of 14 days) to file a motion for reconsideration of a court order that ends your case.
 - If the court decided your case in a memorandum disposition or opinion, then you would file a petition for rehearing, discussed below.
- File a petition for writ of certiorari with the U.S. Supreme Court.

It is most common to do these things one after the other—that is, to file a petition for rehearing or motion for reconsideration in this court and then, if that doesn't succeed, petition the Supreme Court. It is technically possible to file both petitions at the same time but that is not the typical approach. Our discussion focuses on the common path.



Court of Appeals: Petition for Rehearing

To ask the court of appeals to review its final decision in your case, you must file a petition for rehearing. Before starting a petition, remember that you must have a legal reason for believing that this court's decision was incorrect; it is not enough to simply dislike the outcome. You will not be allowed to present any new facts or legal arguments in your petition for rehearing. Your document should focus on how you think the court overlooked existing arguments or misunderstood the facts of your case.

A petition for rehearing may not be longer than 15 pages. Your petition is due **within 45 days** of the date stamped on the court's opinion or memorandum disposition. To learn more about petitions for rehearing, read [Federal Rules of Appellate Procedure 40 and 40-1](#).

Most petitions for rehearing go to the same three judges who heard and decided your case. It is also possible to file a petition called a “petition for rehearing en banc.” This type of petition asks 11 judges to review your case instead of three. The court grants petitions for rehearing en banc only in rare, exceptional cases. If you want to find out more about petitions for rehearing en banc, see [Federal Rule of Appellate Procedure 35](#).

U.S. Supreme Court: Petition for Writ of Certiorari

If the court of appeals denies your petition for rehearing—or if it rehears your case and issues a new judgment you don’t agree with—you have 90 days from the denial order or the new decision to petition the U.S. Supreme Court to hear your case. You do this by asking the Supreme Court to grant a “writ of certiorari” (pronounced “sersh-oh-**ra**-ree”). A writ of certiorari directs the appellate court to send the record of your case to the Supreme Court for review. This petition is filed directly with the Supreme Court, not at the court of appeals.

The Supreme Court is under no obligation to hear your case. It usually reviews only cases that have clear legal or national significance—a tiny fraction of the cases people ask it to hear each year. Learn the [Supreme Court’s Rules](#) before starting a petition for writ of certiorari. (You can find the rules and more information about the Supreme Court at www.supremecourt.gov.)

HOW TO GET HELP

We understand that it’s not easy to handle your own petition for review. In this section, you’ll find resources that may provide support if you need legal help or language assistance.

Asking Questions About Court Procedures

As the beginning of this guide makes clear, court employees can’t give you legal advice. However, if you have a question about court procedures or rules, the clerk’s office may be able to help. Here are some examples of questions you could ask the court clerk:

- Which form should I use?
- When is my form due?
- How many copies of the form should I send to the court?
- Did the court receive the form I sent?

Begin by reviewing this guide to see if it answers your question. If you don’t find the answer you need, you may call the clerk’s office at (415) 355-8000.

Finding Legal Help

If you need legal advice but can't afford a lawyer, you may want to consider the following options.

Court appointed lawyers. You can ask the court to appoint a volunteer lawyer to represent you for free. These appointments are rare, however. To ask for a lawyer, you must file a “motion for appointment of counsel.” (See “Filing Motions,” above.)

Low-cost legal services. Another option is to seek help from a legal aid organization in your area. You may want to begin with www.lawhelp.org, a searchable network of national nonprofit agencies that provide free or low-cost legal help to people in a variety of circumstances.

If You Need English Language Assistance

All papers you file with the U.S. Court of Appeals must be in English. At this time, the court is not able to accept, translate, or process paperwork in other languages. We realize this may present a barrier to non-native speakers of English. If you need help understanding and completing your court papers in English, we recommend that you seek legal aid as described above or find someone with strong English language skills who is available and willing to support you during your case.

HOW TO CONTACT THE COURT



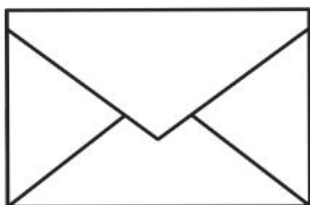
IN PERSON

95 Seventh Street
San Francisco, CA 94103
Hours: 8:30 a.m. - 5:00 p.m.
Open Monday through Friday, except
federal holidays



BY PHONE

(415) 355-8000



BY MAIL

U.S. Postal Service
Office of the Clerk
James R. Browning Courthouse
U.S. Court of Appeals
P.O. Box 193939
San Francisco, CA 94119-3939



ONLINE

www.ca9.uscourts.gov

**FedEx, UPS, or Similar
Delivery Services**
Office of the Clerk
James R. Browning Courthouse
U.S. Court of Appeals
95 Seventh Street
San Francisco, CA 94103-1526

APPENDIX OF COURT FORMS*

Motion and Affidavit for Permission to Proceed in Forma Pauperis (Form 4). Use this form to ask the court to waive your filing fees.

Motion for Appointment of Counsel (Form 24). Use this form to ask the court to appoint a lawyer for you.

Streamlined Request for Extension of Time to File Brief (Form 13). Complete and submit this form to receive one extension of up to 30 days to file your brief. For other requests or to ask for more time, use the Motion for Extension of Time (Form 14).

Motion for Extension of Time (Form 14). Use this form to:

- request an extension of time to file a document other than a brief
- request a first extension of time to file a brief if you need more than 30 days
- request an additional extension of time to file a brief after filing Form 13.

Generic Motion (Form 27). Use this form to request something from the court that is not covered by any of the other motion forms in this guide.

Response to Motion or Court Order (Form 28). Use this form to respond to a motion filed by the other side or a court order that directs you to respond.

Informal Brief Forms. Use these forms to write the opening and reply briefs in your case. If you use these forms, you are not required to comply with the technical requirements for Ninth Circuit briefs.

Certificate of Service (Form 25). Include a completed copy of this form with every document you send to the court and opposing counsel.

Notice of Change of Address (Form 22). Use this form if your mailing address changes.

Request for Docket Sheet, Document, or Rules (Form 29). Use this form to request a copy of the Federal Rules of Appellate Procedure, the Ninth Circuit Rules, the docket sheet, or documents for a case to which you are a party.

*For Access to All Court Forms, visit our website at www.ca9.uscourts.gov/forms

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

**INSTRUCTIONS for Form 4.
Motion and Affidavit for Permission to Proceed in Forma Pauperis**

Use Form 4 or an equivalent financial declaration to ask the court to waive the filing fees for an appeal or petition for review **in any civil case**.

For criminal and habeas corpus cases, use Form 23 CJA Financial Affidavit instead of Form 4 to request a fee waiver or to ask for appointment of counsel.

- Answer **all** questions on the form even if the answer is “0” or “N/A” (not applicable).
- Include your case number and sign the form. You do not need to have the form notarized.
- Do **not** include your Social Security number.

If you are a self-represented party who is not registered for electronic filing, mail the completed form to: U.S. Court of Appeals for the Ninth Circuit, P.O. Box 193939, San Francisco, CA 94119-3939.

To file Form 4 electronically, use the electronic document filing type “Motion for Any Type of Relief” and “motion to proceed in forma pauperis” as the relief.

How to prepare fill-in forms for filing:

- If you have Adobe Acrobat or another tool that lets you save completed forms:
 1. Complete the form.
 2. Print the completed form to your PDF printer (File > Print > select Adobe PDF or another PDF printer listed in the drop-down list).
- If you do not have Adobe Acrobat or another tool that lets you save completed forms:
 1. Complete the form.
 2. Print the completed form to your printer.
 3. Scan the completed form to a PDF file.

Note: The fill-in PDF version of the form is available on the court’s website at <http://www.ca9.uscourts.gov/forms/>.

Do not file this instruction page

Feedback or questions about this form? Email us at forms@ca9.uscourts.gov

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

Form 4. Motion and Affidavit for Permission to Proceed in Forma Pauperis

Instructions for this form: <http://www.ca9.uscourts.gov/forms/form04instructions.pdf>

9th Cir. Case Number(s)

Case Name

Affidavit in support of motion: I swear under penalty of perjury that I am financially unable to pay the docket and filing fees for my appeal. I believe my appeal has merit. I swear under penalty of perjury under United States laws that my answers on this form are true and correct. 28 U.S.C. § 1746; 18 U.S.C. § 1621.

Signature **Date**

The court may grant a motion to proceed in forma pauperis if you show that you cannot pay the filing fees **and** you have a non-frivolous legal issue on appeal. Please state your issues on appeal. (*attach additional pages if necessary*)

Feedback or questions about this form? Email us at forms@ca9.uscourts.gov

1. For both you and your spouse, estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income Source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Employment	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
Self-Employment	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
Income from real property (such as rental income)	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
Interest and Dividends	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
Gifts	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
Alimony	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
Child Support	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
Retirement (such as social security, pensions, annuities, insurance)	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
Disability (such as social security, insurance payments)	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
Unemployment Payments	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
Public-Assistance (such as welfare)	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
Other (specify) <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
TOTAL MONTHLY INCOME:	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>

Feedback or questions about this form? Email us at forms@ca9.uscourts.gov

2. List your employment history for the past two years, most recent employer first.
(Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross Monthly Pay
		From <input data-bbox="1019 296 1214 352" type="text"/> To <input data-bbox="1019 363 1214 420" type="text"/>	\$ <input data-bbox="1279 331 1507 388" type="text"/>
		From <input data-bbox="1019 447 1214 504" type="text"/> To <input data-bbox="1019 514 1214 571" type="text"/>	\$ <input data-bbox="1279 483 1507 539" type="text"/>
		From <input data-bbox="1019 598 1214 655" type="text"/> To <input data-bbox="1019 665 1214 722" type="text"/>	\$ <input data-bbox="1279 634 1507 690" type="text"/>
		From <input data-bbox="1019 749 1214 806" type="text"/> To <input data-bbox="1019 816 1214 873" type="text"/>	\$ <input data-bbox="1279 785 1507 842" type="text"/>

3. List your spouse's employment history for the past two years, most recent employer first.
(Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross Monthly Pay
		From <input data-bbox="1019 1209 1214 1266" type="text"/> To <input data-bbox="1019 1276 1214 1333" type="text"/>	\$ <input data-bbox="1279 1245 1507 1302" type="text"/>
		From <input data-bbox="1019 1360 1214 1417" type="text"/> To <input data-bbox="1019 1428 1214 1484" type="text"/>	\$ <input data-bbox="1279 1392 1507 1449" type="text"/>
		From <input data-bbox="1019 1512 1214 1568" type="text"/> To <input data-bbox="1019 1579 1214 1635" type="text"/>	\$ <input data-bbox="1279 1543 1507 1600" type="text"/>
		From <input data-bbox="1019 1663 1214 1719" type="text"/> To <input data-bbox="1019 1730 1214 1787" type="text"/>	\$ <input data-bbox="1279 1694 1507 1751" type="text"/>

4. How much cash do you and your spouse have? \$

Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Financial Institution	Type of Account	Amount You Have	Amount Your Spouse Has
<input type="text"/>	<input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
<input type="text"/>	<input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
<input type="text"/>	<input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
<input type="text"/>	<input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>

If you are a prisoner seeking to appeal a judgment in a civil action or proceeding, you must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishing.

Home	Value	Other Real Estate	Value
<input type="text"/>	\$ <input type="text"/>	<input type="text"/>	\$ <input type="text"/>

Motor Vehicle 1: Make & Year	Model	Registration #	Value
<input type="text"/>	<input type="text"/>	<input type="text"/>	\$ <input type="text"/>
Motor Vehicle 2: Make & Year	Model	Registration #	Value
<input type="text"/>	<input type="text"/>	<input type="text"/>	\$ <input type="text"/>

Other Assets	Value
	\$ <input data-bbox="1193 226 1518 296" type="text"/>
	\$ <input data-bbox="1193 367 1518 436" type="text"/>
	\$ <input data-bbox="1193 508 1518 577" type="text"/>

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse	Amount owed to you	Amount owed to your spouse
	\$ <input data-bbox="734 863 1094 932" type="text"/>	\$ <input data-bbox="1154 863 1515 932" type="text"/>
	\$ <input data-bbox="734 1003 1094 1073" type="text"/>	\$ <input data-bbox="1154 1003 1515 1073" type="text"/>
	\$ <input data-bbox="734 1144 1094 1213" type="text"/>	\$ <input data-bbox="1154 1144 1515 1213" type="text"/>

7. State the persons who rely on you or your spouse for support. If a dependent is a minor, list only the initials and not the full name.

Name	Relationship	Age

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate.

	You	Spouse
Rent or home-mortgage payment (include lot rented for mobile home)	\$ <input type="text"/>	\$ <input type="text"/>
- Are real estate taxes included? <input type="radio"/> Yes <input type="radio"/> No		
- Is property insurance included? <input type="radio"/> Yes <input type="radio"/> No		
Utilities (electricity, heating fuel, water, sewer, and telephone)	\$ <input type="text"/>	\$ <input type="text"/>
Home maintenance (repairs and upkeep)	\$ <input type="text"/>	\$ <input type="text"/>
Food	\$ <input type="text"/>	\$ <input type="text"/>
Clothing	\$ <input type="text"/>	\$ <input type="text"/>
Laundry and dry-cleaning	\$ <input type="text"/>	\$ <input type="text"/>
Medical and dental expenses	\$ <input type="text"/>	\$ <input type="text"/>
Transportation (not including motor vehicle payments)	\$ <input type="text"/>	\$ <input type="text"/>
Recreation, entertainment, newspapers, magazines, etc.	\$ <input type="text"/>	\$ <input type="text"/>
Insurance (not deducted from wages or included in mortgage payments)		
- Homeowner's or renter's	\$ <input type="text"/>	\$ <input type="text"/>
- Life	\$ <input type="text"/>	\$ <input type="text"/>
- Health	\$ <input type="text"/>	\$ <input type="text"/>
- Motor Vehicle	\$ <input type="text"/>	\$ <input type="text"/>
- Other <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
Taxes (not deducted from wages or included in mortgage payments)		
Specify <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>

	You	Spouse
Installment payments		
- Motor Vehicle	\$ <input type="text"/>	\$ <input type="text"/>
- Credit Card (name) <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
- Department Store (name) <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
Alimony, maintenance, and support paid to others	\$ <input type="text"/>	\$ <input type="text"/>
Regular expenses for the operation of business, profession, or farm (attach detailed statement)	\$ <input type="text"/>	\$ <input type="text"/>
Other (specify) <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
TOTAL MONTHLY EXPENSES	\$ <input type="text"/>	\$ <input type="text"/>

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months? Yes No

If Yes, describe on an attached sheet.

10. Have you spent—or will you be spending—any money for expenses or attorney fees in connection with this lawsuit? Yes No

If Yes, how much? \$

11. Provide any other information that will help explain why you cannot pay the docket fees for your appeal.

12. State the city and state of your legal residence.

City

State

Your daytime phone number (ex., 415-355-8000)

Your age

Your years of schooling

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

INSTRUCTIONS for Form 24. Motion for Appointment of Counsel

Use Form 24 if you do not have a lawyer and want the court to appoint a lawyer for you. You do not have to use Form 24. You may write your own motion instead.

In **criminal and habeas corpus appeals**, you must have in forma pauperis status to receive appointed counsel. If you have not been granted in forma pauperis status or filed a motion to proceed in forma pauperis, please complete a Form 23 CJA Financial Affidavit and file it with your motion for appointment of counsel.

In **civil appeals and petitions for review**, you must explain (1) why you cannot afford an attorney if you paid the filing fees for the case and (2) what your issues are on appeal or review.

If you are not registered for electronic filing, mail the completed form to: U.S. Court of Appeals for the Ninth Circuit, P.O. Box 193939, San Francisco, CA 94119-3939.

To file Form 24 electronically, use the electronic document filing type “Motion for Any Type of Relief.”

How to prepare fill-in forms for filing:

- If you have Adobe Acrobat or another tool that lets you save completed forms:
 1. Complete the form.
 2. Print the completed form to your PDF printer (File > Print > select Adobe PDF or another PDF printer listed in the drop-down list).
- If you do not have Adobe Acrobat or another tool that lets you save completed forms:
 1. Complete the form.
 2. Print the completed form to your printer.
 3. Scan the completed form to a PDF file.

Note: The fill-in PDF version of the form is available on the court’s website at <http://www.ca9.uscourts.gov/forms/>.

Do not file this instruction page

Feedback or questions about this form? Email us at forms@ca9.uscourts.gov

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

Form 24. Motion for Appointment of Counsel

Instructions for this form: <http://www.ca9.uscourts.gov/forms/form24instructions.pdf>

9th Cir. Case Number(s)

Case Name

Lower Court or Agency Case Number

1. My name is

2. I am asking the court to appoint an attorney to help me with this case.

3. My fee status is as follows (*select one*):

- The district court or this court granted my motion to proceed in forma pauperis.
- I filed a motion to proceed in forma pauperis but the court has not yet ruled on the motion.
- This motion is accompanied by a motion to proceed in forma pauperis.
- I paid the filing fees for this case. However, I cannot afford an attorney for the following reasons:

4. Is this a civil appeal or petition for review? Yes No

If yes, attach an additional page(s) describing the issues on appeal.

My current mailing address

City State Zip Code

Prisoner Inmate or A Number (if applicable)

Signature **Date**

Feedback or questions about this form? Email us at forms@ca9.uscourts.gov

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

Form 13. Streamlined Request for Extension of Time to File Brief

ATTENTION ELECTRONIC FILERS: DO NOT USE FORM 13
Use Form 13 only if you are **not** registered for Appellate Electronic Filing.

Electronic filers must make the request by using the electronic document filing type "Streamlined Request to Extend Time to File Brief," which does not require any form.

Instructions

- Use Form 13 only to request more time to file a **BRIEF**. To request an extension of time to file *anything other than a brief*, use Form 14.
- You may request a new due date of up to 30 days from your current due date.
- Submit Form 13 on or before your brief's current due date. The clerk will mail you the new briefing schedule.
- Use Form 13 only for your **first** request for an extension of time to file **each** brief. To request any additional extension of time to file the brief or to request a first extension of more than 30 days pursuant to Cir. R. 31-2.2(b), use Form 14.

9th Cir. Case Number(s)

Case Name

Name of each party requesting the extension:

For which brief are you requesting an extension?

- | | |
|---------------------------------------|--|
| <input type="radio"/> Opening Brief | <input type="radio"/> First Brief on Cross-Appeal |
| <input type="radio"/> Answering Brief | <input type="radio"/> Second Brief on Cross-Appeal |
| <input type="radio"/> Reply Brief | <input type="radio"/> Third Brief on Cross-Appeal |
| | <input type="radio"/> Cross-Appeal Reply Brief |

What is your current due date?

What is your requested due date?

Print Name

Signature

Date

Mail this form on or before your brief's current due date to the court at:

Clerk, U.S. Court of Appeals for the Ninth Circuit, P.O. Box 193939, San Francisco, CA 94119-3939

Feedback or questions about this form? Email us at forms@ca9.uscourts.gov

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

INSTRUCTIONS for Form 14. Motion for Extension of Time

- You may use Form 14 to request any of the following:
 - An extension of time to file a document other than a brief;
 - A first extension of time to file a brief if you need more than 30 days or where a streamlined extension is not otherwise available; or
 - An additional extension of time to file a brief after receiving a streamlined extension.
- If the case is a **criminal appeal or immigration petition for review**, you must complete the Recitals on page 2.
- If the **extension is for a brief**, you must complete the Declaration on page 3.
- A motion for extension of time to file a brief should be filed at least 7 days before the brief's current due date.
- You do not have to use Form 14. You may write your own motion instead.

If you are a self-represented party who is not registered for electronic filing, mail the completed form to: U.S. Court of Appeals for the Ninth Circuit, P.O. Box 193939, San Francisco, CA 94119-3939.

To file Form 14 electronically, use the electronic document filing type "Motion for any Type of Relief" and select the appropriate "motion to extend time to file ___" relief.

How to prepare fill-in forms for filing:

- If you have Adobe Acrobat or another tool that lets you save completed forms:
 1. Complete the form.
 2. Print the completed form to your PDF printer (File > Print > select Adobe PDF or another PDF printer listed in the drop-down list).
- If you do not have Adobe Acrobat or another tool that lets you save completed forms:
 1. Complete the form.
 2. Print the completed form to your printer.
 3. Scan the completed form to a PDF file.

Note: The fill-in PDF version of the form is available on the court's website at <http://www.ca9.uscourts.gov/forms/>.

Do not file this instruction page

Feedback or questions about this form? Email us at forms@ca9.uscourts.gov

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Form 14. Motion for Extension of Time

Instructions for this form: <http://www.ca9.uscourts.gov/forms/form14instructions.pdf>

9th Cir. Case Number(s)

Case Name

Requesting Party Name(s)

- I am: The party requesting the extension.
 Counsel for the party or parties requesting the extension.

I request an extension of time to file a:

- Brief (*you must also complete the Declaration on page 3*)
- Motion to proceed in forma pauperis
- Motion for a certificate of appealability
- Response/opposition to a pending motion
- Reply to a response/opposition to a pending motion
- Motion for reconsideration
- Petition for panel/en banc rehearing
- Certified Administrative Record
- Response to court order dated
- Other (*you must describe the document*)

The requested new due date is:

I request the extension of time because (**cannot be left blank**):

(attach additional pages if necessary)

Signature

Date

(use "s/[typed name]" to sign electronically-filed documents)

Feedback or questions about this form? Email us at forms@ca9.uscourts.gov

Recitals in criminal and immigration cases pursuant to Circuit Rule 27-8

Complete this section for criminal or immigration cases.

Previous requests for extension of time to file the document, including any request for a Streamlined Extension of Time under Circuit Rule 31-2.2(a) (*select one*):

- I have **NOT** filed a previous request to extend time to file the document.
- I have previously requested an extension of time to file the document.

This motion is my request.

(Examples: first, second)

Bail/detention status (*select one*):

- The defendant is incarcerated. The projected release date is: .
- The petitioner is detained.
- The defendant/petitioner in this criminal/immigration case is at liberty.

Signature

Date

(use "s/[typed name]" to sign electronically-filed documents)

Declaration in support of extension to file brief under Circuit Rule 31-2.2(b)*Complete this section if you are requesting an extension of time to file a brief.*

1. I request an extension of time to file the brief.

(Examples: opening, answering, reply, first cross-appeal)

2. The brief's current due date is:

3. The brief's first due date was:

4. A more detailed explanation of why the extension of time to file the brief is necessary: *(Under Circuit Rule 31-2.2(b), a request for extension of time to file a brief must be "supported by a showing of diligence and substantial need" and a conclusory statement as to the press of business does not constitute such a showing. Attach additional pages if necessary.)*

5. The position of the other party/parties regarding this request is:

Unopposed.

Opposed by *(name of party/parties opposing this motion)*:

Unknown. I am unable to verify the position of the other party/parties because:

6. The court reporter is not in default with regard to any designated transcripts.

If the court reporter is in default, please explain:

7. I have exercised diligence and I will file the brief within the time requested.

I declare under penalty of perjury that the foregoing is true and correct.

Signature

Date

(use "s/[typed name]" to sign electronically-filed documents)

Feedback or questions about this form? Email us at forms@ca9.uscourts.gov

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

INSTRUCTIONS for Form 27. Generic Motion

USE FORM 27 ONLY IF YOU DO NOT HAVE A LAWYER

Do not use Form 27 if you are counsel of record in the case.

A “motion” asks the court to do something. Be specific and state **what** you want the court to do and **why** the court should do it.

- Include a title for your motion (what you want the court to do) in the blank at the top of Form 27 after “Motion for ____.” Include your case number and sign the form.
- To ask the court to appoint counsel, use Form 24 instead.
- To ask the court to waive your filing fees, use Form 4 or Form 23 instead.
- To ask the court to extend your deadline to file any document, use Form 14 instead.
- If you need a decision in fewer than 21 days to avoid serious harm, notify the court’s Emergency Motions department by calling (415) 355-8020 or emailing emergency@ca9.uscourts.gov **before filing the motion.**
- You do not have to use Form 27. You may write your own motion instead.

If you are not registered for electronic filing, mail the completed form to: U.S. Court of Appeals for the Ninth Circuit, P.O. Box 193939, San Francisco, CA 94119-3939.

To file Form 27 electronically, use the electronic document filing type “Motion for Any Type of Relief.”

How to prepare fill-in forms for filing:

- If you have Adobe Acrobat or another tool that lets you save completed forms:
 1. Complete the form.
 2. Print the completed form to your PDF printer (File > Print > select Adobe PDF or another PDF printer listed in the drop-down list).
- If you do not have Adobe Acrobat or another tool that lets you save completed forms:
 1. Complete the form.
 2. Print the completed form to your printer.
 3. Scan the completed form to a PDF file.

Note: The fill-in PDF version of the form is available on the court’s website at <http://www.ca9.uscourts.gov/forms/>.

Do not file this instruction page

Feedback or questions about this form? Email us at forms@ca9.uscourts.gov

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

Form 27. Motion for

Instructions for this form: <http://www.ca9.uscourts.gov/forms/form27instructions.pdf>

9th Cir. Case Number(s)

Case Name

Lower Court or Agency Case Number

What is your name?

1. **What** do you want the court to do?

2. **Why** should the court do this? Be specific. Include all relevant facts and law that would persuade the court to grant your request. *(Attach additional pages as necessary. Your motion may not be longer than 20 pages.)*

Your mailing address:

City State Zip Code

Prisoner Inmate or A Number (if applicable)

Signature **Date**

Feedback or questions about this form? Email us at forms@ca9.uscourts.gov

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

INSTRUCTIONS for Form 28. Response to Motion or Court Order

Use Form 28 **only** to respond to a motion filed by another party or an order from the court directing a response, or to reply to a response to a motion/order filed by another party. You do not have to use Form 28. You may write your own response instead.

If you are a self-represented party who is not registered for electronic filing, mail the completed form to: U.S. Court of Appeals for the Ninth Circuit, P.O. Box 193939, San Francisco, CA 94119-3939.

To file Form 28 electronically, use the electronic document filing type:

- “Response to Motion/Form” if you are responding to a motion
- “Response to Court Order” if you are responding to a court order
- “Response to Order to Show Cause” if you are responding to an order directing you to show cause
- “Answer to Original Petition” if you are responding to an original proceeding
- “Status Report Required by Court Order” if you are filing a status report
- “Reply to Response to Motion” or “Reply to Response to Court Order” if you are replying to another party’s response to a motion or court order

How to prepare fill-in forms for filing:

- If you have Adobe Acrobat or another tool that lets you save completed forms:
 1. Complete the form.
 2. Print the completed form to your PDF printer (File > Print > select Adobe PDF or another PDF printer listed in the drop-down list).
- If you do not have Adobe Acrobat or another tool that lets you save completed forms:
 1. Complete the form.
 2. Print the completed form to your printer.
 3. Scan the completed form to a PDF file.

Note: The fill-in PDF version of the form is available on the court’s website at <http://www.ca9.uscourts.gov/forms/>.

Do not file this instruction page

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT
Form 28. Response to Motion or Court Order**

Instructions for this form: <http://www.ca9.uscourts.gov/forms/form28instructions.pdf>

9th Cir. Case Number(s)

Case Name

1. What is your name?

(For counsel, which party/parties do you represent?)

2. Describe briefly the motion or court order to which you are responding, such as the title of the motion or the type of response requested in the order.

On what date was the motion or court order filed?

3. What is your response? Be specific. Include all relevant facts and law that would persuade the court to grant your request. *(Attach additional pages as necessary. Your motion may not be longer than 20 pages.)*

Provide your current mailing address unless registered for electronic filing:

City State Zip Code

Prisoner Inmate or A Number (if applicable)

Signature **Date**

(use "s/[typed name]" to sign electronically-filed documents)

Feedback or questions about this form? Email us at forms@ca9.uscourts.gov

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

Petitioner(s),

9th Cir. Case No. _____

vs.

Agency Name _____

Agency Case No. _____

Respondent(s).

PETITIONER’S INFORMAL OPENING BRIEF
Non-Immigration Agency

(attach additional sheets as necessary, up to a total of 50 pages including this form)

JURISDICTION. This information helps the court determine if it can review your case.

1. Timeliness of Appeal

a. What date did the agency enter a decision? _____

b. What date did you file your petition for review? _____

9th Cir. Case No. _____

Page 2

FACTS. Include all facts that the court needs to know to decide your case.

2. What are the facts of your case?

9th Cir. Case No. _____

Page 3

PROCEEDINGS BEFORE THE AGENCY. In this section, we ask you about what happened in your case before you filed your petition for review with the court of appeals.

3. What did you ask the agency to do—for example, did you ask the agency to award money damages, issue an injunction, or provide some other type of relief?

4. What legal claim or claims did you raise with the agency?

5. What did the agency do?

9th Cir. Case No. _____

Page 4

PROCEEDINGS BEFORE THE COURT OF APPEALS. In this section, we ask you about issues related to this case before the court of appeals and any previous cases you have had in this court.

6. What issues are you asking the court to review in this case? What do you think the agency did wrong?

7. Did you present all issues listed in Question 6 to the agency?
Answer yes or no: _____

If not, why not?

9th Cir. Case No. _____

Page 5

8. What law supports your position? (You may refer to cases and statutes, but you are not required to do so.)

9th Cir. Case No. _____

Page 6

9. **Other Pending Cases.** Do you have any other cases pending in the court of appeals? If so, give the name and docket number of each case.

10. **Previous Cases.** Have you filed any previous cases that have been decided by the court of appeals? If so, give the name and docket number of each case.

Name

Address

Signature

Date

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

Petitioner(s),

9th Cir. Case No. _____

vs.

Agency Case No. _____

Respondent(s).

PETITIONER’S INFORMAL REPLY BRIEF

(attach additional sheets as necessary, up to a total of 25 pages including this form)

For the optional reply in response to respondent’s answering brief(s) only.

List each issue or argument raised in the answering brief to which you are replying. Do not repeat arguments from your opening brief or raise new arguments except in response to arguments made in the answering brief(s).

Issue/Argument Number 1

What is the first argument in the answering brief to which you are replying?

What is your reply to that argument?

9th Cir. Case No. _____

Page 2

Issue/Argument Number 2

What is the second argument in the answering brief to which you are replying?

What is your reply to that argument?

Issue/Argument Number 3

What is the third argument in the answering brief to which you are replying?

What is your reply to that argument?

Name

Address

Signature

Date

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

Form 25. Certificate of Service for Paper Filing

ATTENTION ELECTRONIC FILERS: DO NOT USE FORM 25
Use Form 25 only if you are **not** registered for Appellate Electronic Filing.

Instructions

- You must attach a certificate of service to each document you send to the court and to opposing counsel.
- Include the title of the document you are serving, the name and address of each person you served with a copy of the document, and the date of mailing or hand delivery.
- Sign and date the certificate. You do not need to have the certificate notarized.
- Remember that you must send a copy of **all** documents and attachments to counsel for **each** party to this case.

9th Cir. Case Number(s)

Case Name

I certify that I served on the person(s) listed below, either by mail or hand delivery, a copy of the
and any attachments. *(title of document you are filing, such as Opening Brief, Motion for __, etc.)*

Signature

Date

Name	Address	Date Served

Mail this form to the court at:

Clerk, U.S. Court of Appeals for the Ninth Circuit, P.O. Box 193939, San Francisco, CA 94119-3939

Feedback or questions about this form? Email us at forms@ca9.uscourts.gov

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

Form 22. Notice of Change of Address

ATTENTION ELECTRONIC FILERS: DO NOT USE FORM 22

Electronic filers must use PACER to update their information.
Use Form 22 only if you are **not** registered for Appellate Electronic Filing.

9th Cir. Case Number(s)

Case Name

Full Name(s)

NEW MAILING ADDRESS

Address

City

State/Province/Region

Zip Code

Country (if not USA)

Prisoner Inmate or A Number (if applicable)

Phone Number (if applicable)

Signature

Date

Mail this form on or before your brief's current due date to the court at:

Clerk, U.S. Court of Appeals for the Ninth Circuit, P.O. Box 193939, San Francisco, CA 94119-3939

Feedback or questions about this form? Email us at forms@ca9.uscourts.gov

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

INSTRUCTIONS for Form 29. Request for Docket Sheet, Document, or Rules

ATTENTION ELECTRONIC FILERS: DO NOT USE FORM 29
Use Form 29 only if you do **not** have a lawyer and are **not** registered for
Appellate Electronic Filing.

Instructions

You may use Form 29 to request a copy of this court's docket sheet or documents **filed in a case in this court to which you are a party**. The court may not comply with your request if it is repetitive, excessive, or burdensome.

If the court complies with your request, you may have to pay a fee. For more information, see the fee schedule on our website, <http://www.ca9.uscourts.gov/> (Forms, FAQs, and Other Instructions > Fee Schedule).

You may use Form 29 to request a free copy of this court's rules even if you do not have a case in this court. The court's rules are also available to view or download for free at <http://www.ca9.uscourts.gov/rules/>.

Mail the completed form to: U.S. Court of Appeals for the Ninth Circuit, P.O. Box 193939, San Francisco, CA 94119-3939.

Online Resources

You can find opinions, memorandums, rules, and forms for free on our website, <http://www.ca9.uscourts.gov/>. In addition, documents filed after January 2, 2009 may be available online through PACER (Public Access to Court Electronic Records), a fee-based system that provides the public access to federal case information. Anyone may register for a free PACER account at <http://www.pacer.gov>. Fees are charged for retrieving docket information and case documents.

Do not file this instruction page

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

Form 29. Request for Docket Sheet, Document, or Rules

Instructions for this form: <http://www.ca9.uscourts.gov/forms/form29instructions.pdf>

9th Cir. Case Number(s)

Case Name

What are you requesting?

- A copy of the Federal Rules of Appellate Procedure and 9th Circuit Rules
- A copy of the 9th Circuit docket sheet
- A copy of the following document(s) on the 9th Circuit docket:

Date and/or Docket Entry #	Description of Document

Your Name

Your mailing address

City

State

Zip Code

Prisoner Inmate or A Number (if applicable)

Signature

Date

Mail this form to the court at:

Clerk, U.S. Court of Appeals for the Ninth Circuit, P.O. Box 193939, San Francisco, CA 94119-3939

Feedback or questions about this form? Email us at forms@ca9.uscourts.gov