

## **PEP-Talk, January, 2010**

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### **SUPREME COURT REVIEW SOUGHT BY NPDES PERMITS**

CropLife America, the American Farm Bureau Federation and other groups have filed a petition with the U.S. Supreme Court to review an appeals court ruling that a permit would be required for pesticides applied into, over or near waters of the United States. The court is not expected to decide on the petition until late in 2010.

The controversy stems from the U.S. Court of Appeals for the 6th District ruling that a National Pollutant Discharge Elimination System (NPDES) permit under the Clean Water Act (CWA) is required for any pesticides applied to water bodies or if pesticides could possibly enter the water body after application. This would apply even if the pesticide label was approved by EPA for aquatic use or for use near water bodies.

EPA is planning to follow the current appeals court decision and is working on the permitting process that will be implemented in April, 2011. One element of the proposed permit process that has stirred up controversy is the requirement of Best Management Practices

(BMP), or an Integrated Pest Management (IPM) plan, in the application.

NPDES permits usually require monitoring, reporting and recordkeeping. The controversy is the definition of IPM that will be used EPA. Stakeholders are concerned that the permitting process would be based on sound science and the product would be allowed to be used at a rate that still provides efficacy for the targeted pest.

(Sources: Southeast Farm Press, December 18, 2009; American Farm Bureau Federation Newslines, November 3, 2009, Daily Environment Report, Bureau of National Affairs, Inc., October 15, 2009; Pesticide & Toxic Chemical News, Vol. 37, No. 49)

### **DRAFT GUIDANCE ON PESTICIDE DRIFT LABELING COMMENT PERIOD**

EPA has issued an extension to the comment period for the Draft Guidance on Pesticide Drift Labeling until March 5, 2010.

The labeling would prohibit drift that could cause adverse health or environmental effects. Pesticide labels could also carry specific directions for certain products, such as: restrictions on droplet or particle size, nozzle height or weather conditions. The label might also specify no-spray buffer zones.

There are three documents that can be viewed to give more information on the guidelines. These are available at:<http://www.regulations.gov/search/Regs/home.html#docketDetail?R=EPA-HQ-OPP-2009-0628> The documents are:

- Pesticide Registration (PR) Notice 2009-X Draft: Pesticide Drift Labeling
- Draft Pesticide Drift Labeling Interpretation
- Draft PR Notice 2009-X: Additional Information and Questions for Commenter

Some information about the proposed guidelines is also available at:<http://www.epa.gov/pesticides/factsheets/spraydrift.htm>

(Source: EPA Office of Pesticide Programs Update)

### **COMMENTS SOUGHT ON PETITION TO EVALUATE CHILDREN'S EXPOSURE TO PESTICIDE DRIFT**

EPA has received a petition to evaluate children's exposure to pesticide drift and to adopt, on an interim basis, requirements for no-spray buffer zones near homes, schools, day-care centers and parks. EPA is planning to evaluate this petition and take appropriate action. The comment period on this action has been extended to March 5, 2010. More information is available at: <http://www.regulations.gov/search/Regs/home.html#documentDetail?R=0900006480a66c8d> There is also information available at <http://www.regulations.gov> and use the ID EPA-HQ-OPP-2009-0825.

(Source: EPA Office of Pesticide Programs Update)

### **STUDY SHOWS PESTICIDE DECLINE IN CORN-BELT RIVERS**

The U.S. Geological Survey (USGS) released a study that looked at concentrations of several major pesticide levels in Corn-Belt rivers and streams over a ten year period. The study showed that pesticide levels either stayed the same or declined from 1996 to 2006.

Scientists looked at 11 herbicides and insecticides frequently used in the Corn Belt region which generally includes Illinois, Indiana, Iowa, Nebraska and Ohio as well as parts of adjoining states. More information about the USGS study is available at: <http://www.usgs.gov/newsroom/article.asp?ID=2345>

### **EPA PROPOSES TO DISCLOSE PESTICIDE INERT INGREDIENTS**

EPA is proposing to disclose inert ingredients in pesticides, which are part of the end use product formulation, but not the active ingredient. Currently, these are considered proprietary product information and only disclosed to EPA through the registration process. They are currently considering regulatory and voluntary steps to achieve this broader disclosure.

The comment period is open until February 22. More information about the disclosure options is available at: <http://www.epa.gov/opprd001/inerts/index.htm> Instructions for submitting comments is available at: <http://www.regulations.gov/search/Regs/home.html#documentD>

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(Source: EPA Office of Pesticide Programs, Dec. 12, 2009)

## **PESTICIDE CROP WATCH**

### **INSECTICIDES**

Carbofuran – EPA has denied a request by FMC Corporation, National Corn Growers Association, National Sunflower Association and National Potato Council for a hearing on the final revocation rule. In May, the EPA issued a final order that revoked all U.S. tolerances of carbofuran by December 31, 2009, even though carbofuran is still a registered pesticide. The revocation was on domestic tolerances of corn (excluding popcorn), potatoes, and milk, pumpkin and sunflower seeds.

FMC Corp. is planning to file suit in federal court to challenge the EPA decision to deny an administrative hearing regarding the food tolerance revocation. More information is available at [http://www.epa.gov/pesticides/reregistration/carbofuran/carbofuran\\_noic.htm](http://www.epa.gov/pesticides/reregistration/carbofuran/carbofuran_noic.htm)

(Source: EPA Office of Pesticide Programs; Pesticide & Toxic Chemical News, Vol 37, No. 52)

## **UPCOMING EVENTS**

More information about these events at <http://pested.osu.edu>

### **NEW APPLICATOR CORE AND TRAINED SERVICEPERSON TRAINING**

All classes taught at Ohio Department of Agriculture, Reynoldsburg

February 3, 2010

March 31, 2010

April 28, 2010

May 19, 2010

August 25, 2010

September 22, 2010

### **COMMERCIAL APPLICATOR RECERTIFICATION CONFERENCES**

Field Crop Conference

January 13, 2010 – Dayton Convention Center

March 9, 2010 – Columbus Convention Center

General Conference

January 13, 2010 – Dayton Convention Center

February 17, 2010 – Sandusky, Kalahari Conference Center

March 3, 2010 – Akron, John S. Knight Center

March 9, 2010 – Columbus Convention Center