

## **PEP-Talk, January, 2011**

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### **IN THIS ISSUE**

- [Draft Available on Ohio Pesticide Application Permits](#)
- [Indiana Adds Agriculture Fertilizer to Pesticide License](#)
- [Opposition to Web-Based Pesticide Labels](#)
- [EPA Establishes Final Rule for Minor Crop Groupings](#)
- [Court Clears Way for Atrazine Lawsuits](#)
- [Minnesota Finishes Special Review of Atrazine](#)
- [Pesticide Crop Watch](#)
- [Upcoming Events](#)

### **DRAFT AVAILABLE ON OHIO PESTICIDE APPLICATION PERMITS**

Ohio EPA has opened the comment period for the draft Pesticide Application General Permit. Last year, a federal court ruled that pesticide applications to water although allowed by Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and are required to have a National Pollution Discharge Elimination System (NPDES) permit under the Clean Water Act (CWA). The court gave a deadline of April, 2011, for the permitting process to be in place. Each state or tribe is required to create a permitting process, or they will be required to use the U.S. EPA general permit.

In response to this, Ohio EPA has developed a general permit for pesticide applicators affected by this in the state. Ohio EPA is looking to minimize the number of applicators who will be required to complete the additional components.

The state-wide permit will cover applicators who are applying pesticides according to the pesticide label and Ohio Pesticide Law for

the following applications:

- \* Mosquito and Other Aquatic Nuisance Insect Control – management of all public health/nuisance pests which develop during a portion of their life cycle in standing or flowing water.
- \* Aquatic Weed and Algae Control – management of weeds and algae in water, including but not limited to lakes, ponds, rivers, streams, irrigation canals, and drainage systems (ditches, canals, etc.).
- \* Area-Wide Pest Control – management of a diverse pest spectrum of insects, weeds, and/or pathogens) in a wide range of diverse habitats where a portion of the pesticides will unavoidably be deposited to water to target the pests effectively. Habitats in this use category include, but are not limited, to rangeland, forests, urban and ditch banks. Area wide application means management of a pest (gypsy moths, grasshoppers, etc.) to contain an infestation in an area greater than 15 contiguous acres.
- \* Aquatic Nuisance Animal Control – management of invasive or other nuisance species in water, including but not limited to lakes, ponds, rivers and streams. Aquatic nuisance animals in this use category include, but are not limited, to fish, lampreys and mollusks.

If the applicators who are managing these applications are above the threshold of 640 land acres, 20 lake acres or 20 linear stream miles, they will be required to produce:

- \* Annual reports of pesticide applications,
- \* Develop an integrated pest management plan for these areas
- \* Document best management practices with a Pesticide Discharge Management Plan that includes monitoring, calibrating, storage, transportation and other pesticide-related activities

Applicators who may reach thresholds include county ditch maintenance programs, county engineer offices, lake management groups, Ohio Department of Natural Resources, etc.

Some applicators will be required to file a Notice of Intent (NOI) with Ohio EPA that includes a \$200 application fee. The pesticide applications that will require a NOI are:

- \* Any direct application to reservoirs used as a drinking water supply for aquatic algae, weed or nuisance animal control;

- \* Any piscicide (fish killing) application;
- \* Any direct pesticide application to Category 3 wetlands, Outstanding State Waters or Superior High Quality Water other than Lake Erie for aquatic algae, weed or nuisance animal control (definitions for these waters are in Ohio Administrative Code);
- \* Any aerial spraying for forest pest control, or for aquatic weed control in Lake Erie that exceed an annual treatment area threshold of more than 640 land acres, 20 lake acres or 20 linear stream miles

A comment period about Ohio EPA's general permit period is now open until February 3, 2011. The draft permit is available at: [http://www.epa.ohio.gov/dsw/permits/Pesticide\\_draft\\_GP\\_dec10.aspx](http://www.epa.ohio.gov/dsw/permits/Pesticide_draft_GP_dec10.aspx)

## **INDIANA ADDS AGRICULTURE FERTILIZER TO PESTICIDE LICENSE**

Beginning in January, 2012, those hired to apply, handle or transport fertilizer for agricultural purposes within Indiana must become licensed. The licensure is category 14 for an Indiana commercial or private pesticide applicator license.

The rule covers fertilizer material which is defined as commercial fertilizer and manure from confined feeding operations (CFO) with at least 300 cattle, 600 swine or sheep, or 30,000 fowl such as chickens, turkeys or other poultry and also includes the larger concentrated animal feeding operations (CAFO).

Anyone applying or transporting manure from a CFO must be licensed. This includes people who own the CFO and are applying manure on their own land. If someone is distributing manure from their facility to a certified fertilizer applicator, they need a fertilizer distribution license.

The license will be issued after the applicator passes the exam and pays the application fee to the Office of the Indiana State Chemist and Seed Commissioner. More information about the new law is

available

at: [http://www.isco.purdue.edu/pesticide/fert\\_app\\_cert\\_rule.html](http://www.isco.purdue.edu/pesticide/fert_app_cert_rule.html)

### **OPPOSITION TO WEB-BASED PESTICIDE LABEL**

EPA is working on a pilot project to replace the paper-based system to deliver pesticide product labels to pesticide users. The new approach would require users to contact either an official pesticide labeling website or a toll-free telephone number from which they can obtain the detailed use instructions that previously were attached to the product container.

Several agrochemical industry associations and commodity groups wrote a letter to a senior policy adviser in EPA's Office of Pesticide Programs with concerns about the project. The letter stated the organizations do not support web-distributed labeling because it will not increase access to information and improve reading and understanding of labels. The groups point out that registrants, distributors, applicators and customers were not asking for this option and that implementing this method would be costly for EPA. Currently, most pesticide labels are available in various sites on the web, but are required on the product container. More information about the pilot project is available

at: <http://www.epa.gov/pesticides/regulating/labels/distribution/>  
(Source: Pesticide & Chemical Policy Week in Review, Vol. 39, No. 3)

### **EPA ESTABLISHES FINAL RULE FOR MINOR CROP GROUPINGS**

The pesticide crop grouping regulations are being revised by EPA to allow tolerances to be established for groups of related crops. This will mainly affect minor crops, including many fruits and vegetables and make it more cost effective for manufacturers to register products for minor crop use.

The current revisions are the second in a series of planned crop group updates to be proposed over the next several years. This set

of revisions will create a new crop group for oilseeds, add new commodities to existing crop groups, establish new crop subgroups and revise representative crops in certain groups. More details about the crops involved is available

at:<http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OPP-2006-0766-0039>

### **COURT CLEARS WAY FOR ATRAZINE LAWSUITS**

A federal court ruled that a lawsuit by 22 cities and water districts in five states could move forward against Syngenta, the registrant of atrazine. The lawsuit is to recover costs related to monitoring and removing atrazine from drinking water. At the heart of the judge's decision was that the plaintiffs did not have to prove the water was above federal limits for atrazine in drinking water for the lawsuit to proceed. Syngenta had asked for the case to be dismissed because there is no allegation that the raw or finished water contained atrazine above maximum contaminant levels and the plaintiffs have not been impaired in their ability to provide potable water to the public. (Source: Pesticide & Chemical Policy Weed in Review, Vol. 39, No. 1)

### **MINNESOTA FINISHES SPECIAL REVIEW OF ATRAZINE**

The Minnesota Department of Agriculture (MDA) performed a special registration review process for atrazine. The multi-agency review found that current regulations protect human health and the environment; but also recommended enhancing water resource monitoring efforts, tracking federal EPA atrazine evaluations and stepping up interagency efforts to inform private well owners about testing their water quality. After the review, the MDA determined that no modifications to atrazine regulation are required in Minnesota at this time. The review summary can be found at:<http://www.mda.state.mn.us/atrazine/specialregreview.aspx>

## **PESTICIDE CROP WATCH**

### **INSECTICIDES**

Spirotetramat – EPA has conditionally registered this insecticide active ingredient for use on pome fruit, stone fruit, citrus, tree nuts and certain vegetables and ornamentals. EPA conditionally approved spirotetramat in 2008, but after the court agreed with a lawsuit accusing EPA of not giving an opportunity for public comment before the registration; a cancellation order for the active ingredient was published. In April, 2010, EPA released a conditional registration and received comments requesting that the registration be granted. However, environmental groups and honey bee organizations are opposed to the registration because of possible risk to bees. The conditional registration will be for three years and includes no tolerance for cucurbits because of bee concerns. More information is available

at:<http://www.epa.gov/opprd001/factsheets/spirotetramat.htm>.

(Source: Pesticide & Chemical Policy Weed in Review, Vol. 38, No. 48)

SOIL FUMIGATION – EPA has a website designed for applicators and handlers with information on implementing the current requirements for soil fumigants. The website includes safety brochures, training modules on new soil fumigant requirements, templates for soil fumigation management plans and updated fact sheets on the soil fumigant mitigation measures and implementation. The website is available

at:[http://www.epa.gov/pesticides/reregistration/soil\\_fumigants/](http://www.epa.gov/pesticides/reregistration/soil_fumigants/)

## **UPCOMING EVENTS**

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

OHIO COMMERCIAL PESTICIDE APPLICATOR RECERTIFICATION CONFERENCES (General and Field Crops Combined)

5 hours of recertification credit in one day – covers ALL commercial categories

January 11, 2011 – Sandusky, Kalahari Conference Center

February 16, 2011 – Dayton Convention Center

March 2, 2011 – Akron, John S. Knight Center  
March 9, 2011 – Columbus Convention Center

#### 2011 PESTICIDE SAFETY TRAINING (NEW APPLICATORS)

All classes taught at the Ohio Department of Agriculture,  
Reynoldsburg

Categories covered: Core (commercial & private), Commercial 8, 5,  
6c, 2c

February 23, 2011

March 30, 2011

April 20, 2011

May 18, 2011

August 24, 2011

September 28, 2011

#### WOOD-DESTROYING INSECT INSPECTION TRAINING

All classes taught at the Ohio Department of Agriculture,  
Reynoldsburg

Mandatory training for Commercial Category 12

March 31, 2011

September 14, 2011