

## **PEP-Talk, March, 2010**

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### **SUPREME COURT DENIES REQUEST FOR NPDES PERMIT REVIEW**

The U.S. Supreme Court denied the request 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 request for review was sought by CropLife America, the American Farm Bureau Federation and other groups in response to a 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.

The district court ruling overturned a 2006 EPA rule that pesticides applied in accordance with FIFRA (Federal Insecticides, Fungicide and Rodenticide Act) did not require a NPDES permit. EPA chose to not appeal the ruling and instead asked for time to develop a permit program. The permits will be for pesticides applied to waterways and the process will be implemented by April, 2011.

Historically, agricultural pest management activities have been treated as non-point sources and have not required NPDES permits. Farm organizations are concerned the proposed permits could

eventually be applied to farmers, custom applicators and agricultural dealers.

The Pesticide & Toxic Chemical News' article in their March 8 edition reported an address to the Chemical Producers and Distributors Association in March by Bill Jordan, senior policy advisor in EPA's Office Pesticide Programs. The article reported that Jordan says nobody knows if agriculture users need a permit.

The article says, "According to Jordan, while the 6th Circuit's ruling can be read to cover agricultural uses of pesticides, the court did not specifically address such uses. As a result 'we at EPA have decided to let the issue sit for a while,' Jordan told the industry stakeholders at the meeting."

The Pesticide and Toxic Chemical News article reports that Jordan says EPA will not include agricultural applications in the draft general permit process unless the agriculture community wants EPA to expand the permit. The draft general permit will cover aquatic weeds and algae, mosquito control, wide area pest control programs and control of aquatic nuisance animals.

The article goes on to say, "Part of the agricultural sector's calculation will probably focus on the legal vulnerability to NGO [non-governmental organizations] lawsuits if agricultural pesticide uses are not covered by the permit...Nevertheless, if agriculture stakeholders say they want the protection in terms of legal liability afforded by coverage under the permit, EPA will examine whether the permit can be expanded."

(Sources: Pesticide & Toxic Chemical News, Vol. 38, No 16 and Vol. 38, No. 15)

## **EPA TO INCREASE RESTRICTIONS ON FLEA AND TICK PRODUCTS**

EPA is taking a series of actions that will affect flea and tick spot-on pesticide products for dogs and cats. EPA says these steps are being implemented due to a significant increase in adverse effects from these products. The initial step will be a review of current labeling to determine which ones need stronger and clearer labeling statements.

The next step EPA plans is to develop more stringent testing and evaluation requirements for existing and new products. EPA will also require more standardized post-market surveillance reporting on adverse effects to animals and require submission of more sales information so the agency can better evaluate incident rates. EPA plans to update scientific data requirements to align with the Food and Drug Administration's (FDA) requirements.

More information about the EPA's mitigation plan is available at: <http://www.epa.gov/pesticides/health/petproductseval.html> Public comments on this process can be made at: <http://www.regulations.gov/search/Regs/home.html#documentDetail?R=0900006480ac029f>  
(Source: U.S. EPA Office of Pesticide Programs)

### **PESTICIDE SAFETY EDUCATION PROGRAM ADVISORY MEETING**

The next advisory committee meeting is April 9. Extension educators who have information that needs to be discussed at the meeting are encouraged to contact their pesticide training representative in OSU Extension's Extension Education and Research Areas (EERA). The contacts for each EERA are:

Jim Lopshire – Maumee Valley  
Steve Prochaska – Erie Basin  
Erik Draper – Western Reserve  
Mark Mechling - Crossroads  
John Barker – Heart of Ohio  
Wesley Haun – Top of Ohio  
Tony Nye – Miami Valley  
David Dugan – Ohio Valley  
Hal Kneen – Buckeye Hills

### **NEW NAME FOR EPA OFFICE**

The U.S. EPA Office of Prevention, Pesticides and Toxic Substances will officially become the Office of Chemical Safety and Pollution Prevention. The name change will become effective on April 22. The new name reflects the updated mission and goals.  
(Source: EPA Office of PPTS media release)

## **UTAH FAMILY AFFECTED BY FUMIGANT**

Two young girls, aged 15 months and 4 years, have died from complications suspected from gases released after a fumitoxin aluminum phosphide pellet application at their Layton, Utah home. The pellets were applied by an exterminator in burrow holes in the lawn and near the house to control rodents.

The application was made on Friday and the family began to experience flu-like symptoms that night. The four-year-old girl died Saturday night and her sister died on the following Tuesday. Utah authorities suspect phosphine gas infiltrated the home and are conducting an investigation.

(Source: Salt Lake Tribune, Feb. 7, 2010 and Feb. 10, 2010.)

## **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

March 31, 2010

April 28, 2010

May 19, 2010

August 25, 2010

September 22, 2010

### **WOOD-DESTROYING INSECT INSPECTION TRAINING**

April 7, 2010 – Ohio Department of Agriculture, Reynoldsburg