

PESTICIDE REPORTS

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CHEM

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EPA MAKES EMERGENCY EXEMPTED AND SPECIAL LOCAL NEEDS PESTICIDE PRODUCTS AVAILABLE IN INDIAN COUNTRY NATIONWIDE

On Tuesday, May 21, 2013, Acting Administrator Bob Perciasepe finalized a program to allow growers in Indian country nationwide to use certain registered pesticide products not currently available for use in Indian country to combat pests in emergency situations or when there is a special local need.

Under federal pesticide law, tribes and farmers in Indian country do not explicitly have access to the benefits of pesticide emergency exemptions or special local needs registrations (state-specific registrations). Pest control products permitted under these circumstances may be especially useful when growers in a particular region identify a pest problem that federally registered products do not currently alleviate. Lack of availability of these products denies access for growers and public health officials in Indian country to the same pest control tools that are available elsewhere in the United States.

Effective immediately, if all conditions of the program are met, growers in those areas of Indian country where the emergency exemption or special local need registration has been granted will have access to those pesticides approved under the program. Applicators should contact the local tribal authorities regarding tribal laws or regulations and comply with any applicable tribal restrictions.

This program marks the final step in EPA's efforts to make emergency exemption and special local need products available in relevant areas of Indian country. This decision is based on a successful three-year pilot program developed after long and careful consideration, in consultation with tribes, and with input from various stakeholders.

Learn more about the decision, including special conditions that apply on the Tribal Pesticide Program Council Web page under "Quick Resources" at:

<http://www.epa.gov/oppfead1/tribes/tppc.htm>

(EPA May 29, 2013)

http://www.epa.gov/oppfead1/cb/csb_page/updates/2013/emerg-exemp-indianc.html

WAL-MART PLEADS GUILTY TO FEDERAL ENVIRONMENTAL CRIMES AND CIVIL VIOLATIONS AND WILL PAY MORE THAN \$81 MILLION / RETAILER ADMITS VIOLATING CRIMINAL AND CIVIL LAWS DESIGNED TO PROTECT WATER QUALITY AND TO ENSURE PROPER HANDLING OF HAZARDOUS WASTES AND PESTICIDES

Wal-Mart Stores Inc. pleaded guilty today in cases filed by federal prosecutors in Los Angeles and San Francisco to six counts of violating the Clean Water Act by illegally handling and disposing of hazardous materials at its retail stores across the United States. The Bentonville, Ark.-based company also pleaded guilty today in Kansas City, Mo., to violating the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) by failing to properly handle pesticides that had been returned by customers at its stores across the country.

As a result of the three criminal cases brought by the Justice Department, as well as a related civil case filed by the U.S. Environmental Protection Agency (EPA), Wal-Mart will pay approximately \$81.6 million for its unlawful conduct. Coupled with previous actions brought by the states of California and Missouri for the same conduct, Wal-Mart will pay a combined total of more than \$110 million to resolve cases alleging violations of federal and state environmental laws.

According to documents filed in U.S. District Court in San Francisco, from a date unknown until January 2006, Wal-Mart did not have a program in place and failed to train its employees on proper hazardous waste management and disposal practices at the store level. As a result, hazardous wastes were either discarded improperly at the store level – including being put into municipal trash bins or, if a liquid, poured into the local sewer system – or they were improperly transported without proper safety documentation to one of six product return centers located throughout the United States.

"By improperly handling hazardous waste, pesticides and other materials in violation of federal laws, Wal-Mart put the public and the environment at risk and gained an unfair economic advantage over other companies," said Ignacia S. Moreno, Assistant Attorney General for the Justice Department's Environment and Natural Resources Division. "Today, Wal-Mart acknowledged responsibility for violations of federal laws and will pay significant fines and penalties, which will, in part, fund important environmental projects in the communities impacted by the violations and help prevent future harm to the environment."

“Federal laws that address the proper handling, storage and disposal of hazardous wastes exist to safeguard our environment and protect the public from harm,” said André Birotte Jr., the U.S. Attorney for the Central District of California. “Retailers like Wal-Mart that generate hazardous waste have a duty to legally and safely dispose of that hazardous waste, and dumping it down the sink was neither legal nor safe. The case against Wal-Mart is designed to ensure compliance with our nation’s environmental laws now and in the future.”

“As one of the largest retailers in the United States, Wal-Mart is responsible not only for the stock on its shelves, but also for the significant amount of hazardous materials that result from damaged products returned by customers,” said Melinda Haag, U.S. Attorney for the Northern District of California. “The crimes in these cases stem from Wal-Mart’s failure to comply with the regulations designed to ensure the proper handling, storage, and disposal of those hazardous materials and waste. With its guilty plea today, Wal-Mart is in a position to be an industry leader by ensuring that not only Wal-Mart, but all retail stores properly handle their waste.”

“This tough financial penalty holds Wal-Mart accountable for its reckless and illegal business practices that threatened both the public and the environment,” said Tammy Dickinson, U.S. Attorney for the Western District of Missouri. “Truckloads of hazardous products, including more than 2 million pounds of pesticides, were improperly handled under Wal-Mart’s contract. Today’s criminal fine should send a message to companies of all sizes that they will be held accountable to follow federal environmental laws. Additionally, Wal-Mart’s community service payment will fund important environmental projects in Missouri to help prevent such abuses in the future.”

“The FBI holds all companies, regardless of size, to the same standards,” said FBI Special Agent in Charge David J. Johnson of the San Francisco Field Office. “We will continue to work closely with our law enforcement partners to ensure there is a level playing field for all businesses and that everyone follows the rules.”

“Today Wal-Mart is taking responsibility for violating laws that protect people from hazardous wastes and chemicals,” said Cynthia Giles, assistant administrator for EPA’s Office of Enforcement and Compliance Assurance. “Walmart is committing to safe handling of hazardous wastes at all of its facilities nationwide, and action that will benefit communities across the country.”

Wal-Mart owns more than 4,000 stores nationwide that sell thousands of products which are flammable, corrosive, reactive, toxic or otherwise hazardous under federal law. The products that contain hazardous materials include pesticides, solvents, detergents, paints, aerosols and cleaners. Once discarded, these products are considered hazardous waste under federal law.

Wal-Mart pleaded guilty this morning in San Francisco to six misdemeanor counts of negligently violating the Clean Water Act. The six criminal charges were filed by the U.S. Attorney’s Office in Los Angeles and San Francisco (each office filed three charges), and the two cases were consolidated in the Northern District of California, where the guilty pleas were formally entered before U.S. Magistrate Judge Joseph C. Spero. As part of a plea agreement filed in California, Wal-Mart was sentenced to pay a \$40 million criminal fine and an additional \$20 million that will fund various community service projects, including opening a \$6 million Retail Compliance Assistance Center that will help retail stores across the nation learn how to properly handle hazardous waste.

In the third criminal case resolved today, Wal-Mart pleaded guilty in the Western District of Missouri to violating FIFRA. According to a plea agreement filed in Kansas City, beginning in 2006, Wal-Mart began sending certain damaged household products, including regulated solid and liquid pesticides, from its six return centers to Greenleaf LLC, a recycling facility located in Neosho, Mo., where the products were processed for reuse and resale. Because Wal-Mart employees failed to provide adequate oversight of the pesticides sent to Greenleaf, regulated pesticides were mixed together and offered for sale to customers without the required registration, ingredients, or use information, which

constitutes a violation of FIFRA. Between July 2006 and February 2008, Wal-Mart trucked more than 2 million pounds of regulated pesticides and additional household products from its various return centers to Greenleaf. In November 2008, Greenleaf was also convicted of a FIFRA violation and paid a criminal penalty of \$200,000 in 2009.

Pursuant to the plea agreement filed in Missouri and accepted today by U.S. District Judge John T. Maughmer, Wal-Mart agreed to pay a criminal fine of \$11 million and to pay another \$3 million to the Missouri Department of Natural Resources, which will go to that agency's Hazardous Waste Program and will be used to fund further inspections and education on pesticide regulations for regulators, the regulated community and the public. In addition, Wal-Mart has already spent more than \$3.4 million to properly remove and dispose of all hazardous material from Greenleaf's facility.

In conjunction with today's guilty pleas in the three criminal cases, Wal-Mart has agreed to pay a \$7.628 million civil penalty that will resolve civil violations of FIFRA and Resource Conservation and Recovery Act (RCRA). In addition to the civil penalties, Wal-Mart is required to implement a comprehensive, nationwide environmental compliance agreement to manage hazardous waste generated at its stores. The agreement includes requirements to ensure adequate environmental personnel and training at all levels of the company, proper identification and management of hazardous wastes, and the development and implementation of Environmental Management Systems at its stores and return centers. Compliance with this agreement is a condition of probation imposed in the criminal cases.

The criminal cases announced today are a result of investigations conducted by the FBI and the EPA, which received substantial assistance from the California Department of Substance and Toxics Control, and the Missouri Department of Natural Resources.

In Missouri, the case was prosecuted by Deputy U.S. Attorney Gene Porter and ENRD Senior Trial Attorney Jennifer Whitfield of the Environmental

Crimes Section of the Environment and Natural Resources Division. In California, the cases were prosecuted in Los Angeles by Assistant U.S. Attorney Joseph O. Johns and in San Francisco by Assistant U.S. Attorney Stacey Geis.

More information about the case: URL

<http://www.epa.gov/enforcement/waste/cases/walmart.html>

(EPA May 28, 2013)

<http://yosemite.epa.gov/opa/admpress.nsf/d0cf6618525a9efb85257359003fb69d/d4628253b5e27cab85257b79007349aa!OpenDocument>

USDA DELAYS DEREGULATION OF RESISTANT CROP VARIETIES

To the delight of biotech opponents and disappointment of the industry, USDA's Animal and Plant Health Inspection Service (APHIS) last Friday announced plans to delay deregulation of biotech crop varieties resistant to the controversial herbicides 2,4-D and dicamba.

The crop varieties at issue emerged in response to increasing weed resistance to the popular herbicide glyphosate, which is marketed by Monsanto as Roundup. Glyphosate-tolerant crops with added tolerance to 2,4-D and dicamba would enable farmers to cope with weeds that have become resistant to the herbicide.

Anxiety surrounding tolerant crops escalated following a 2010 report by the National Research Council, entitled Impact of Genetically Engineered Crops on Farm Sustainability in the United States. It suggested that farmers often go back to the old ways of doing things once they encounter weed resistance, increasing their use of glyphosate and adding other, more toxic herbicides, such as 2,4-D and dicamba.

APHIS says in a news release, issued last Friday and Federal Register notices on Thursday, that it plans to prepare two separate environmental impact

statements (EIS's) "to better inform decision-making regarding the regulatory status" of the controversial crop varieties. "If approved, these GE plants would provide farmers the flexibility for new applications of these herbicides, while also offering farmers additional crop planting options," the agency notes.

For the 2,4-D resistant plants (one corn and two soybean varieties), APHIS previously made available for public comment petitions by Dow to deregulate the products, along with draft environmental assessments and plant pest risk assessments for two of the three products. APHIS says it has received approximately 8,200 comments, including petitions signed by more than 400,000 persons.

For the dicamba-resistant plants (one soybean and one cotton variety), APHIS previously made available for public comment petitions by Monsanto to deregulate the products. The agency says it has received more than 500 individual comments and 31,000 form letters regarding these two petitions.

Because of effects on the "human environment," APHIS says it's necessary under the National Environmental Policy Act (NEPA) to prepare the two environmental impact statements "to further assist the agency in evaluating any potential environmental impacts before we make a final determination regarding the products' regulatory status." The agency also plans to host upcoming public meetings that will be publicized through the Federal Register and its website.

"Bad precedent" for future petitions

In a news release issued Friday, Cathleen Enright, executive vice president for food and agriculture at the Biotechnology Industry Organization, says APHIS's action "sets bad precedent for future consideration of safe and beneficial genetically engineered plant products."

Noting that the petitions have been under review by APHIS for years and have already been subjected to multiple delays in the approval system, Enright adds, "Although APHIS received many comments, no new scientific issues about potential risks have

been raised. Furthermore, the herbicides in question have been safely used for more than four decades.

"Not only does this decision come at a time when the agency was looking to streamline its approval process and tighten timeframes, but at a time when American Farmers need new tools to combat weeds and maximize yields -- tools and technologies that are available to farmers in other countries.

"Unfortunately, the U.S. regulatory system for biotech products remains unnecessarily burdensome and unpredictable, and American farmers are paying the price," Enright laments. "The United States has always been a world leader in agriculture production with science and technology playing a key role in our success. If we can't get safe and proven technologies into the hands of our growers, continued leadership is uncertain."

Center for Food Safety welcomes decision

In a contrasting news release issued Friday, Andrew Kimbrell, executive director of the Washington, D.C.-based Center for Food Safety, notes that the center's past legal challenges "have forced APHIS to perform EIS's on GE alfalfa and GE sugar beets. The agency knows that failure to prepare EIS's on these controversial new crops would not survive future court challenges.

"While we welcome [today's] decision, it remains to be seen whether the agency will undertake the required hard-look analysis of the environmental and economic impacts of these crops," he continues. "GE crops resistant to 2,4-D and dicamba would dramatically increase the use of these toxic herbicides, posing serious risks to human health, the environment, farmers and U.S. agriculture as a whole."

Bill Freese, CFS science policy analyst, adds that "a thorough and objective assessment will lead to rejection of the petitions. CFS urges APHIS to enlist the help of other agencies with expertise, including the Fish and Wildlife Service. Close collaboration is absolutely essential for competent assessments." (Pesticide & Chemical Policy, May 20, 2013 Volume: 41 Issue: 21)

UNAUTHORIZED ROUNDUP READY WHEAT "VOLUNTEERS" FOUND ON FARM IN OREGON

USDA's Animal and Plant Health Inspection Service (APHIS) announced on Wednesday that test results confirm the finding of unauthorized Roundup Ready wheat "volunteer" plants on a farm in Oregon, bringing into question the adequacy of best management practices to segregate GM crops from food chains for traditional crops.

The infiltration of the GM wheat brings into question the U.S.'s ability to comply with regulations of trade partners that do not allow the modified foods for sale.

Monsanto had permission from USDA to test a wheat crop engineered to be tolerant to the herbicide glyphosate, in 16 states from 1998 to 2005. But in 2004 the biotech seed giant abandoned the project, which required tight control over any seeds it had planted.

The company reported at the time that it made the decision following a comprehensive review of its research investment portfolio and extensive consultation with wheat industry customers in the United States and overseas.

"[W]e recognize the business opportunities with Roundup Ready spring wheat are less attractive relative to Monsanto's other commercial priorities," Carl Casale, executive vice president, said in a statement at the time. Monsanto will "continue to monitor the wheat industry's desire for crop improvements, via breeding and biotechnology, to determine if and when it might be practical to move forward with a biotech wheat product," he added.

However, Monsanto apparently failed to adequately control its field trials, based on the discovery last month by an unnamed Oregon farmer of unwanted

RR wheat plants in his field, as confirmed by USDA laboratory testing.

The event accentuates concerns about GE crops commingling with conventional crops, jeopardizing their market value. Discovery of the RR wheat "volunteers," a term used to describe crop plants not intentionally grown, could compromise U.S. wheat exports to the European Union, Japan and other markets resistant to biotech crops. There are no GE wheat varieties approved for sale or in commercial production in the U.S. or elsewhere at this time.

APHIS stresses that detection of the RR wheat variety doesn't pose a food safety concern, because FDA completed a voluntary consultation on the safety of food and feed derived from this GE glyphosate-resistant wheat variety in 2004.

"We are taking this situation very seriously and have launched a formal investigation," Michael Firko, APHIS acting deputy administrator for Biotechnology Regulatory Services, in the agency's news release. "Our first priority is to as quickly as possible determine the circumstances and extent of the situation and how it happened. We are collaborating with state, industry, and trading partners on this situation and are committed to providing timely information about our findings. USDA will put all necessary resources towards this investigation. "

The Plant Protection Act (PPA) provides for substantial penalties for serious infractions. APHIS has the authority to seek penalties for such a violation, including civil penalties up to \$1 million and has the authority to refer the matter for criminal prosecution, if appropriate.

In a joint news release on Wednesday, the National Wheat Growers Association and U.S. Wheat Associates say they "know it is important to understand how this situation occurred, and we have confidence that APHIS will be able to determine that as soon as possible. Nothing is more important than the trust we've earned with our customers at home and around the world by providing a reliable supply of high-quality wheat. As industry leaders, we will cooperate with authorities in the United States and international markets to understand the

facts surrounding this incident and help minimize its impact.

"We appreciate our customers standing with us while we monitor the investigation, and we will share additional information as soon as it becomes available."

But consumer advocates are more alarmed. In a separate news release, Andrew Kimbrell, executive director of the Center for Food Safety, comments, "USDA has once again failed to protect the food supply from GE crop contamination. This incident underscores why stronger regulation is long overdue. Congress needs to investigate how this occurred and the prevalence of contamination. Until then, USDA, at a minimum, should immediately place a moratorium on open-air field testing of genetically engineered crops."

CFS notes that opponents of biotech wheat have long argued that it would "contaminate conventional wheat, making it unsellable to many markets that reject GE products." The advocacy group cites a 2005 study that estimated the wheat industry could lose \$94 to \$272 million if GE wheat were introduced. -- *S. Clapp*

(Pesticide & Chemical Policy, May 29, 2013)

RECKITT BITES BACK AT EPA PLAN TO BLOCK SALE OF BANNED D-CON PRODUCTS

Rodenticide manufacturer Reckitt Benckiser is taking legal steps to try and ensure that existing stocks of its popular d-Con products can be sold even if a proposed ban by EPA on the rat and mouse poisons is upheld and allowed to go into effect. The company filed a brief earlier this month with the 10th Circuit Court of Appeals addressing its concern about EPA's "existing stocks determination," arguing that the agency has overstepped its bounds and is denying the company the right to review its decision.

The issue is part of Reckitt's long-running battle with EPA over the future of a dozen d-Con products. EPA issued a final Notice of Intent to

Cancel (NOIC) the registrations in question in January, a move the agency took after Reckitt refused to adhere to new packaging requirements and other restrictions.

Reckitt is contesting the decision in proceedings before EPA Chief Administrative Law Judge Susan Biro.

The NOIC detailed EPA's conclusion that if the products are cancelled, retailers and others may not sell existing stocks, as well as the agency's view that the existing stocks determination is outside the scope of the administrative hearing currently underway. Reckitt has asked Biro to determine if EPA is right on the latter point, but also filed its brief in the 10th Circuit to "avoid the dire result of losing its right to judicial review of the existing stocks determination" if the administrative law judge (ALJ) agrees with the agency.

The company acknowledges it is hedging its bets to keep all options open.

Reckitt says that "on the one hand" it does not believe the existing stocks determinations are subject to judicial review now because they are not final orders following a public hearing, a legal hurdle needed to be overcome for review by a court.

"On the other hand, EPA has taken the position in the proceedings before the ALJ that the existing stocks determinations are not reviewable by the ALJ," the company argues. "Thus, in the absence of clear case law, Reckitt filed this petition to avoid the possibility that, after the close of the proceedings before the ALJ, EPA would argue ... that Reckitt waived its right to challenge the existing stocks determinations by failing to file a petition for review within 60 days of the issuance of the NOIC."

The company is asking the court to either issue an order concluding that the existing stocks determinations are not final orders following a hearing or granting its motion for a stay.

Scurrying for sales

CropLife America, rodenticide retailers and users are also pressing Biro to side with Reckitt. In an April 26 request to file an amicus brief in support of Reckitt's motion for Biro to determine the existing stocks issue, CropLife "expresses no opinion" on EPA's decision but lays out its objection to the exclusion of the issue from the cancellation hearing.

The pesticide industry trade group says it is "concerned over any effort to abridge the right of a pesticide registrant to obtain a full and complete hearing on 'relevant and material objections' raised by a registrant or other interested parties in their objections to an NOIC, including objections to the agency's existing stocks determination."

A coalition of retailers and users contend that the issue should be reviewed and is urging Biro to consider the financial interests at play.

The Reckitt products are "the most popular and best-known consumer rodenticides" and retailers need to continue to "stock and sell Reckitt Products during the course of this proceeding, since many customers want such products and all customers want a choice of products," according to a brief filed May 13 with Biro by rodenticide seller Do It Best Corp. along with two users of the products, the Greater Cincinnati Northern Kentucky Apartment Association and the Louisville Apartment Association.

Continued sale of the Reckitt products "is legal during the course of this proceeding," the brief states. "If the EPA Existing Stocks Determinations are not subject to review in this proceeding, and cancellation is subsequently ordered, Retailer will be left at the completion of this proceeding with product inventory which cannot be sold, but instead must be disposed at a significant loss."

Review by Biro of the issue "will reduce such uncertainty and will affect the behavior of retailer regarding whether to continue to stock the Reckitt Products during the pendency of this proceeding," according to the brief. "Similarly and consequently, ALJ review of Existing Stocks Determination will enable Users to continue to have access to Reckitt Products while this proceeding is ongoing. Thus,

both Retailer and Users have significant interest in having the ALJ review EPAs position in this proceeding."

NGO interest

Beyond the debate over the fate of existing stocks, a second group of NGOs recently announced their intent to intervene in the administrative hearing on behalf of EPA. The request to intervene filed April 30 by NRDC and West Harlem Environmental Action (WE ACT) comes on the heels of a similar request by the American Bird Conservancy, Center for Biological Diversity, Defenders of Wildlife and the Sierra Club (see *Pesticide & Chemical Policy*, May 1, Page XX).

NRDC and WE ACT contend they have a "significant interest in ensuring compliance" with FIFRA and "removal from the market of rodenticides that pose an unreasonable health threat to children."

The two groups note that they filed the lawsuit in 2004 that effectively pressed EPA to take steps to protect children from rodenticides that have led to the proposed cancellation of the d-Con products. The litigation prompted EPA to issue the risk mitigation decision (RMD) in 2008 that set out the agency's final reregistration decision for an array of commercial and consumer rodenticides, including the active ingredients in the d-CON products.

The RMD aims to limit risks to children and wildlife, requiring new packaging for residential products, setting restrictions on the weight, labeling and distribution of products containing the active ingredients and also banning the sale of some products to residential consumers.

The NRDC and WE ACT brief hones in the requirements that rodenticides available for sale to consumers be housed in tamper-resistant bait stations, to prevent easy access by children, and that rodenticides be sold in block or paste form to impede ingestion. Reckitt has argued these requirements are unnecessary and that its existing d-Con products do not cause unreasonable harm to children ³/₄ the groups say they want to contest those allegations.

"NRDC and WE ACT have spent nearly a decade engaged in litigation and administrative advocacy to achieve the mitigation measures Reckitt now seeks to avoid," according to the brief. "Should Reckitt avoid cancellation of its non-compliant products, thousands of children and their families will continue to be harmed by rodenticide poisonings." - *J.R. Pegg*

(Pesticide & Chemical Policy, May 23, 2013)

INDUSTRY UNCONVINCED BY EPA'S MINIMUM RISK PESTICIDE EXEMPTION PLAN

EPA's planned revisions to a rule that exempts minimum risk pesticides from FIFRA are well intended but appear overly restrictive and could impose unnecessary burdens on manufacturers, key industry groups say in comments filed with the agency.

The proposal, announced late last year, is a bid by EPA to get a handle on controversy and frustration around many minimum risk pesticides, an array of products that includes citric acid, garlic oil, rosemary, cedar oil and mint oil.

The current rule, promulgated in 1996, exempts from FIFRA any pesticide product consisting solely of specified ingredients EPA judges to pose minimum risk to humans and the environment.

Though the rule was intended to reduce the burdens on EPA and the manufacturers of minimum risk pesticides while helping facilitate the development and availability of more low-risk methods of pest control, the vagueness of the rule has caused confusion among pesticide manufacturers and enforcement headaches for state regulators.

Critics also contend the regulation fails to adequately protect public health and allows companies to sell products that claim to control public health pests without having to support claims of effectiveness.

EPA acknowledges that many of the problems with the rule have resulted from ambiguities in the list of ingredients allowed for use in products granted the exemption. In addition, some 37 states require state registration of products that are exempt from FIFRA, creating a patchwork of rules that have frustrated industry and confused consumers. Under the new proposal, EPA intends to reorganize its lists of eligible ingredients by adding specific chemical identification numbers, as determined by the Chemical Abstract Services (CAS), a move the agency says would "make it clearer" to officials and stakeholders which ingredients qualify for the exemption.

EPA's plan also calls for clearer descriptions of ingredients on product labels, requiring the use of common chemical names, and for labels to include producer contact information.

The agency contends that once final, the proposal will "maintain the availability of minimum risk pesticide products while providing more consistent information for consumers, clearer regulations for producers, and easier identification by states, tribes and EPA" as to whether a product is in compliance with the exemption.

Heath worries

The proposals to require the listing of common chemical names of minimum risk pesticides reorganize the active and inert ingredient lists and producer contact information on the label are all good ones, but overall proposal is a "modest" effort to clarify the exemption, according to Gene Harrington, vice president of government affairs for the National Pest Management Association (NPMA).

"We would be remiss, however, if we didn't use this opportunity to once again urge EPA to establish efficacy requirements for minimum risk pesticides or at least require registrants to submit product performance data substantiating product claims made by the manufacturer," Harrington writes in March 29 comments.

The recent resurgence of bed bugs illuminates the concern as it has "led to an influx of numerous

minimum risk pesticides into the marketplace, many of whose makers are making dubious claims,” Harrington contends.

“Desperate to rid bed bugs from their homes, consumers are susceptible to even the most implausible statements about the effectiveness of minimum-risk pesticide products. Unless the agency begins to require efficacy data for minimum risk products that claim to eliminate or mitigate bed bugs or other public health pests, the problem will not abate.”

Bayer CropScience shares that worry while praising the proposal.

The company recognizes “this document is not the appropriate place to address a critical concern about if the label directions for controlling public health pests are truly effective,” writes Bayer CropScience’s Karen Shearer, director of North American regulatory affairs. “We respectfully request that this issue be addressed in a future initiative.”

To codify or not

But the Consumer Specialty Products Association (CSPA), which petitioned EPA in 2006 to revise the regulation, worries that the proposal does not fully clarify the lists of active and inert ingredients.

EPA’s assumption that the CAS number is a “unique chemical identifier” that would assure manufacturers that they are purchasing and using the chemicals that can be used in minimum risk pesticide products “is not accurate for every ingredient,” writes Beth Law, CSPA assistant general counsel. “Many ingredients have multiple CAS numbers that apply, some have none, and many CAS numbers are defined as broad general categories.”

Law suggests EPA add CSPA’s Consumer Product Ingredients Dictionary to the list of reference sources for appropriate nomenclature for listing both active and inert ingredients.

“Including the CSPA Dictionary as a nomenclature option would further the stated goals of identifying

the active ingredients by universally accepted names, since it includes all of the CAS numbers and names where they are available and considered applicable,” she writes.

CSPA also wants EPA to remove a proposed requirement that some 20 active ingredients must meet the United States Pharmacopeia (USP) standard.

Those standards, set by an international non-profit and used in the U.S. and more than 140 other countries, are set for quality, purity and identity of medicines, food ingredients and dietary supplements.

“We disagree that adding a USP specification for the 20 affected active ingredients will improve clarity for manufacturers or state regulators beyond the other proposed mechanisms,” Law contends. “This requirement introduces significant new burdens for manufacturers which EPA failed to acknowledge in its proposal. If this proposal moves forward, manufacturers will face limited sourcing options and increased costs.”

Law explains that would increase costs and could “cause energy losses” from refining some of these ingredients to meet USP.

“If the USP standard is too low, efficacy could be compromised, meaning that health is not being protected,” she writes. “In any case, the use of USP standard ingredients is unnecessary.”

A third issue raised by CSPA centers on the process by which inert ingredients can be added or removed to the list once it has been codified.

“There appears to be no mechanism short of additional rule-making to remove existing and add newly approved inerts to the codified list,” Law writes. “Without such a provision, the list of approved inerts available for formulation of minimum risk pesticides will be static, while the need for new inert ingredients will continue to expand. Constraining technological advances should not be an unintended consequence of this proposed rule.”

The Council of Producers & Distributors of Agrotechnology (CPDA) says it is also wary of the agency's plan to codify the list of inert ingredients.

“By codifying the list of eligible inerts at this time, EPA inadvertently may be erecting a barrier to production of diverse and effective minimum risk pesticide products based on the current eligible active ingredients,” writes Michael White, director of regulatory affairs for CPDA.

White notes that almost half of those active ingredients are oils, adding that “development of effective, market competitive products” based on those oils requires a range of chemically appropriate and eligible inert ingredients, especially emulsifiers.

“The inert ingredient list, however, contains few emulsifiers, and most of them would be not be chemically suitable for developing desirable product formulations,” he writes.

EPA should postpone codification of the proposed list of eligible inert ingredients and ask for recommendations for adding inert ingredients that conform to the minimum risk screening criteria to the proposed list, White adds.

“This approach would ensure that the codified inert ingredients are both minimum risk and chemically suitable for development of high-quality, marketable minimum risk products,” White writes.

The concern about codification of the inert table is echoed by the Association of Structural Pest Control Regulatory Officials (ASPCRO), which represents state pest control officials.

“Codifying of the inert table could result in a static list, much like the active table which has not had any additions since 1996,” writes ASPCRO President Derrick Lastinger. “This may limit the introduction of new products into the marketplace that are potentially effective in controlling pests and the opportunity to remove specific inert ingredients from the list should the need arise. An efficient mechanism for the addition or deletion of inert ingredients from the list should be developed.”

ASPCRO is also keen for EPA to add a label requirement for “directions for use” on exempt products.

The failure to add such instruction “has the potential to lead to the misuse of a pesticide as pest management professionals and consumers are left to make decisions regarding the proper use of a given product to control pests,” he writes. “Clear, concise and consistent labeling is a necessity for all pesticide products.”

Enviros pleased

Only one environmental NGO -- Beyond Pesticides -- weighed in on the plan, hailing the EPA effort and countering industry concerns about codification of the list of permitted inert ingredients.

“Codifying this list would go a long way in reducing non-compliance products and confusion among state regulators and enforcement officials,” writes Nichelle Harriott, staff scientist for Beyond Pesticides.

Many products claim 25(b) exemptions and market their products as minimum risk while having “inert” ingredients that are not permitted under the exemption criteria, she explains.

“This has reduced the credibility of 25(b) exempt products, and increases misgivings about the validity of least-toxic claims,” Harriott writes. “In making it easier to identify permitted ingredients, companies will more easily stay in compliance with the law and help consumers make better informed decisions.”

Harriott specifically praises the move to make sure product labels are “user-friendly” and contain common chemical names and company contact information.

There is “little to no indication that revising product labels will cause undue burden on manufacturers, as many already meet the requirements set out in this new proposal,” she adds. “We believe EPA can and must move forward with these proposed changes so

as to harmonize the product labels of pesticide products categorized as minimum risk.”

(Pesticide & Chemical Policy, May 10, 2013
Volume: 41 Issue: 20)

GLYPHOSATE USED ON 90% OF U.S. SOYBEAN CROP

Glyphosate herbicide was applied to nearly 90% of the US soybean acreage last year, according to a survey by the USDA’s National Agricultural Statistics Service (NASS). Some 70.8 million lbs (32,130 metric tons) of the potassium salt of glyphosate were applied to 59% of the area and 29.6 million lbs of the isopropylamine salt were applied to 30% of the crop. The NASS conducted the survey in 19 states, which accounted for 96% of the U.S. soybean acreage. The Service’s last survey of pesticide use on soybeans in 2005 found that some 67 million pounds of glyphosate was applied to 93% of the crop.

The next most popular herbicides used on soybeans last year were chlorimuron-ethyl, 2,4-D and flumioxazin, which were each applied to 11% of the acreage. Applications of 2,4-D amounted to 4.1 million lbs, flumioxazin to 602,000 lbs and chlorimuron-ethyl to 187,000 lbs, the NASS survey reveals. In 2005, 2,4-D was applied to 6% of the surveyed acreage, followed by trifluralin (4%) and chlorimuron-ethyl.

Herbicides were applied to 98% of the US soybean crop in 2012, which was the same proportion seen in the 2005 survey. Insecticides were applied to 18% of the acreage and fungicides to 11%. Fungicides were applied to just 2% of the soybean crop in 2005 and 1% in 2004. Soybeans were included in the NASS’ 2005 survey to gauge farmers’ reactions to the threat of Asian soybean rust (*Phakopsora pachyrhizi*).

Herbicides were applied to nearly all of the spring wheat crops surveyed last year. Some 99% of durum wheat received a herbicide application and 97% of other spring wheat was treated. The survey

found that 61% of winter wheat was sprayed with herbicides. The winter wheat survey was conducted in 13 states, which accounted for 80% of the U.S. acreage. Durum wheat was surveyed in two states (North Dakota and South Dakota - 88% of U.S. acreage) and other spring wheat in four states (North Dakota, South Dakota, Minnesota and Montana - 91%).

The most widely used herbicides on durum wheat were bromoxynil (132,000 lbs on 46% of area), glyphosate (713,000 lbs on 45%) and fluroxypyr (55,000 lbs on 31%). On other spring wheat, the herbicides most used were fluroxypyr (429,000 lbs on 45%), clopyralid (296,000 lbs on 32%) and bromoxynil (612,000 lbs on 31%). The leading herbicides used on winter wheat were thifensulfuron (41,000 lbs on 14%), 2,4-D (2.4 million lbs on 13%) and metsulfuron-methyl (15,000 lbs on 13%).

The NASS plans to conduct pesticide use surveys on wheat and soybeans again in 2016 and 2017, respectively. Other planned reviews over the next few years include peanuts and rice (2013), cotton and oats (2014), maize and potatoes (2015) and fruit and sorghum (2016). (Pesticide & Chemical Policy, May 24, 2013 Volume: 41 Issue: 22)

In-State CEU Meetings

Date: July 16, 2013

Title: OSU Lawncare Workshop

Location: Tulsa County Extension Center

Contact: Charles Luper (405)-744-5808

Course #: OK-13-

<http://pested.okstate.edu/html/practical.htm>

CEU's: Category(s):

3 3A

3 10

Date: July 19, 2013

Title: OSU Lawncare Workshop

Location: Oklahoma County Extension Center

Contact: Charles Luper (405)-744-5808

Course #: OK-13-

<http://pested.okstate.edu/html/practical.htm>

CEU's: Category(s):

3 3A

3 10

Date: July 25, 2013

Title: BWI Tulsa Summer Seminar

Location: Linnaeus Gardens Tulsa OK

Contact: Kelly Keech (918)-693-6461

Course #: OK-13-

MUST PREREGISTER TO ATTEND!

<http://bwicompanies.com>

CEU's: Category(s):

4 3A

4 3C

Date: August 14, 2013

Title: CTN Educational Workshop

Location: Courtyard Marriott 4301 Highline Park Blvd, Oklahoma City OK

Contact: Tommy Kezar (512)-829-5114

Course #: OK-13-

www.ctnedu.com

CEU's: Category(s):

1 1A

3 3A

1 6

1 7A

2 7B

ODAFF Approved Online CEU Course Links

Technical Learning College

<http://www.abctlc.com/>

Green Applicator Training

<http://www.greenapplicator.com/training.asp>

All Star Pro Training

www.allstarce.com

Wood Destroying Organism Inspection Course

www.nachi.org/wdocourse.htm

CTN Educational Services Inc

http://www.ctnedu.com/oklahoma_applicator.html

Pest Network

<http://www.pestnetwork.com/>

Univar USA

<http://www.pestweb.com/>

Southwest Farm Press Spray Drift Mgmt

<http://www.pentonag.com/nationalsdm>

SW Farm Press Weed Resistance Mgmt in Cotton

<http://www.pentonag.com/CottonWRM>

Western Farm Press ABC's of MRLs

<http://www.pentonag.com/mrl>

Western Farm Press Biopesticides Effective Use in Pest Management Programs

<http://www.pentonag.com/biopesticides>

Western Farm Press Principles & Efficient Chemigation

<http://www.pentonag.com/Valmont>

For more information and an updated list of CEU meetings, click on this link:

<http://www.state.ok.us/~okag/cps-ceuhome.htm>

ODAFF Test Information

Pesticide applicator test sessions dates and locations for June/July 2013 are as follows:

June		July	
4	Goodwell	8	OKC
6	OKC	11	Tulsa
13	Tulsa	22	OKC
21	OKC	25	Tulsa
27	Tulsa		

- Hobart: Kiowa County Extension Center
Courthouse Annex, 302 N. Lincoln
- Lawton: Great Plains Coliseum, Annex Rm.
920 S. Sheridan Road.
- OKC: Oklahoma County Extension Office,
930 N. Portland.
- Tulsa: NE Campus of Tulsa Community
College, (Apache & Harvard)
Large Auditorium
- McAlester: Kiamichi Tech Center on
Highway 270 W of HWY 69

- Altus: Western OK State College
2801 N Main, Room A23
- Enid: Garfield County Extension Office,
316 E. Oxford.
- Goodwell: Okla. Panhandle Research &
Extension Center, Rt. 1 Box 86M

Pesticide Safety Education Program