

## U.S. EPA Regulatory Updates

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The U.S. EPA Office of Pesticide Programs (OPP) is currently working on many pesticide registration issues. Soil fumigants have been reregistered and OPP is now working with EPA Regions and States to implement extensive new mitigations measures which will be phased in 2010 and 2011. OPP has developed a Soil Fumigant Toolbox that provides fact sheets, fumigant labels, training materials, fumigant management plan templates, and other information that will help fumigant users understand and implement the new use restrictions ([http://www.epa.gov/pesticides/reregistration/soil\\_fumigants/](http://www.epa.gov/pesticides/reregistration/soil_fumigants/)).

Beginning April 9, 2011 applications of pesticides to, over, or near water will have to be permitted under the Clean Water Act National Pollutant Discharge Elimination System (NPDES) program. NPDES permits are required for discharges of pollutants from a point source to a water of the United States, and a series of court rulings has determined that certain pesticide applications will require permitting. A draft Pesticide General Permit (PGP) was issued by EPA in June 2010 and was to be finalized by December 31, 2010, but will likely be issued in January 2011. The EPA permit will cover States, Tribes, U.S. Territories that do not have NPDES permitting authority, as well as federal facilities. Applications that will be covered by the EPA PGP include mosquito and other flying insect pest control, aquatic weed and algae control, aquatic nuisance animal control, and forest canopy pest control. States with NPDES permitting authority will have to put their own permits in place by April 9, 2011. The CA State Water Resources Control Board has permits for similar categories. It is important to note that pesticides applications that are not covered by an EPA or State general permit may still need NPDES coverage, but may require an individual permit.

In November 2009, EPA issued a draft Pesticide Registration Notice (PRN 2009-X) that proposed new label language regarding pesticide drift. The draft language included the statement, "...do not apply this product in a manner that results in spray [or dust] drift that *could cause* an adverse effect..." [emphasis added]. Many commenters noted that the term "could cause" would establish a no drift standard that was not consistent with the Federal Insecticide, Fungicide, and Rodenticide Act standard of "reasonable certainty of no harm". EPA is now proposing the following language: "...do not apply this product in a manner that results in a spray [or dust] drift that *harms* people or any other non-target organisms or sites" [emphasis added].

Registration of new pesticide chemicals or new uses of existing chemicals has historically been a process without opportunities for public participation. In 2010, EPA began a program to involve the public in registration of new chemicals, registration of first food, outdoor or residential use of an existing chemical, or in other new registration actions of significant interest.

When registration packets are received, EPA publishes a notice in the Federal Register (FR) and takes comments for 30 days. EPA then proceeds with its risk assessments and other registration processes. The completed risk assessments and proposed registration decision are posted to the public docket and a 30-day comment period is opened. No FR notice is issued when the proposed decision is posted. New registrations can be tracked at <http://cfpub.epa.gov/pesticides/comments.cfm>, or interested parties can subscribe to EPA Pesticide Updates at [http://www.epa.gov/oppfead1/cb/csb\\_page/form/form.html](http://www.epa.gov/oppfead1/cb/csb_page/form/form.html). A final registration decision is announced in the Federal Register.

The Office of Pesticide Programs has also been working on many other issues including disclosure of inert ingredients, risk assessment for volatile and semi-volatile chemicals, and pollinator protection. The EPA Office of Water and OPP are working to develop a common approach to assessment of pesticide effects on aquatic life. If you have questions about any of these topics, please contact me.