

POTENTIAL LOSS OF HERBICIDE REGISTRATIONS

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This paper will review a variety of factors influencing the registration status of herbicide products. Potential loss of herbicide registrations is a concern to the user community, but regulatory decisions at the federal and state level as well as lawsuits may affect how and where products can be used over the next several years.

The Food Quality Protection Act of 1996 (FQPA) is one of the recent factors that may influence availability and use of herbicides. FQPA amended the Federal Insecticide Fungicide and Rodenticide Act (FIFRA) and the Federal Food Drug and Cosmetic Act, and created a new food safety standard by which food residue tolerances were to be judged. U.S. Environmental Protection Agency (USEPA) must review existing and new tolerances for the aggregate exposure to pesticides from nonoccupational, dietary and drinking water sources. USEPA also must assess cumulative exposures for pesticides that share a common mechanism of toxicity, and the potential for pesticides to act as endocrine disruptors. Three triazines (atrazine, simazine and propazine) and their common metabolites have been grouped for cumulative assessment, as have certain of the chloroacetanilide herbicides. Dietary exposure will likely play less of a role for these herbicides in cumulative assessment, unlike the organophosphate insecticides.

Reregistration under FIFRA is another factor that may influence use and availability of herbicides. Reregistration is the more generic review of pesticides' risks, and includes worker and ecological risks. The timetable for USEPA's reregistration review has been merged with the tolerance review under FQPA. Depending on the toxicity profile, degree of user exposure, and potential for ecological risks, USEPA's reregistration decision on individual herbicides may influence use and availability. Registrants' decisions on continued marketing of herbicides in the United States may arise from reregistration, FQPA or other factors.

The federal Clean Water Act (CWA) has arisen in the last few years as a factor outside of traditional pesticide regulatory channels to potentially influence the use of herbicides, and pesticides in general. Section 303(d) of CWA requires states to identify impaired water bodies, develop a maximum allowed level (Total Maximum Daily Load or TMDL) for each identified contaminant, and develop a plan to achieve the TMDL. While pesticides are not the primary challenge for many states addressing their impaired water bodies, they do represent a challenge in some states. The National Pollutant Discharge Elimination System (NPDES) of CWA has more recently appeared as an influencing factor for herbicide/pesticide use as the result of several lawsuits and conflicting federal court decisions. The conflict between FIFRA approval of pesticides and the CWA standards will receive considerable attention in the next couple of years. Other sections of CWA administered at the state level may influence use patterns of some pesticides.

Other factors that may affect herbicide use and availability are lawsuits under the Endangered Species Act, federal and state efforts to manage drift, state efforts to manage groundwater contamination, and state efforts to address the contribution of certain pesticides, including herbicides, as volatile organic compounds contributing to ozone formation in nonattainment areas of the state.