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PESTICIDE BUREAU

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To our readers,

University of Massachusetts
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If all goes according to schedule, this summer Congress will consider a major revision of this country's pesticide law: The Federal Insecticide, Fungicide and Rodenticide Act. This re-write came about as a result of an unusual coalition between the National Agricultural Chemicals Association (NACA), representing 92 agrichemical companies, and the Campaign for Pesticide Reform, which represents 41 environmental (and other) organizations. Together, members of these groups produced a draft of FIFRA which would bring about some major changes in pesticide registration and regulation.

Perhaps the most significant of these is a strict timetable for the Environmental Protection Agency (EPA) to accomplish reregistration of active pesticide ingredients. While other timetables have suffered by a lack of resources to meet deadlines, this proposed bill would have registrants pay a \$50,000 fee for each active ingredient at the time EPA issues a notice of testing requirements, and a \$100,000 fee when the registrants submit their product registration data.

Among other things, the new FIFRA would require the regulation of inert ingredients. EPA would have 90 days to

develop a list of 50 priority inert ingredients, and one year to decide on toxicology studies and establish the procedure registrants will use to meet the regulations.

The bill, House 4364, would also:

- 1- Streamline procedures for the cancellation of registration of unsafe pesticides.
- 2- Require immediate cancellation of any product's registration if the registrant willfully submits false data.
- 3- Authorize EPA to inspect laboratories and any records used to support registration applications.
- 4- Give local communities and the public access to the health and safety studies generated by registrants before the products come on the market, and much more.

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On a personal note, I'd like to offer our best wishes to Massachusetts' first pesticide registration specialist. Louis Scarano left in May to pursue a doctorate program in toxicology at the University of Massachusetts, Amherst. In three and a half years with the Department, Gino made a significant contribution to this state's pesticide management program. He will be well remembered.

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REGULATORY PROGRESS

Herbicide Regulations for the application of pesticides on utility rights-of-way should be coming to public hearings this summer. The proposed regulations are being reviewed by the Departments of Food and Agriculture, Environmental Quality Engineering, Public Utilities and others, through the Executive Office of Environmental Affairs.

As the regulations are drafted now, they require an Advisory Panel to review the Vegetation Management Plans which will be submitted by utility companies. A Yearly Operating Plan will be developed from the VMP which will be presented to the DFA and to local governments.

The proposed regulations recognize environmentally sensitive areas with buffer zones in which no herbicide may be applied, or which will allow only limited applications with specific treatment techniques. Copies of the proposed regulations will be available at the time the hearings are advertised by a written request to the Department.

Still in effect is the 21-day notice required of utility companies to town selectmen and conservation commissions regarding proposed pesticide applications on the rights-of-way.

Draft Lawn Care Regulations will be presented to the Pesticide Board at their June 4 meeting by the Lawn Care Task Force. If the Board approves the draft regulations the Department will take them to public hearing this summer.

The proposed regulations have four provisions designed to address public concerns about safety of pesticide applications by lawn care companies: 1) a consumer notification sheet describing the chemicals used and safety precautions which should be followed, 2) a consumer option to require pre-notification of a pesticide application, 3) a follow-up information sheet, to be left at the site, describing pesticides applied, additional precautions, the applicators name, certification number, the time and date of the application, 4) the posting of signs following an application.

The Pesticide Board meets in Wareham at the Cranberry Experiment Station at 10 a.m. on June 4, 1986.

Private Applicator Recordkeeping is now required by law. Private applicators must keep records of all the pesticides used in the production of a commodity. Records must be kept for at least three years, and must be made available to the

Department for inspection.
The records should contain the following information:

- a- place of application,
- b- date of application,
- c- the brand or registered name of the pesticide,
- d- the EPA registration number of the pesticide,
- e- the amount of pesticide applied,
- f- the purpose for which it was applied,

- g- the method of application,
- h- certified or licensed applicators involved in the planning or application of pesticides,
- i- any accidents or incidents resulting in pollution from the use of a pesticide,
- j- any illnesses or injuries caused, or suspected to have been caused by pesticides and which were reported to the applicator.

PRODUCT REGISTRATION

Permanone

On April 29, 1986, the Subcommittee approved a 24-C (Special Local Needs Registration) for the use of Permanone Tick Repellent. This pesticide product is an aerosol formulation and contains permethrin. It is to be used as personal tick repellent by application to clothing. It may not be used on skin. The Subcommittee considered the 24-C at the request of the Division of Communicable Diseases at the Department of Public Health. The main concern was the control of certain ticks which transmit Lyme disease and babesiosis. For further information, call the DPH at (617) 727-2686.

Two new certification classifications are being offered: Wood Preservatives and Interior Landscaping. Information about these new certification categories can be obtained by contacting Mark Buffone, Certification Specialist at the Department.

Registration Product Decisions Effective Conditionally

The following will have a Special Local Needs Registration upon acceptance of Subcommittee decisions by the Registrant

PRODUCTS AFFECTED: Permethrin

Permanone Tick Repellent EPA MA SLN
860001

Fairfield American

Aldicarb

Temik 15G was registered as State Limited Use by the Pesticide Board Subcommittee on 29 April 1986. Temik 15G is already classified as a Restricted Use pesticide by the EPA. Any use of Temik 15G must be individually approved by the Department.

Permits will only be granted for the following reasons:

(a) experimentation by the University of Massachusetts on new application techniques designed to increase efficacy and decrease the risk to groundwater, or, (b) to allow comprehensive environmental fate research, or, (c) to allow use only in those areas which, in the judgement of the Department, do not represent a significant risk to drinking water contamination, i.e. proximity to wells, percent of future reliance on an upper aquifer for a water supply.

Users of Temik 15G must be in possession of a new supplemental label which includes the following use conditions:

- 1- No Temik use on fields within 1,000 feet of any drinking well.
- 2- No Temik use on the same field for 2 consecutive years.
- 3- Applications will be made at emergence only, and at a rate of no more than 2-lbs active ingredient per acre.

Daminozide

All daminozide (Alar) containing products were re-registered as State Restricted Use products by the Pesticide Board Subcommittee as of March 1, 1986. The action was taken to restrict its use to certified applicators and to better monitor the sale and use of the product. Daminozide, a suspected carcinogen, is a growth regulator used primarily on apples in Massachusetts.

Registration Product Decisions Effective Immediately

The following has been re-registered for state limited use. No use without a permit from the Department.

PRODUCTS AFFECTED: Aldicarb

<u>Product</u>	<u>EPA Reg. No.</u>	<u>Registrant</u>
Temik 15G	264-330 & EPA MA SLN 860002	Union Carbide Corp.

Registration Product Decisions Effective 1 March 1986

All the following were reclassified from General Use to State Restricted Use

PRODUCTS AFFECTED: Daminozide

<u>Product</u>	<u>EPA Reg. No.</u>	<u>Registrant</u>
Alar-85	400-79	Uniroyal
B-Nine SP	400-110	"
Alar-Technical	400-117	"

Alachlor & Dinoseb

Alachlor and dinoseb are two of several pesticides which the Subcommittee voted to classify as state restricted use in April. All products containing alachlor and dinoseb will become restricted use as of 1 July 1986. All of these products are agricultural pesticides. Certain products containing atrazine, bromacil, cyanazine, DCPA, metolachlor, metribuzin, and simazine will become restricted use as of 1 January 1987. These products will be listed in a later publication.

The subcommittee's action was based on the potential for these chemicals to leach to groundwater and therefore pose an unreasonable adverse effect

on the environment. Both alachlor and dinoseb have been detected in wells in Massachusetts at levels above their respective tolerances as a result of their use in agricultural production.

The other chemicals have certain properties which increase the potential for leaching, although there has been no state-wide monitoring for their presence in groundwater. The subcommittee, therefore, moved to accept for review any information presented relative to the effect of products containing the seven other chemicals on Massachusetts soil conditions. Further information on this decision can be obtained by writing the Department.

Registration Product Decisions Effective 1 July 1986

All the following will be re-classified from
General Use to State Restricted Use.

PRODUCTS AFFECTED: Alachlor

<u>Product</u>	<u>EPA Reg. No.</u>	<u>Registrant</u>
Lasso	524-314	Monsanto
Lasso and Atrazine	524-329	"
Bronco	524-341	"
Lasso Microtech	524-344	"

PRODUCTS AFFECTED: Dinoseb

<u>Product</u>	<u>EPA Reg. No.</u>	<u>Registrant</u>
Premerge 3	8590-26	Agway
Dinoseb-1	400-138	Uniroyal
Dinoseb-2	400-139	"
Dinoseb-3	400-140	"
General Weedkiller	39511-86	Vertac Chemical
Premerge 3	39511-87	"

POLLUTION LIABILITY

The nation-wide liability crisis has affected the pest control industry in Massachusetts. In March, the Department adopted an emergency regulation to waive the pollution liability required as a condition of licensure. The collapse of the pollution liability market left the majority of pest control operators unable to meet this part of the insurance requirement as described in 333 CMR 10.14 (4). The regulation waived the pollution liability requirement only if the certified commercial applicator demonstrated a good faith effort at obtaining the coverage. The applicators were also required to present a Consumer Notification Sheet from the Department stating that the applicator does not have pollution liability coverage to each client. This document was to be signed and kept on file in the applicator's office.

There are several reasons for the demise of the pollution liability market:

1- The courts have often interpreted policies to cover incidents which they were never written to cover. Pollution liability policies for "sudden and accidental" occurrences have been interpreted to cover the slow seeping of toxic poisons which became "sudden" (according to the courts), the moment the incident was discovered.

2-It is too hard to calculate the risk associated with toxics to make writing the policies a good business practice for the insurance industry. Over time, science changes and the law changes. Both factors influence the calculation of risk.

3-Industry financial problems have developed as a result of the industry's entry into the lending business when interest rates were high. Insurance companies dropped premium fees in a price war gauged to develop cash capital to loan at rates competitive with the market. When the interest rates fell, the industry was left with bargain policies for the consumer but cash-flow problems for the insurer forced to pay a claim. Connected with this is a drying up of the reinsurance market, the group of companies which provides cash to other companies which are paying a judgement.

Commercial pesticide applicators found themselves caught in the middle. The pollution liability concept was mainly developed to aid in recovery of damages resulting from such massive problems as Love Canal, or Times Beach. Massachusetts is one of the few states to require pollution liability for commercial pesticide applicators as part of the general liability requirement. Where the policy is available, on a limited basis, the premiums have been raised to make it impossible for the small businessman to afford the coverage.

Hearings on the emergency regulation and other proposed changes in the liability requirements were held in April in Waltham and Amherst. The Board will hear proposed amendments to the insurance regulation at their next meeting May 21. The emergency regulation expires June 2.

BRIEFS

Pesticide Disposal surveys are on their way to the some 4,000 farmers through the Massachusetts Cooperative Extension Service. The Department, with the help of Extension, is collecting information as the first step in helping farmers dispose of unwanted pesticides. The Department is assessing the continuing problem of safe pesticide disposal and storage to develop comprehensive regulations.

Enforcement notes that spot checks of pest control companies have turned up mostly minor record keeping violations. Inspectors have been conducting routine inspections to check records, licenses, and to observe applications. This was the first year licensed dealers were required to turn records of restricted use pesticide sales into the Department. Licensed dealers are now required to turn in restricted use sales records annually.

The Information Quarterly
is written and edited by
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