



BERGESON & CAMPBELL, P.C.

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MEMORANDUM

Via E-Mail

DATE: October 4, 2007

TO: Firm Clients and Friends

FROM: Bergeson & Campbell, P.C.

RE: EPA Issues Draft PR Notice Regarding Environmental Hazard Statements for Outdoor Residential Pesticides

On October 3, 2007, the U.S. Environmental Protection Agency (EPA) announced the availability of the appended draft Pesticide Registration (PR) Notice, which provides guidance regarding recommended environmental hazard language for outdoor residential use pesticides. The draft PR Notice recommends new statements that EPA intends to replace language created for agricultural products “with statements that are easier for consumers to understand.” In the draft PR Notice, the new environmental hazard statements are divided by product type (*e.g.*, liquid ready-to-use (RTU), broadcast granular), and specific language recommendations are provided for each product type. According to EPA, the language recommended would minimize risks to the human health and the environment, with emphasis on reducing risks to water. Revisions to product labels using these new statements would be made by notification. Comments are due **November 2, 2007**.

Products Potentially Affected by the Draft PR Notice

The specific product types affected by the draft PR Notice are liquid concentrates, broadcast granulars, dusts, and liquid RTU products registered for outdoor residential uses. The draft PR Notice would not apply to agricultural products, outdoor aerosol products, or outdoor products registered only for commercial use sites, such as golf courses. According to the draft PR Notice, EPA “prefers a label that is solely for residential use, but if there are other use sites, the residential directions and precautions should be clearly segregated,” under a heading such as “For residential lawn use,” “For home and garden use,” or a similar designation. The revised environmental hazard statements may appear only in that section of the label.

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Discussion of Issues and Recommendations

EPA states that the environmental hazard statements on consumer outdoor products are currently similar or identical for all forms of the end-use product, whether it is a concentrate for broadcast application, an RTU granular for broadcast application, a liquid spray spot treatment product, or a garden dust. EPA states in addition that product forms available to the consumer can vary considerably, however, and the potential environmental risks associated with use of these products vary as well. The draft PR Notice states that statements “should be specific to the product form and succinctly give instructions to avoid environmental, particularly water, contamination.” Accordingly, EPA is recommending slightly different environmental hazard statements for each of the following categories:

- Liquid Concentrate (liquids mixed with water by the user for a tank sprayer or hose-end attachment);
- Broadcast Granular (RTU granular products which may be combined with fertilizers and broadcast applied with a drop or rotary spreader);
- Dusts (for garden or ornamental insect or fungus control products); and
- Liquid RTU (products for spot-treatment of weeds or insects).

Statements To Be Replaced

The revised environmental hazard statements are intended to replace either of the following statements typically found on products registered for an outdoor use. The first statement is found on many products intended for outdoor residential use. The second statement is found on virtually all products for outdoor agricultural use, as well as most turf and lawn-care products.

Do not apply directly to water. Do not contaminate water when disposing of equipment washwaters or rinsate.

For terrestrial uses: Do not apply directly to water, or to areas where surface water is present or to intertidal areas below the mean high water mark. Do not contaminate water when disposing of equipment washwater or rinsate.



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New Statements

EPA is recommending the following environmental hazard statements be used on products registered for outdoor residential use. According to the draft PR Notice, the revised statements “will eliminate unfamiliar agricultural terms and/or hard to interpret language.” The statements are specific to outdoor residential uses, and should be easier for the user to understand. Products in each formulation category should have the corresponding environmental hazard statement on the product label as follows:

Liquid Concentrate	To prevent contamination of the environment, do not apply near water, storm drains, gutters or ditches. Do not apply when rain is predicted for that day or when wind is strong enough to carry spray away from treatment area. Rinse applicator equipment over the lawn or garden area that was treated, and away from water, storm drains, gutters or ditches.
Broadcast Granular	To prevent contamination of the environment, do not apply near water, storm drains, gutters or ditches. Do not apply when rain is predicted for that day. Apply this product only to your lawn or garden, and sweep any product that lands on the driveway, sidewalk, or street, back onto the treated area of your lawn or garden.
Dust	To prevent contamination of the environment, do not apply near water, storm drains, gutters or ditches. Do not apply when rain is predicted for that day or when wind is strong enough to carry dust away from treatment area.
Liquid RTU	To prevent contamination of the environment, do not apply near water, storm drains, gutters or ditches. Do not apply when rain is predicted for that day or when wind is strong enough to carry spray away from treatment area.

These revised statements provide the basic use instructions for avoiding water and other environmental contamination. Other required environmental statements must be left on the



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label, such as wildlife hazard statements as toxicology data dictate (*e.g.*, specific precautionary statements concerning bees, fish or aquatic organisms).

Specific Questions for Comment

EPA asks for comment on the following specific questions:

- The proposed statements are intended to give clear, practical instructions for the ordinary consumer, and to state a reason for following the instructions. Are there terms in the statements that are ambiguous or subject to interpretation, which could potentially confuse an untrained user?
- Three of the four categories (liquid concentrate, dust, and liquid RTU) should not be applied in winds that would cause the product to drift to unintended areas. Since a home user cannot be presumed to have any means of knowing actual wind speed at the time of application, what directions regarding wind would be most helpful?
 - The proposed environmental hazard statement to minimize the potential for drift reads: “[Do not] apply when wind is strong enough to carry spray away from treatment area.” Is that a clear, practical instruction?
 - The alternative statement to minimize drift incorporates the Beaufort scale, which is available on the Internet at <http://www.ncdc.noaa.gov/oa/climate/conversion/beaufortland.html>. The Beaufort scale is a system for estimating wind strengths without the use of instruments. For wind speeds that could affect application of residential products, the visual effects according to the Beaufort scale for a moderate breeze of 13 to 18 miles per hour would be that small branches on trees are moving. Is this a practical indicator of when not to use a product? Is the phrase “Do not apply when wind is strong enough to move small branches on trees, as wind will carry spray away from treatment area” preferable to “Do not apply when wind is strong enough to carry spray away from treatment area”?



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We hope this information is helpful. As always, please call if you have any questions.

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