

PESTICIDE REPORTS

Division of Agricultural Sciences and Natural Resources • Oklahoma State University
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NOVEMBER TEST HELP WORKSHOPS

The OSU Pesticide Safety Education Program (PSEP) will provide test review sessions in November for anyone needing help on getting certified. The dates are November 4th in Tulsa and November 6th for Oklahoma City. OSU PSEP will focus on reviewing information for the core/service technician exams but will answer category questions that applicators might have during the workshop. **The review session will be from 8:30 a.m. to 3:30 p.m.**

The Tulsa program will be held at the Tulsa County Extension Office at 4116 E. 15th in Tulsa. The Oklahoma City program will be held at the Oklahoma County Extension Office at 2500 NE 63rd St. in Oklahoma City. Registration will start at 8:15 a.m.

Cost of registration is \$50 and includes a copy of Applying Pesticides Correctly for each registration. Pre-registration is encouraged walk-ins will only be taken if space is available!

There will be no testing available on the day of the workshops!! With the change in ODAFF testing now being done at PSI testing centers testing will not be available after the workshop. OSU PSEP has extended the review time on the workshop and will cover the new testing

procedures and how to take pesticide certification exams at PSI testing centers.

<http://pested.okstate.edu/html/new-odaff-testing-procedure>

Register online at the Pesticide Safety Education Program (PSEP) website at

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

Registration forms may also be downloaded from the website.

Dates for December have also been scheduled with December 3rd for Tulsa and December 12th for Oklahoma City. December registrations will become available after completion of the November workshops.

(OSU PSEP)

EPA MAKES PARAQUAT DRAFT RISK ASSESSMENTS AVAILABLE FOR PUBLIC COMMENT

Today, EPA is taking an important step in its regulatory review of paraquat—an herbicide used in agricultural and commercial settings only. The draft risk assessments are the product of an extensive evaluation of available data on the health and environmental impacts associated with the pesticide. The agency is seeking public input on [draft human health](#) and [ecological risk assessments](#). These draft risk assessments are the next step in the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) registration review process and are not a denial or an approval of the herbicide. Public comments will be accepted until December 16, 2019.

Additional Background

Paraquat is already applied annually to control invasive weeds and plants in more than 100 crops—including cotton, corn, and soybeans,

and there are presently no direct alternatives to this product. All paraquat products are [Restricted Use Products](#). Additionally, paraquat products can only be applied by certified pesticide applicators. EPA does not allow the use of paraquat in residential areas. EPA has taken proactive steps, outside of the standard registration review process, to ensure paraquat is used in a manner that is safe and consistent with the label directions. This includes a [safety awareness campaign](#) and [changes to labels and product packaging](#) to stop improper uses, which have led to poisonings and deaths. Additionally, [specialized training for certified applicators who use paraquat](#) was released earlier this year to ensure that the pesticide is used correctly. EPA is continuing to evaluate the effectiveness of these measures as the agency works to complete the required registration review process.

EPA found no dietary risks of concern when paraquat is used according to label instructions. The draft human health risk assessment identifies potential risks to workers who apply paraquat or enter treated fields after application. There are also potential risks from spray drift to bystanders at the edge of the field. The draft ecological risk assessment identifies potential risks to mammals, birds, adult honey bees, terrestrial plants, and algae. Historically, EPA has received feedback from the public linking the proper use of paraquat to Parkinson's Disease, however, EPA's review of the available information in the draft assessment did not support a causal relationship. As with all aspects of the draft risk assessments, the agency is seeking additional feedback from the public during the 60-day public comment period on the relationship between paraquat and Parkinson's Disease.

After public comments on the human health and ecological risk assessments are reviewed, EPA will determine whether updates or revisions to the assessments are necessary. EPA will

propose additional risk mitigation measures, if necessary, in 2020, via its Registration Review Proposed Interim Decision. [Learn more about paraquat.](#)

(EPA October 15, 2019)

<https://www.epa.gov/pesticides/epa-makes-paraquat-draft-risk-assessments-available-public-comment>

EPA PROPOSES RULE TO UPDATE PESTICIDE APPLICATION EXCLUSION ZONE REQUIREMENTS

Today, the U.S. Environmental Protection Agency (EPA) is proposing narrow updates to the Worker Protection Standard (WPS) pesticide regulation to improve the long-term success of the agency's Application Exclusion Zone (AEZ) requirements. The targeted updates would improve enforceability for state regulators and reduce regulatory burdens for farmers. It would also maintain public health protections for farm workers and other individuals near agricultural establishments that could be exposed to agricultural pesticide applications. The proposed updates are consistent with the newly enacted 2019 Pesticide Registration Improvement Act (PRIA).

“EPA’s proposal would enhance the agency’s Application Exclusion Zone provisions by making them more effective and easier to implement,” **said EPA Administrator Andrew Wheeler.** “In listening to input from stakeholders, our proposal will make targeted updates, maintaining safety requirements to protect the health of those in farm country, while providing greater flexibility for farmers.”

“President Trump made a commitment to our farmers to reduce burdensome regulations, and this is another example of him making good on that promise. This action will make it easier for our farmers and growers to comply with the Application

Exclusion Zone provisions, providing them with the flexibility to do what they do best - feed, fuel, and clothe the world,” **said U.S. Secretary of Agriculture Sonny Perdue.**

“I commend Administrator Wheeler for clarifying the Application Exclusion Zone (AEZ) requirements,” **said Congressman Mike Conaway (TX-11).** “This is a positive development for our nation’s farmers, farm workers, and their State regulatory partners. Unlike the last administration’s misguided regulations, AEZ is now an enforceable rule that maintains worker protections without additional burden to farmers. While there is still more to do to improve the Worker Protection Standards, I appreciate EPA’s efforts and look forward to continuing this important work.”

“NASDA appreciates the EPA’s continued steps to prioritize worker safety. Additional and improved guidelines for implementing pesticide safety standards are always welcomed, as NASDA members hold highly the responsibility of protecting our nation’s agricultural workforce,” **said National Association of State Departments of Agriculture (NASDA) CEO Dr. Barb Glenn.** “We thank EPA Administrator Andrew Wheeler for mapping out the new rules with NASDA, as each member implements the regulations and intricacies within them.”

“I applaud EPA’s action to provide growers relief from a very cumbersome requirement by proposing changes to the Worker Protection Standard consistent with our remarks submitted during a 2017 comment period,” **said Georgia Agriculture Commissioner Gary W. Black.** “Our growers go to great lengths to comply with the WPS only to be frustrated with its complexity. Updating and simplifying the Application Exclusion Zone provision within this rule will strengthen enforceability for state regulators and better support outreach and education efforts by research partners, all while reducing regulatory burdens for our farmers.”

“The American Farm Bureau Federation welcomes EPA’s effort to refine and improve the application

exclusion zone requirement. It's part of the worker protection standards rule, which was recently revised in a way that has proved challenging for many farmers," **said American Farm Bureau Federation President Zippy Duvall.** "Every effort to make the rule more sensible and practical for farmers while safeguarding workers is important. EPA's step today to assure that only those areas under a farmer's control are enforceable is a common-sense clarification, among others designed to reflect on-the-ground farming practices. AFBF commends Administrator Wheeler and the agency for this common-sense and welcome revision."

EPA continues to support the AEZ requirement. The agency is holding a 90-day public comment period and is seeking input on select updates that were publicly suggested to EPA by both state pesticide agencies responsible for enforcing the provision and agricultural stakeholders since the AEZ requirement was adopted in 2015. The proposed updates are also consistent with the U.S. Department of Agriculture's comments during a May 2017 meeting of EPA's Pesticide Program Dialogue Committee.

Specifically, EPA is proposing to:

- Modify the AEZ so it is applicable and enforceable only on a farm owner's property, where a farm owner can lawfully exercise control over employees and bystanders who could fall within the AEZ. As currently written, the off-farm aspect of this provision has proven very difficult for state regulators to enforce. These proposed changes would enhance both enforcement and implementation of the AEZ for state regulators and farm owners respectively. Off-farm bystanders would still be protected from pesticide applications thanks to the existing "do not contact" requirement that prohibits use in a manner that would contact unprotected individuals.
- Exempt immediate family members of farm owners from all aspects of the AEZ requirement. This will allow farm owners and their immediate family members to decide whether to stay in their homes or

other enclosed structures on their property during certain pesticide applications, rather than compelling them to leave even when they feel safe remaining.

- Add clarifying language that pesticide applications that are suspended due to individuals entering an AEZ may be resumed after those individuals have left the AEZ.
- Simplify the criteria for deciding whether pesticide applications are subject to the 25- or 100-foot AEZ.

EPA will be accepting public comments on the proposed updates for 90 days after the proposal is published in the Federal Register.

Additional information: www.epa.gov/pesticide-worker-safety/agricultural-worker-protection-standard-wps

Background

The original WPS regulation was enacted in 1992 under EPA's Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorities to protect farm workers from pesticide exposures in production agriculture. The WPS requires owners and employers on agricultural establishments and commercial pesticide-handling establishments to protect employees on farms, forests, nurseries and greenhouses from occupational exposure to agricultural pesticides.

In 2015, EPA finalized various significant revisions to the 1992 WPS. Among the 2015 revisions was a new provision requiring agricultural employers to keep non-applicator workers and all other individuals out of an area called the "application exclusion zone" (AEZ) during outdoor pesticide applications. The AEZ is the area surrounding pesticide application equipment that exists only during outdoor production pesticide applications. The AEZ will remain 25-feet in all directions for ground pesticide applications, and 100-feet in all directions for outdoor aerial, air blast, air-propelled, fumigant, smoke, mist and fog pesticide applications.

The initial intent of the AEZ was for it to act as an extra buffer zone supplementing existing WPS provisions for farm workers to better protect them and other on-farm persons that could be contacted by pesticides. To improve enforceability, workability, and the long-term success of the AEZ requirement, EPA is issuing this proposed rule that makes modest, clarifying updates to the AEZ. (EPA October 15, 2019)

<https://www.epa.gov/newsreleases/epa-proposes-rule-update-pesticide-application-exclusion-zone-requirements>

EPA PARAQUAT REQUIREMENTS PLACE SPOTLIGHT ON CLOSED TRANSFER SYSTEMS

The liquid herbicide paraquat is widely used throughout North America as an effective herbicide and pre-harvest crop defoliant, but can be fatal if accidentally ingested in small quantities as well as cause eye damage and irritation to skin.
Advertisement

So, in response to the serious risks associated with paraquat, the EPA has already pursued significant manufacturer labeling and training changes. Now, for growers, the next step in the process is to address changes required to safely dispense the restricted-use pesticide. Consequently, it is urgent that growers quickly get up to speed on what the EPA has mandated in terms of new closed transfer systems required to safely dispense the restricted-use pesticide.

“There are some big changes in the EPA’s rules for paraquat use, and growers need to understand and follow them to remain in compliance,” says Kerry Richards, Ph.D., Director of Delaware’s Pesticide Safety Education Program. “Otherwise, there could be some hefty fines.”

By September 2020, new container standards for paraquat will take effect, with “closed-system packaging for all non-bulk (less than 120 gallon) end use product containers of paraquat,” according to the EPA.

The agency will require “new closed-system packaging designed to prevent transfer or removal of the pesticide except directly into proper application equipment. This will prevent spills, mixing, pouring the pesticide into other containers or other actions that could lead to paraquat exposure,” states EPA’s website.

Paraquat containers from manufacturers will need to be completely sealed, with no screw caps, adaptors or other ways to open and decant the chemicals. To prevent accidental exposure or spills while transferring the liquid herbicide to smaller containers (for mixing or use), certified applicators must also utilize a closed transfer system that connects to the sealed container and cannot be easily circumvented.

Closed transfer systems are specifically designed to transfer liquids safely, while preventing accidental exposure to the concentrated/diluted pesticide or rinse solution. Unfortunately, the EPA is leaving it to growers to engineer their own solutions or find solutions already on the market.

“The grower is going to have to figure out which closed-transfer systems meet the specific EPA requirements to the letter, and if they don’t get it right, they could get fined,” says Richards.

Although many types of closed transfer systems exist, many do not satisfy this new EPA mandate because they can be breached or circumvented in some way.

Within this category are gravity-assisted inversion systems, which are inserted into containers using adaptors and flipped upside down. The adapter depresses a valve so the chemical flows freely out of the container. However, gravity-assisted inversion systems can be easily circumvented and

the chemicals decanted if the valve is pressed when the container is not properly seated in the adapter.

Container breaching systems are another alternative. With this approach, sealed 1 to 2.5-gallon containers of product would be placed in an enclosed system and then pierced so the liquid contents drain to the bottom before being fed through hoses to the application equipment. A water input valve can also be used to safely rinse out the enclosure. The downside is that each grower would have to purchase a container breaching system to use the product at all, and partial container use would not be possible.

Probes inserted into containers for fluid extraction are also commonly used for volumes ranging from 10 to 120 gallons. Because the container doesn't have to be inverted, like a gravity-assisted device, a larger vessel can be used. However, when the probe is extracted, it is a breach of the closed system. Also, there is no safe or compliant way for growers to rinse out the container after use.

Fortunately, the industry is responding to growers' need to comply with the EPA's new closed-system mandate. One industry leader, GoatThroat Pumps, a Milford, CT-based pump designer and manufacturer, is developing a system to specifically comply with EPA paraquat use requirements. In fact, California, the largest agriculture-producing state, already requires a closed transfer system for Category 1 pesticides, and the company already produces products that meet those exacting requirements.

The small, versatile, hand-operated pressure pumps are engineered to work as a system, complete with everything needed to move liquids from the source container through measuring and into the mix tank with a simple triple-rinse set-up.

The hand pump version functions essentially like a beer tap. The operator attaches the pump, presses the plunger several times to build up a low amount of internal pressure, and then dispenses the liquid. A one-touch valve allows growers and pesticide handlers to execute a controlled, steady transfer of liquids from one container to another, and the flow

rate can be adjusted from gallons to drops based on their needs. Other systems can be connected through no spill connectors to extraction devices such as the Chem Traveler.

Because the pumps use very low pressure (<6 PSI) to transfer fluids through the line and contain automatic pressure relief valves, they are safe to use with virtually any closed container. Systems are available for 2.5-gallon containers, 5-gallon containers and for all 30- and 55-gallon drums and barrels including Micromatic.

The fact that the pump is hand-operated is ideal for application in areas where there is no access to electricity.

According to Richards, this type of pump is not only for paraquat, but can also be used for a variety of other ag chemicals that growers already use by utilizing various adaptors available from the pump manufacturer.

“Using a hand-operated, closed-transfer pump system will not only help growers meet the new EPA paraquat standards by September, 2020, but also enhance the safety and ease of use of many other chemicals growers are pouring and mixing every day,” says Richards.

(CropLife, October 29, 2019)

<https://www.croplife.com/crop-inputs/herbicides/epa-paraquat-requirements-place-spotlight-on-closed-transfer-systems/>

DEAL REACHED TO EXPEDITE CALIFORNIA CHLORPYRIFOS BAN

Pesticide manufacturers have agreed to stop selling chlorpyrifos products in the US state of California. The move abandons an effort to contest the state's ban on the widely-used insecticide.

The California Environmental Protection Agency issued the settlement last week. It puts the state on

course to effectively ban use of the chlorpyrifos by December 31st, 2020.

"For years, environmental justice advocates have fought to get the harmful pesticide chlorpyrifos out of our communities," said Governor Gavin Newsom. "Thanks to their tenacity and the work of countless others, this will now occur faster than originally envisioned. This is a big win for children, workers and public health in California."

California published its plan to cancel registrations for chlorpyrifos in May, citing evidence of unreasonable risks of neurological harm to farmworkers and children. Corteva AgriScience (formerly Dow AgroSciences) and other registrants were expected to contest the ban, but have instead agreed to voluntarily cancel their registrations.

"This agreement avoids a protracted legal process while providing a clear timeline for California farmers as we look toward developing alternative pest management practices," said California EPA Secretary Jared Blumenfeld.

Corteva and other chlorpyrifos registrants have agreed to cease the sale of chlorpyrifos products by November 8th, 2019. Distributors and retailers are barred from selling the products after February 6th, 2020, with the statewide ban on uses coming into effect at the end of 2020.

Corteva said the deal is "in the best interests of the affected growers", adding that the state's restrictions have made it "virtually impossible" for farmers to use the insecticide.

The state has severely limited uses, including a ban on aerial spraying, the use of buffer zones and restrictions to only crop-pest combinations that lack alternatives.

California's Department of Pesticide Regulation and its Department of Food and Agriculture have formed a working group to identify, evaluate and recommend safer alternatives to chlorpyrifos, which remains a vital tool for growers across the state. California uses more of the insecticide than any

other state – 20% of the nation's total - and growers across the state applied nearly 1 million pounds (454 tons) in 2017 on more than 50 crops, including almonds, grapevines, citrus and alfalfa.

The working group is set to hold its first meeting this month and include experts from agriculture, academia, environmental justice organizations, farmworker advocates and pesticide manufacturers. The state has set aside some \$5 million in grants to support the development of safer alternatives to chlorpyrifos.

California is the second state to move towards a ban of chlorpyrifos. Hawaii passed a law last year to ban the insecticide by 2023.

New York lawmakers have also approved a similar measure and several other states have introduced legislation to prohibit agricultural uses of the insecticide.

The state actions reflect growing frustration with the Trump administration's decision to abandon a 2016 US EPA plan to revoke food tolerances and cancel registrations for the insecticide. At that point, the Agency said that cumulative exposures posed undue harms to children, noting evidence that the organophosphate insecticide caused developmental disorders and neurological harm.

The Trump administration reversed course in March 2017 and said further study was warranted, denying the underlying petition that requested the ban. Environmentalists and several states – including California – challenged that order but the US Court of Appeals for the Ninth Circuit said that their legal petition was invalid as the EPA had not yet responded to formal objections to its 2017 order. The EPA completed that review last month, rejecting concerns that cumulative exposures remained unsafe and that it failed to issue a new safety finding as required by federal food safety law.

The agency reiterated its view that "despite years of study, the science addressing neuro-developmental effects remains unresolved". The EPA said that

further evaluation of the science surrounding the safety of chlorpyrifos was warranted, but concluded that a review could be completed over the course of the registration review process for insecticide – expected to be finished by 2022.

Agribusiness interests praised the decision but environmentalists, led by Earthjustice and the Natural Resources Defense Council (NRDC), as well as seven states – including California – filed new lawsuits in August to force the EPA to impose a federal ban.

NRDC senior scientist Miriam Rotkin-Ellman called the California deal to swiftly end sales and uses of chlorpyrifos a "landmark victory" for public health and suggested momentum may be shifting in the long-running battle over chlorpyrifos.

"While the Trump administration relentlessly fights to keep [chlorpyrifos] legal, California is taking a stand and saying it has no place in our fields or on our food," she said. "We will continue to push EPA to extend these protections beyond California's borders to people nationwide." (Pesticide & Chemical Policy/AGROW, October 14, 2019) <https://agrow.agribusinessintelligence.informa.com/AG031907/Deal-reached-to-expedite-California-chlorpyrifos-ban>

2020 DICAMBA SHOWDOWN

With much of the 2019 soybean crop still in the field, the state of Illinois pushed the 2020 soybean season into the limelight last week.

Late on Friday afternoon, October 11, the Illinois Department of Agriculture (IDOA) announced that it has submitted additional label restrictions for dicamba herbicides used with the Xtend cropping system in 2020. Under this Section 24(c) Special Local Need (SLN) label, Illinois growers will only have until June 20 to spray dicamba herbicides in Xtend crops, and cannot spray them when temperatures exceed 85 degrees.

The state's move here forces the EPA to solidify its position on Section 24(c) labels that further restrict federal labels, which the agency announced it was re-evaluating earlier this year. It also forces the registrants of dicamba herbicides, Bayer and BASF, to decide how they will deal with state regulators who continue to insist that their chemicals cannot be applied safely using only the federal labels.

ILLINOIS AND DICAMBA

For three years, Illinois regulators have faced a dramatic increase in pesticide injury complaints from dicamba moving off-target. As of October 11, the state's pesticide investigators were juggling an unprecedented 724 cases of alleged dicamba injury.

Last year, IDOA created a dicamba cutoff date of June 30, but then extended it to July 15 for late, June-planted soybean fields. Although some of the dicamba applications leading to injury reports did occur because of that July 15 cutoff date, the state also saw some of its hottest temperatures in late June, before the original cutoff date, IDOA director John Sullivan noted. Based on that experience, the department landed on June 20 as the cutoff date for 2020.

Unlike 2019, the state's newly proposed June 20 cutoff date will not be open to adjustments in 2020, Sullivan told DTN. "We're trying to get dicamba applications done before the weather gets hot and hits that temperature trigger of 85 degrees," he said.

Illinois isn't the only state wrestling with dicamba management this year. Indiana is also facing a record number of complaints, 178, this year. Other states, such as Arkansas, are seeing dicamba injury levels similar to last year's, despite increased Xtend crop acreage and revised federal labels.

SECTION 24(c) AND THE STATES

To date, Section 24(c) labels have been the preferred method of trying to limit off-target dicamba movement for many of these state's pesticide regulators. Only one state, Arkansas, has consistently made changes to state dicamba use without using Section 24(c). Instead, the Arkansas

State Plant Board has enacted new state rules each year governing dicamba use. Other states such as Minnesota and North Dakota have produced annual Section 24(c) labels for dicamba with additional restrictions, such as cutoff dates.

So what's the problem?

At issue is the actual language of Section 24(c), which only permits states to grant additional uses of a federal pesticide -- not restrict it further. However, for many years, EPA has permitted the use of more restrictive Section 24(c) labels and has stated so explicitly in its official guidance online.

"Yes, under certain circumstances states may impose more restrictive measures than are on [federal] labels, or limit use to a subset of uses on [federal] labels," the agency states in its Guidance on FIFRA 24(c) Registrations, found here: <https://www.epa.gov/...>

However, the growing number of restrictive 24(c) labels for dicamba sparked some concerns in the past year at EPA, which culminated in the agency making this announcement in March 2019:

"Because section 24(a) allows states to regulate the use of any federally registered pesticide, and some states have instead used 24(c) to implement cut-off dates (and/or impose other restrictions), EPA is now re-evaluating its approach to reviewing 24(c) registrations and the circumstances under which it will exercise its authority to disapprove those registrations."

The announcement alarmed state regulators, who fear that without the fast-moving process of 24(c) labels, they will not have the flexibility to adjust pesticide labels as needed on an annual basis. See the DTN story here: <https://www.dtnpf.com/...>

EPA has promised to issue a public comment period for any proposed changes and stated that all 2019 24(c) labels would be unaffected. Now, with 2020 Section 24(c) labels coming into the picture, the agency still has not made any official moves on the issue. When queried by DTN about EPA's stance on

restrictive state labels for dicamba in 2020, an agency representative replied via email:

"Regarding the reevaluation of the 24(c) process, EPA intends to take public comment on potential approaches before adopting any changes. As such, EPA is not making any immediate changes in this area."

Sullivan said EPA should keep in mind the reason for this proliferation of restrictive 24(c) labels for dicamba as they reevaluate the system.

"If you look at big picture, there are many state agencies that believe that U.S. EPA ought to be taking a more solid stand on this product -- recognize that it is an issue and take a more active role in managing this product," he said. "And they haven't done that, and that's what driven so many states, Illinois included, to look at additional 24(c) label restrictions."

For their part, dicamba registrants BASF and Bayer appear ready to accept such restrictions in 2020 from Illinois. BASF spokesperson Odessa Hines told DTN via email that "BASF will continue to support states with Special Local Need labeling where they believe additional restrictions are warranted," although the company "believes the Engenia herbicide container label addresses the necessary application practices for minimizing off-target applications."

Bayer spokesperson Kyel Richard said while the company doesn't believe the Illinois restrictions are necessary, it will not be challenging them at this time, because "continued access to the Xtend technology for farmers is the most important thing at this point."

"As Illinois growers work to implement effective weed management strategies in a shortened timeframe, we'll collaborate with the Illinois Department of Agriculture, grower groups and others to ensure Illinois growers and certified applicators are equipped with the necessary resources and recommendations to make it a successful season," Richard said.

See more on the Illinois announcement of new dicamba restrictions in 2020 here:

<https://www.dtnpf.com/...>

(Progressive Farmer, October 17, 2019)

<https://www.dtnpf.com/agriculture/web/ag/crops/article/2019/10/17/illinois-dicamba-rules-set-stage>

CHALLENGE REVIVED OF CALIFORNIA GLYPHOSATE PROP 65 LISTING

A coalition of agricultural interests, food producers and pesticide manufacturers have urged a federal judge to strike down the state of California's decision to add the herbicide, glyphosate, to its Proposition 65 (Prop 65) list of cancer-causing chemicals. They argue that the move is not supported by science and clearly violates the US Constitution.

The coalition, led by the National Association of Wheat Growers (NAWG), contends that the listing will adversely affect their interests by forcing companies to add warning labels on products that may contain glyphosate although there is no evidence of a "definitive link" between the herbicide and cancer in humans.

"This case presents a simple question: Can a state force private parties to defame their own products by reciting a cancer warning with which they vehemently disagree, in circumstances where the primary federal regulatory authority body -- in agreement with a nearly unanimous worldwide scientific consensus -- has determined that the state-mandated warning would be 'false and misleading'?" the plaintiffs say in their motion for summary judgment. "Under bedrock First Amendment principles, the answer is no."

The filing revives a dispute centered on California's July 2017 decision to add glyphosate to the Prop 65 list of cancer-causing chemicals, a move that relied on the International Agency for Research on

Cancer's (IARC) 2015 declaration that the herbicide is a "probable human carcinogen".

Officials with the state's Office of Environmental Health Hazard Assessment explained that the IARC is one of the "authoritative bodies" that can be relied upon for listing a chemical under 1986 law that implemented Prop 65. They argued that the IARC's declaration effectively required the state to add the popular weed killer to the list of chemicals known to cause cancer or reproductive harm.

The NAWG, along with Monsanto, CropLife America, as well as an array of agricultural and food interest, filed suit in November 2017 in the US District Court for the Eastern District of California to block the listing, questioning the dependence on the IARC declaration and arguing that warning label requirements would violate their Constitutional protections for commercial speech under the First Amendment. Eleven states intervened on behalf of the plaintiffs, who may have reason to be optimistic that they may prevail and upend the glyphosate listing.

US District Judge William Shubb imposed a preliminary injunction in February 2018 that blocked the state from requiring cancer warnings until the litigation has been resolved. The judge determined that a cancer notice for glyphosate would not be "factually accurate" as the "heavy weight of evidence in the record" shows that the herbicide is not a human carcinogen.

Judge Shubb subsequently put the case on hold in September 2018 at the request of California officials, who wanted to wait for the US Court of Appeals for the Ninth Circuit to issue rulings in two cases that are also focused on compelled disclosure requirements. The judge revived the case last month.

In their new motion, the plaintiffs reiterate earlier arguments that glyphosate is "widely regarded as one of the safest herbicides ever developed, and the overwhelming scientific consensus is that it does not pose any risk of cancer".

The plaintiffs' motion hones in on the alleged unfairness of the compelled warning requirements of the Prop 65 law, noting that the Supreme Court has recognized a "narrow exception" that permits such disclosure of things like ingredient lists, calorie counts, country of origin and well-known health risks.

"The compelled speech at issue in this case is nothing like those," the plaintiffs say. "Under threat of steep civil penalties and bounty hunter lawsuits, California is requiring that products sold in-state that expose consumers to the herbicide glyphosate be accompanied by a warning communicating to consumers that glyphosate causes cancer -- even though the US Environmental Protection Agency, numerous regulators around the world, and California's own Office of Environmental Health Hazard Assessment have concluded otherwise. This compelled-speech requirement ... violates the First Amendment."

The plaintiffs add that the cases that prompted the stay on the case provided "nothing" that undermines Judge Shubb's earlier ruling that California cannot compel the plaintiffs "to spread a controversial and misleading warning message on the state's behalf".

The motion asks the court to declare the glyphosate warning requirement unconstitutional and to permanently block California from listing the herbicide on Prop 65.

The effort to delist glyphosate comes as controversy continues to swirl around the safety of the herbicide -- notably thousands of lawsuits brought by cancer victims against Monsanto -- and a recent move by the EPA to help the plaintiffs with their bid to block warning labels on glyphosate products. Last month, the Agency issued a new policy declaring that products containing glyphosate cannot include claims that the pesticide causes cancer. EPA Administrator Andrew Wheeler said that the Agency would not approve labels bearing the cancer claims, saying that they are "misleading" and would misinform the public about the risks posed by the herbicide. (Pesticide & Chemical Policy/AGROW, September 27, 2019)

<https://agrow.agribusinessintelligence.informa.com/AG031849/Challenge-revived-of-California-glyphosate-Prop-65-listing>

EEE NOW RESPONSIBLE FOR 11 DEATHS IN THE U.S. THIS YEAR

A fourth person in Michigan has died of Eastern Equine Encephalitis (EEE) mosquito virus, the state's Department of Health and Human Services announced Wednesday. The death of a Calhoun County man brings the nationwide EEE death toll to 11.

According to MLive.com, to date, there are nine confirmed human cases in Michigan. Earlier fatalities due to the disease were reported in Kalamazoo, Van Buren and Cass counties. The nine human cases also include residents from Berrien and Barry counties, according to MDHHS.

Earlier in the week, a Connecticut resident in their 60s died of Eastern equine encephalitis, state health officials reported. The Connecticut Department of Public Health said another person, who is in their 40s, is hospitalized with the rare virus that is transmitted by mosquitoes, CNN reported. Thus far, three Connecticut residents have died from EEE.

In addition to the Connecticut deaths, three people have died in Massachusetts, four people in Michigan and one person has died in Rhode Island.

According to Center for Disease Control and Prevention (CDC), in an average year, the U.S. sees only seven human cases Eastern equine encephalitis, or EEE. In 2019, the U.S. has already seen about 30 cases.

As CDC noted, EEE cases are most commonly reported from late spring to early fall, so EEE incidents should decline soon.

EEE causes brain infections. There are typically only 5 to 10 human cases reported in the United States each year, according to CDC. About 30% of all cases result in death. (PCT Online, October 7, 2019) <https://www.pctonline.com/article/eee-11-deaths-us-2019/>

BAYER'S ROUNDUP HEADACHE GROWS TO 42,700 PLAINTIFFS

Bayer AG faces a surge in lawsuits from people alleging that its weedkiller Roundup causes cancer, ratcheting up the legal pressure as the company engages in settlement talks.

Related: Bayer proposes to settle Roundup suits for \$8 billion

There are now 42,700 U.S. plaintiffs suing over Roundup -- the herbicide inherited from Monsanto -- following a blitz of advertising by attorneys seeking new clients that began after Bayer entered mediation discussions in May. The German company last reported facing 18,400 plaintiffs in July and said earlier this month that it expected a surge.

The crisis has cost Bayer more than \$30 billion in market value as the inventor of aspirin lost three U.S. trials, suffered an unprecedented shareholder vote of no confidence and faced speculation about a breakup. The German drugs and chemicals maker has appealed the rulings and insists that Roundup is safe.

The company also reported better-than-expected earnings on Wednesday and confirmed its outlook, allaying concerns from investors that weak crop-science sales earlier this year would force a guidance cut. The stock rose as much as 2.9% in Frankfurt trading.

The avalanche of new Roundup cases means Bayer may be inclined to push for a settlement more swiftly before the ranks of legal foes swell further, Carl Tobias, a University of Richmond law professor, said in an interview before Bayer released the latest figures.

Bayer could also opt to stall, hoping for a court victory to gain some leverage in the discussions, according to Tobias. "It's risky when you've lost three in a row," he said. "That's the gamble. What if they lose cases four, five and six?"

TV Ads

Aimee Wagstaff, who helped persuade a jury to award \$80 million in damages to a Roundup user earlier this year, said at a convention in Las Vegas on Oct. 23 that she "wouldn't expect any settlement in the near future" and that lawyers are preparing for about a dozen trials next year.

Television advertising from the plaintiff attorneys' side seeking clients was about twice as high in the third quarter as in the first half, Bayer said, adding that the number of lawsuits "says nothing about their merits." The next trial is scheduled to begin Jan. 15 in California, followed by one in Missouri later that month.

Bayer's hand was strengthened by a U.S. Environmental Protection Agency decision in August to no longer approve labels claiming that glyphosate -- Roundup's active ingredient -- is known to cause cancer, Holly Froum, an analyst at Bloomberg Intelligence, said in a note. Froum is maintaining her estimate for a potential settlement value as high as \$10 billion.

Bayer Chief Executive Officer Werner Baumann has staked his credibility on last year's \$63 billion takeover of Monsanto, claiming the company is better off balancing its portfolio between agriculture and health care. He said in July that he'd consider a

“financially reasonable” settlement as long as it resolves all Roundup litigation.

Dennis Berzhanin, an analyst at Pareto Securities, is now modeling 8 billion-euro (\$8.9 billion) in potential damages, twice as much as his old estimate, he said in a note Monday.

Bayer on Wednesday also confirmed its sales and earnings estimates for the year, adjusted for the sale of its animal health business and stake in the Currenta chemical-parks venture. (Southwest FarmPress, October 30, 2019)
<https://www.farmprogress.com/business/bayers-roundup-headache-grows-42700-plaintiffs>

CEU Meetings

Date: November 4-6, 2019
Title: Kansas Agricultural Aviation Association Convention
Location: Hyatt Regency Wichita KS
Contact: Rhonda McCurry (316) 796-1180
<https://www.ksagaviation.org>

CEU's:	Category(s):
2	A
7	1A

Date: November 6, 2019
Title: Target OKC Fall Workshop 2019
Location: Reed Center Midwest City OK
Contact: Jennifer Gonzalez (800) 352-3870
<https://www.target-specialty.com>

CEU's:	Category(s):
6	3A
3	6
4	7A
3	7B
3	8
11	10

Date: November 7, 2019
Title: BWI Pest Control Seminar
Location: Hard Rock Hotel Catoosa OK
Contact: Tim Ruminer (405) 227-2985
<https://bwicompanies.com/>

CEU's:	Category(s):
2	3A
3	7A
1	8

Date: November 7-8, 2019
Title: OK Grows Conference and Trade Show
Location: Edmond Conference Center Edmond OK
Contact: Summer Master (405) 945-6737
<https://www.onla.org>

CEU's:	Category(s):
2	3A
2	3B
2	3C
2	10

Date: November 13, 2019
Title: Red River Specialties Bare Ground and Right of Way Workshop
Location: See contact info below
Contact: Josh Britt (580) 235-3816
<https://www.rrsi.com/>

CEU's:	Category(s):
6	6

Date: November 19-20, 2019
Title: 74th Annual Oklahoma Turfgrass Conference
Location: Tulsa Tech Owasso OK
Contact: Dr. Justin Moss (405) 744-5729
<http://www.otrf.net/>

CEU's:	Category(s):
6	3A
6	10

ODAFF Approved Online CEU Course Links

Online Pest Control Courses

<https://www.onlinepestcontrolcourses.com/>

PestED.com

<https://www.pested.com/>

Certified Training Institute

<https://www.certifiedtraininginstitute.com/>

WSU URBAN IPM AND PESTICIDE SAFETY EDUCATION PROGRAM

<https://pep.wsu.edu/rct/recertonline/>

CEU University

<http://www.ceuschool.org/>

Technical Learning College

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

All Star Pro Training

www.allstarce.com

Wood Destroying Organism Inspection Course

www.nachi.org/wdocourse.htm

CTN Educational Services Inc

http://ctnedu.com/oklahoma_applicator_enroll.html

Pest Network

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

Univar USA

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

AG CEU Online

<https://agceuonline.com/courses/state/37>

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

<http://www.kellysolutions.com/OK/applicators/courses/searchCourseTitle.asp>

**Pesticide Safety
Education Program**

NEW ODAFF Test Information

New computerized testing began October 1, 2019. Testing will be done at testing centers in multiple locations around the state by PSI Services LLC.

For more information and instructions please go to <http://pested.okstate.edu/html/new-odaff-testing-procedure> or the PSI exam information website www.psiexams.com/.

Reservation must be made in advance at www.psiexams.com/ or call (800) 733-9267 PSI locations.

Oklahoma City I 3800 N Classen Blvd, Ste C-20, Oklahoma City, OK 73118

Oklahoma City II NW 23rd St and Villa Avenue, Suite 60, Shepherd Mall Office Complex, Oklahoma City, OK 73107

Tulsa 2816 East 51st Street, Suite 101, Tulsa, OK 74105

McAlester 21 East Carl Albert Parkway (US Hwy 270), McAlester, Oklahoma 74501

Woodward 1915 Oklahoma Ave, Suite 3, Woodward, OK 73801

Lawton Great Plains Technology Center, 4500 West Lee Blvd Building 300- RM 308, Lawton, OK 73505

Enid Autry Technology Center, 1201 W. Willow Rd, Enid, OK 73703

Ponca City Pioneer Technology Center, 2101 N Ash, Ponca City, OK 74601

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