

Coming To A Head



New rules on spray drift are imminent — here's what to expect.

BY JOHN MANDLER AND JAMES SPRINGER II

OVER the past 15 years, EPA has devoted considerable time and effort attempting to address spray drift issues, and Pesticide Registration (PR) Notice 2009-X, released last November, represents EPA's most recent effort to reduce spray drift through labeling statements.

How Did We Get Here?

In 1984, EPA published a new rule outlining the spray drift data it required for submission with each ag chemi-

cal registration. The requirements compelled pesticide registrants to submit two types of spray drift data: "When aerial application ... and mist blower or other methods of ground application are proposed, and it is estimated that the detrimental effects level of those nontarget organisms expected to be present would be exceeded." EPA regulations further required manufacturers to submit proposed spray drift label instructions. EPA was to evaluate the proposed instructions in light of the manufacturer's spray drift data to determine whether the crop protection product, when used as labeled, would cause "unreasonable ad-



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verse effects on the environment.”

The cost of providing EPA with the required information on spray drift for each individual pesticide product was immense. Therefore, in 1990, the Spray Drift Task Force (SDTF) was organized to “share the cost of developing a generic spray drift database.” The purpose of the database was to satisfy spray drift data requirements for virtually all pesticide product registrations in the U.S. and Canada, while reducing the time and expense required by registrants to gather spray drift data for every product registered. SDTF was created through a joint effort between EPA, CropLife America, Agriculture Canada, and Environment Canada, and was intended to lighten the financial burden on pesticide registrants while “providing the agency with a more complete and scientifically more sound basis for evaluating off-target movement of pesticides and assessing exposure of humans and the environment.” The database created by SDTF included information from previous submissions to EPA, published research, and other sources within the industry, government, and academia.

In 2001, EPA specifically addressed spray drift labeling. In *Draft Pesticide Registration Notice 2001-X: Spray and Dust Drift Label Statements for Pesticide Products* (PR Notice 2001-X), EPA stated that because “individual products must be evaluated according to formulation and use, and because individual circumstances may apply [it] must review and

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approve the labeling of each product.” EPA also noted that it required “various product label statements for preventing or controlling spray drift” and that in some instances EPA required more detailed language on individual product labels, including label statements related to the use of no-spray zones, maximum application heights, and worker protection.

The stated purpose of PR Notice 2001-X was to provide “more consistent product label statements for controlling pesticide drift” to protect human health and the environment. In order to provide applicators with “consistent and appropriate directions for controlling drift,” EPA suggested that product labeling regarding drift be standardized. The agency wanted to establish clear labeling that “set definitive standards for application practices,” and pesticide manufacturers were required to avoid labeling that was “inconsistent,” “inadequate,” or “unclear.”

Although PR Notice 2001-X was intended to clarify expectations of applicators and set definitive standards for application practices, the proposed language was problematic, which stated, “do not allow drift.” This raised many concerns throughout the industry and with state pesticide departments charged with the enforcement of the proposed label language. One of the biggest concerns with the language “do not allow drift” was that it created a zero drift policy. Such a policy was viewed by some state regulators as a physical impossibility and therefore unenforceable. The concerns over this language eventually led to PR Notice 2001-X failing to be finalized.

What’s On The Table?

EPA’s long-awaited PR Notice 2009-X represents the agency’s latest effort to address drift labeling language. The stated purpose of PR Notice 2009-X is to provide guidance to pesticide registrants when revising pesticide labeling instructions “to minimize drift and to protect people, other non-target organisms, and the environment from adverse effects that may be caused by off-target pesticide drift.” The new drift statements recommended by EPA “are intended to improve labeling of current and future pesticide registrations by proposing a clear, concise, generic drift labeling statement for all pesticide products and by providing specific use directions that EPA may require for pesticide applicators.” According to EPA, the new language should result in “fairer, more uniform enforcement that better protects human health, other non-target organisms, and the environment.”

Under PR Notice 2009-X, the general drift labeling language for three pesticide product categories would change. The categories subject to the proposed labeling language are: (1) pesticide products that currently bear the Worker Protection Standard (WPS) drift statement; (2) pesticide products which may be used commercially that currently do

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not bear the WPS drift statement; and (3) pesticide products intended solely for non-commercial application.

Products that currently use the standard WPS language regarding spray drift and commercially used products that do not currently use the WPS language would be required to use the following label language regarding agricultural chemical spray drift:

■ **Do not apply this product in a manner that will contact workers or other persons**, either directly or through drift. In addition, do not apply this product in a manner that results in spray (or dust) drift that could cause an adverse effect to people or any other non-target organism or site.

■ **Products used solely for non-commercial activity would be required to include the following** spray drift language on their labels:

■ **Do not apply this product in a way that could contact people**, or that results in spray (or dust) drift that could cause harm to people, pets, property, aquatic life, wildlife, or wildlife habitat.

If EPA finalizes PR Notice 2009-X, the labels for the crop protection products in each category must change to reflect the new spray drift language.

EPA will still determine whether a product requires a product-specific drift statement. These will be made on a case-by-case basis. These product-specific statements will include, restrictions on wind speed, application

release height, buffer zones around sensitive areas, and droplet size, to name a few. In most cases, EPA will evaluate the need for a product-specific drift statement during the registration process. If EPA determines that product-specific labeling is required, the registrant will be required to add product-specific drift statements to the label, as appropriate, to address potential risks.

What Are The Key Issues?

Public comment on PR Notice 2009-X closed on March 5. Once the period for comment closed, EPA could issue a final notice. If finalized as written, any product not yet registered with EPA must submit, along with its registration materials, product labeling that complies with the spray drift language described above. Registrants of existing products that do not have any spray drift language in their labels will have at least six months to submit new general drift labeling statements to EPA. If a registered product contains existing drift labeling statements, the registrants will be required to submit the proposed changes by filing an application to amend their registrations within 12 months of the final Notice being issued.

Although the time for public comment had yet to close at presstime, there have already been numerous public comments regarding the po-

tential effects of PR Notice 2009-X. Initially, in response to many requests seeking a longer comment period due to the complexity of the draft and accompanying materials, EPA extended the original 60-day comment period to March 5. The main concerns expressed by those providing comments to date are two-fold: First, the suggested drift statement contains vague language not in accordance with FIFRA's risk-based standard of "no unreasonable adverse events." Second, there is a concern that EPA's guidance on how to enforce the proposed drift label language sets an unachievable zero drift standard.

The Answer? Stay Tuned ...

EPA is attempting to further its goal of promulgating clear and concise labeling statements to help reduce issues surrounding spray drift. While the crop protection industry has expressed support for the agency's overall goal of reducing off-target spray and dust drift and ensuring pesticide label consistency and clarity, there has long been debate about the best way to reach those goals. Pesticide manufacturers, applicators, growers, and other stakeholders will therefore continue to analyze PR Notice 2009-X, and the crop protection products industry and agriculture community will monitor closely how EPA reacts to these comments. ▸

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