

pests. The program is authorized only in the States of Alabama, Arizona, Arkansas, California, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Texas. Two comments were submitted in response to the notice of receipt for this permit application, which published in the **Federal Register** on July 28, 2004 (69 FR 45051) (FRL-7371-5). One comment from the National Cotton Council supported issuance of the EUP. The other comment by a private citizen objected to issuance of the EUP based on unspecified environmental and human health effects. The Agency understands the commenter's concerns. Pursuant to its authority under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and under the Federal Food, Drug, and Cosmetic Act (FFDCA), EPA has conducted an assessment of the Vip3A insect control proteins and the genetic material necessary for their production in cotton. EPA has concluded that there is a reasonable certainty that no harm will result from dietary exposure to this protein as expressed in cotton. The Vip3A insect control proteins as expressed in cotton tested under this permit are covered by the temporary tolerance exemption under 40 CFR 180.1247. No adverse effects are anticipated as a result of Vip3A expression in transgenic cotton. The EUP is effective from February 1, 2005 to March 31, 2006.

**Authority:** 7 U.S.C. 136c.

#### List of Subjects

Environmental protection,  
Experimental use permits.

Dated: March 7, 2005.

**Janet L. Andersen,**

*Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.*

[FR Doc. 05-4958 Filed 3-15-05; 8:45 am]

**BILLING CODE 6560-50-S**

#### ENVIRONMENTAL PROTECTION AGENCY

[OPP-2005-0030;FRL-7695-8]

#### Pesticides; Guidance for Pesticide Registrants on Labeling Statements on Products Used for Adult Mosquito Control

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of availability.

**SUMMARY:** The Agency is announcing the availability of a Pesticide

Registration Notice (PR Notice) entitled "Labeling Statements on Products Used for Adult Mosquito Control." This PR Notice was issued by the Agency on insert date PR Notice was signed by the OD and is identified as PR Notice 2005-1. PR Notices are issued by the Office of Pesticide Programs (OPP) to inform pesticide registrants and other interested persons about important policies, procedures, and registration related decisions, and serve to provide guidance to pesticide registrants and OPP personnel. This particular PR Notice provides guidance to the registrant concerning EPA's policy on labeling statements for pesticide products used for wide-area applications to control adult mosquitoes. The specific label statements and label organization principles recommended in the draft Notice are intended to improve existing labels by clarifying language conveying environmental hazards posed by these products, as well as specific use directions and instructions to the applicators. The Agency believes that adoption of these recommendations will help pesticide users and pesticide enforcement officials to achieve more effective mosquito control and protection of public health, while ensuring that use of these products will not pose unreasonable risks to the environment.

**FOR FURTHER INFORMATION CONTACT:** Jim Roelofs, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: 703-308-2964; fax number: 703-308-1850; e-mail address: [roelofs.jim@epa.gov](mailto:roelofs.jim@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Does this Action Apply to Me?

This action is directed to pesticide registrants, pesticide regulatory officials, mosquito and vector control agencies, pesticide users and the general public. Although this action may be of particular interest to those persons who have a specific interest in the labeling of pesticide products used for the control of adult mosquitoes, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

##### II. What Guidance Does this PR Notice Provide?

This PR Notice provides guidance to the registrant concerning seven specific

recommendations for labeling statements to be used on pesticide products used for control of adult mosquitoes through ground or aerial application of Ultra-Low Volume (ULV) sprays or fogs.

#### A. Background

In recent years state pesticide regulators and vector control agencies have raised a variety of concerns about the labeling of pesticides used for adult mosquito control. The class of products of most concern have been those used for control of adult mosquitoes through the application of Ultra-Low Volume (ULV) sprays or fogs. Since state agencies enforce pesticide use regulations under cooperative agreements with EPA, and since FIFRA section 12(a)(2)(G) makes it an unlawful act "to use any registered pesticide in a manner inconsistent with its labeling", the interpretation of label requirements is a critical issue for EPA, its Regional Offices and state pesticide regulatory agencies, as well as for users.

In 2001, EPA sponsored an Inter-Regional Mosquito Control Conference for EPA and state agency representatives. Although labeling was one of many subjects discussed at the conference, participants felt label improvements were an area that should be addressed. It was agreed that a group representing EPA's Office of Pesticide Programs (OPP), Office of Enforcement and Compliance Assurance (OECA), EPA Regions and state lead agency volunteers would develop initial, informal proposals for improving mosquito control product labels, with the focus on adulticides only. The EPA State workgroup developed a paper which included seven recommendations. In April 2003, the initial recommendations were discussed at a public meeting of the Pesticide Program Dialogue Committee (PPDC). The PPDC is chartered under the Federal Advisory Committee Act to advise EPA on pesticide issues. Its members represent a broad spectrum of interests, including the pesticide industry, grower groups, public health agencies, academic researchers, public interest and advocacy organizations. The PPDC recommended that EPA develop the initial recommendations into more formal Agency positions.

After considering the comments and suggestions of state agencies, the PPDC and other interested parties, as well as public comments received on a draft version of the PR Notice, the Agency is making the recommendations in the PR Notice as a means to achieve improvements in the labeling of adult mosquito control products. The

recommendations consist of some specific statements that should appear on all labels for this class of products, some model statements that registrants may adapt to the specific characteristics of their products, and some principles on organizing elements of the label.

#### *B. Summary of the Labeling Recommendations*

The recommendations in the PR Notice are meant to apply only to products labeled for wide-area application by ground or aerial equipment, as Ultra Low Volume (ULV) sprays or fogs, and not to home and garden use products which may list mosquitoes on the label, or for coarse (non-ULV) sprays intended for residual treatment of vegetation or other surfaces. Control of mosquito larvae is a wholly different use pattern from adult mosquito control, and thus, products registered as mosquito larvicides are not included in the scope of the Notice.

The PR Notice sets forth seven recommendations for improving labels of adult mosquito control products. In brief form, the recommendations are:

1. Adult mosquito control applications should be limited to trained personnel.
2. Mosquito control directions and precautions should be clearly distinguished from those applicable to any other use allowed on the label.
3. Label precautions and directions should be revised as needed to make hazards to aquatic life as clear as possible, and also to allow the application of these products over a body of water allowable under some circumstances.
4. Users should consult with the State or Tribal lead agency for pesticide regulation to determine if permits or other regulatory requirements exist.
5. Labels should specify a spectrum of spray/fog droplet sizes, and indicate that droplet size should be determined according to directions from equipment manufacturers or other appropriate sources.
6. Precautionary language to protect bees should have a provision to allow mosquito control applications in order to respond to threats to public health which are identified by health or vector control agencies on the basis of evidence of disease organisms or diseases cases in animals or humans.
7. Mosquito adulticide labels should include specific statements on timing and allowable frequency of applications to a specific site. Exceptions to application limits may be allowed in order to respond to threats to public health which are identified by health or vector control agencies on the basis of

evidence of disease organisms or diseases cases in animals or humans.

#### **III. Do PR Notices Contain Binding Requirements?**

The PR Notice discussed in this notice is intended to provide guidance to EPA personnel and decision makers and to pesticide registrants. While the requirements in the statutes and Agency regulations are binding on EPA and the applicants, this PR Notice is not binding on either EPA or pesticide registrants, and EPA may depart from the guidance where circumstances warrant and without prior notice. Likewise, pesticide registrants may assert that the guidance is not appropriate generally or not applicable to a specific pesticide or situation.

#### **IV. How Can I Get Copies of this Document and Other Related Information?**

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPP-2005-0030. The official public docket consists of the documents specifically referenced in this action and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305-5805.

2. *Electronic Access.* You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr/>. You may obtain an electronic copy other PR Notices, both final and draft, at [http://www.epa.gov/opppmsd1/PR\\_Notices](http://www.epa.gov/opppmsd1/PR_Notices).

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the appropriate docket ID number.

Certain types of information will not be placed in the EPA Dockets.

Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit IV.A. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

#### **List of Subjects**

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: March 3, 2005.

**James Jones,**

*Director, Office of Pesticide Programs.*

[FR Doc. 05-4878 Filed 3-15-05; 8:45 am]

**BILLING CODE 6560-50-S**

#### **ENVIRONMENTAL PROTECTION AGENCY**

[FRL-7884-9]

#### **Riverhills Battery Superfund Site; Notice of Settlement**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of settlement.

**SUMMARY:** Under Section 122(i) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the Environmental Protection Agency (EPA) has entered into an Agreement for response cost at the Riverhills Battery Superfund Site (Site) located in Tampa, Hillsborough County, Florida, with Henry H. Black.

EPA will consider public comments on settlement of response cost, paragraphs thirty-six (36) and thirty-seven (37), of the Agreement for April 15, 2005.

EPA may withdraw from or modify the Agreement should such comments disclose facts or considerations which