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February 22, 2005

Stephen Nesbitt, Assistant Inspector General for Investigations  
Environmental Protection Agency  
Office of Inspector General  
1200 Pennsylvania Avenue, N.W. (2441T)  
Washington, DC 20460

Re: Abuse of Adulticide Mosquito Products Posing Serious Health and Environmental Threats as a Result of Omissions in EPA's Labeling Statements on Adulticide Products Used for Mosquito Control

Honorable Assistant Inspector General for Investigations, Mr. Nesbitt,

We would like to bring to your attention an egregious situation that bears out the concerns expressed in a letter dated October 8, 2004 from Jay Feldman, Executive Director, Beyond Pesticides, and Troy Fore, Executive Director, American Beekeeping Federation, about the inadequacy of the "Labeling Statements on Products Used for Mosquito Control."

We petition the Inspector General to conduct an investigation concerning the inadequacy of the label on the EPA registered pesticide malathion to protect human health and the environment under the standards of the Federal Insecticide and Rodenticide Act (FIFRA), the Migratory Bird Act, and the Clean Water Act. Given the inadequacy of this label and the large scale and daily use of malathion, we believe that EPA is failing to meet its statutory duty, putting the public and the environment at serious risk. We believe that the agency is aware of the deficiencies of the label and yet it is not utilizing its scientific and regulatory authority. This requires your attention and review in order to ensure that EPA meets its obligations under the law.

We request that you revisit the label for malathion in particular, when used as a mosquito adulticide. Herein we provide actual examples of the misuse of malathion that pose threats to humans, domestic animals, wild animals, and aquatic resources that are not enforceable for the following reasons:

1. The label, through omission, provides no opportunity for EPA enforcement of independent mosquito control districts.

Under current EPA labeling of adulticide products for mosquito control, "independent mosquito control districts" are quasi-autonomous and are not accountable to municipalities, counties, or the state and therefore do not come under the jurisdiction of

the EPA. Current labels should be amended to reflect the reality of users and read as follows: **For use only by federal, state, tribal, local government officials, or *independent mosquito control districts* responsible for public health or vector control, or by persons certified in the appropriate category or otherwise authorized by the state or tribal lead pesticide regulatory agency to perform adult mosquito control applications, or by persons under their direct supervision.** Addition in italics.

This is the most important label omission we want to bring to your attention, for because of it, communities are experiencing repeated label violations. Upon reporting violations to the regional EPA, citizens living in these districts are told that it is out of EPA's regulatory jurisdiction. EPA regional staff require this amendment to the label in order to carry out their mandate to protect public health and the environment.

2. The label provides no limitations on the frequency, duration, or timing of application.

Several communities within one Colorado Mosquito Control District were sprayed once a week for 22 consecutive weeks with malathion during the summer of 2004. Some locations within this Mosquito Control District were often sprayed twice a week. *Frequency of spraying should be based solely on the results of systematic mosquito population monitoring and surveillance as recommended by the EPA and CDC in combination with a fully established pest management program.*

3. The label requirements for those who can apply the pesticide are too vague.

Unsupervised boys, 16 and 17 years old transferred malathion from 55 gallon drums to 12 and 15 gallon tanks on trucks equipped with spraying apparatus each evening before proceeding to mist throughout the district. They did this for five nights a week.

4. The label does not place bounds on the definition of a "health emergency".

The Mosquito Control Board defended its action to "calendar spray" weekly by declaring an emergency throughout spring, summer, and fall of 2004.

5. The label does not specify how mosquito populations should be monitored in order to determine when there is an emergency.

In the above mosquito district, no standardized system was employed to collect, count, identify species, determine sex, or test the mosquitoes for West Nile Virus. The boys often sprayed because "someone called" and asked to be sprayed even though the request was not from an area scheduled to be sprayed that night.

6. The label is not clear about the definition of a "primary area" that should be sprayed.

The business section of towns, homes, people sitting in outdoor restaurants, and people leaving public buildings were directly sprayed. In addition, each night consecutive sections of a 20 mile stretch of river riparian habitat were sprayed. The boys were instructed to ignore individual citizens' "no spray" signs, medically-approved "no-spray signs, and certified organic orchard signs requesting "no-spray.". The Mosquito Control Board members argued that there were no laws to make them obey the "no-spray" signs.

7. The label needs to be more specific about the maintenance of the equipment used to apply the adulticide.

The Mosquito Control District can provide no data to the public to confirm that it was applying malathion within the allowable prescribed dosage. Only one nozzle on one truck was calibrated at the beginning of the 2004 season. *The label instructions for maintaining the spray equipment should require daily calibration of the nozzles from application to application.*

Oftentimes the applicators stopped the trucks and continued spraying for indefinite periods witnessed from 60 seconds, 90 seconds, and up to 5 minutes. *The label should state that applicators are required to keep records of the frequency of calibration testing of the spray equipment nozzles; the miles treated per application; the time it took to cover the distance per application; and the number of gallons of malathion applied per application in order to provide data on the application rate.*

In addition, there is no running water available where the pesticides and trucks are stored and where the applicators fill the tanks on the trucks. The car wash in the heart of town is used to wash down the tanks and trucks.

We respectfully request that the Inspector General's office investigate what EPA intends to do about the labeling of adulticides before the upcoming 2005 mosquito season. Large numbers of individuals were exposed to repeated doses of a known neurotoxicant that when applied in this manner could have serious health impacts on those in the womb, infants, children, the chemically sensitized, and the aged. Repeated applications such as this could also have detrimental impacts on beneficial insects, fish, and other wildlife along a 20 mile stretch of a river and its tributaries. We would like to point out that this is just one of many similar situations throughout rural US that could easily be curtailed with an improved malathion label for adulticide-use. Your attention to this matter is truly appreciated.

Sincerely,

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