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What's new!

UW Pest Management Field Day – July 9th 28

Pesticide Applications and the Clean Water Act:
Is a Permit Required?..... 28

Crops

Alfalfa stand assessment, New video !! 29

New article on soybean seeding rates 29

Weeds

Flexstar GT labeled 29

Be Aware of Grapes and 2,4-D Drift 30

need a National Pollutant Discharge Elimination System (NPDES) permit under the Clean Water Act (CWA)? From final rules, through court appeals, and a reinterpretation of the findings are now saying: Yes, but not yet. Here's the scoop.

Since the enactment of the Clean Water Act (CWA) in 1972, EPA has not required a NPDES permit when applying pesticides registered under FIFRA directly to, over, or near waters of the United States when legally applied to control pests at those sites. On November 27, 2006, EPA issued a final rule clarifying two specific circumstances in which a CWA permit is not required: 1) the application of pesticides directly to water to control pests; and 2) the application of pesticides to control pests that are present over or near water, where a portion of the pesticides will unavoidably be deposited to the water. The rule became effective on January 26, 2007.

On January 7, 2009 the Sixth Circuit Court of Appeals determined that EPA's final rule was not a reasonable interpretation of the CWA and, therefore, vacated the rule. Reversing EPA's November 2006 Aquatics Pesticides rule, the biological pesticide applications and all chemical pesticide applications that leave a residue in water when such applications are made to, over, or near waters of the U.S. Parties had until April 9, 2009 to seek rehearing.

On April 9, 2009, the Department of Justice (DOJ) chose not to seek rehearing on an opinion issued by the Sixth Circuit Court of Appeals. DOJ instead filed a motion for stay (delay) of the Court's mandate until April 9, 2011 to provide EPA time to develop, propose, and issue a final NPDES permitting process. Time is also needed to provide outreach and education to pesticide applicators which includes local government entities that spray to and over waters to control mosquitoes, farmers who apply pesticides to eradicate aquatic pests, foresters who aerially spray over waters to prevent outbreaks of timber pests, and the U.S. Coast Guard which sprays to kill insects that interfere with the maintenance of navigation devices.

Because neither the EPA nor the state departments of agriculture currently have the resources to process and issue individual permits for the thousands of applicators affected by this Court's decision, EPA proposes to issue general NPDES permits which will address a large number of similarly situated dischargers in lieu of issuing individual permits to each discharger. Without such permitting authority, significant disruptions to the regulated community will likely occur.

EPA has, therefore, requested the Court to use its power and delay this action until April 9, 2011 to allow EPA and authorized permitting authorities sufficient time to develop and issue Clean Water Act permits for pesticide applications.

UW Pest Management Field Day – July 9th

Chris Boerboom, Extension Weed Scientist

Please mark your calendars for our annual UW Pest Management Field Day on Thursday, July 9th at the Arlington Agricultural Research Station. We will start with coffee at 8 am at the Public Events Building and plot tours will start at 8:30 am.

After spending the morning in the field, a lunch will be served at noon. Faculty and staff from Agronomy and Horticulture (weed science), Entomology, and Plant Pathology provide information on field trials and updates.

More details to come after we get our experiments planted over the next few weeks.

Pesticide Applications and the Clean Water Act: Is a Permit Required?

Roger Flashinski, Pesticide Applicator Training Program

Several recent news releases on this issue, and the resulting flurry of emails, are asking whether pesticide applicators will

In related activity, CropLife America (and numerous other agricultural organizations) did petition the Court for rehearing. They argued that the Court's decision ignored the definition in the Clean Water Act of "point source", and they requested that the full Sixth Circuit Court of Appeals review a three-judge panel's January decision vacating EPA's final rule for pesticides. Thus, the Court must decide whether to rehear the case, issue the stay per EPA's request, or let their decision stand as is. The only further option for appeal is to the Supreme Court. So, stay tuned.

Alfalfa stand assessment, New video !!

In this seven minute video Dr. Dan Undersander, UWEX forage agronomist from the University of Wisconsin-Madison Agronomy department, visits an alfalfa field and demonstrates steps you can take to help answer this question. Is this stand good enough to keep?

Click here >>>

<http://www.youtube.com/watch?v=jujW3-FE4zE>

Be sure to click on the "HQ" button just below the video to see the clearest picture. If you have comments on the video, you can contact Dan Undersander (content) or Roger Schmidt (technical production).

For more in-depth stand assessment information, including how to use stem count to estimate current yield potential, please see UWEX publication A3620 here >>>

<http://learningstore.uwex.edu/pdf/A3620.pdf>

This video was produced by the UW Integrated Pest Management program. Look for more of these timely topics later in the season. They will be posted to the UWEX channel on Youtube.com. UWEX has several education videos on Youtube.com that are free to view anytime.

<http://www.youtube.com/user/uwcoopextension>



New article on soybean seeding rates

Given the dramatic increase in soybean seed prices, growers will likely consider decreasing their seeding rates in 2009. Shawn Conley and John Gaska from the UW-Madison Agronomy department have published a short document on the

subject. It is titled, Factors to Consider When Lowering Soybean Seeding Rates in 2009, and can be found at this link.

Click here >>> <http://www.coolbean.info>

This article is also attached to the end of this WCM issue, so scroll down to read it here.

Flexstar GT labeled

Chris Boerboom, Extension Weed Scientist

Syngenta has registered Flexstar GT for postemergence weed control in Roundup Ready soybeans. Flexstar GT is a premix of the ingredient in Flexstar (fomesafen) and glyphosate. One use of this premix is to control glyphosate-resistant weeds such as common and giant ragweed and waterhemp. However, to control glyphosate-resistant biotypes, Flexstar GT needs to be applied at an early stage of growth for the Flexstar component to be effective. For resistant weeds, this is often a 2 inch maximum height. Flexstar GT could also be used as a strategy to lessen the risk of resistance as it contains two modes of action. To capitalize on the two modes of action, early postemergence applications also need to be made. Spraying large weeds with Flexstar GT may provide effect control, but defeats the purpose of having the second mode of action if the weeds are too large to be controlled by Flexstar. One advantage of an early postemergence application is that Flexstar has some residual activity if activated by rain. The timing of Flexstar GT should be driven by weed size, but applications cannot be made within 45 days of harvest.

The Flexstar GT rate is limited to 3 pt/a in central and northern Wisconsin (north of Hwy 18 west of Madison and I-94 east of Madison) in alternate years. Check the label for the northern counties that are included. In the central sands, Adams, Marquette, Portage, Waupaca, Washara, and Wood counties are excluded. South of this line, 3.75 pt/a can be used. At these rates, Flexstar GT would provide these equivalent amounts of Flexstar and glyphosate.

Flexstar GT	Equivalent to	Flexstar		Glyphosate	(3 lb/gal generic formulation)
3 pt/a	=	1 pt/a	+	1 lb ae/a	(42 oz/a)
3.75 pt/a	=	1.3 pt/a	+	1.23 lb ae/a	(53 oz/a)

Many of the Flexstar GT use directions are similar to the Flexstar label. Remember that Flexstar is a contact herbicide and through spray coverage is important. Spray volumes of 15-20 gpa and flat fan nozzles are recommended and air-induction nozzles should not be used. Flexstar GT has an adjuvant system, but ammonium sulfate can be added as with most glyphosate products. Soybean, dry beans, and snap beans can be replanted at anytime, but small grains should not be planted for 4 months and corn (field, seed and sweet) and peas should not be planted for 10 months. Alfalfa and other crops should not be planted for 18 months.

Be Aware of Grapes and 2,4-D Drift

Chris Boerboom, Extension Weed Scientist

The potential for herbicide drift is an issue every good applicator monitors and manages by using the best that equipment technology and drift reducing agents can offer. However, some herbicides and crops create challenges that are extremely difficult to manage. One example is grapes and 2,4-D. This is a concern in certain regions of Wisconsin because grape vineyards are either an established or expanding crop. The potential sources of 2,4-D can be from 2,4-D used in burndown applications to field crops, 2,4-D applications to pastures, or even 2,4-D applications to lawns. The 2,4-D can move either as spray particles in wind or as vapors. With spray particles, the direction is dictated by the wind, which can be predicted. However, vapor movement is more difficult to predict as vapors may move in different directions as air currents change during the many hours after the 2,4-D application.

Grapes are naturally highly sensitive to 2,4-D and the symptoms depend on the dose. The symptoms will be expressed on the new growth where new leaves are developing (figure 1). The most frequent symptoms are probably the “fingering” that develops along the leaf margin (figures 2 and 3). Higher doses can cause more severe damage and stunting.

Figure 1. 2,4-D symptoms on grapes appear on new growth.



Figure 2. “Fingering” symptomology appearing along the margin of a grape leaf along with leaf distortion.



Figure 3. Minor “fingering” symptomology appearing along the margin of a grape leaf.



Photo credits: J. Colquhoun

Grapes are a high value crop and every effort should be taken to reduce the risk of causing injury. The first key step is to know the location of vineyards in the region where 2,4-D is being used. Second, if burndown applications need to be made near a vineyard, alternate products should be used such as straight glyphosate, paraquat, or other tank mix partners to replace 2,4-D. The question of an appropriate setback distance for 2,4-D also needs to be considered. There are no fixed guidelines provided on labels or restrictions provided by state or federal agencies. The “safe” setback distance will depend on wind direction and speed, air temperature, topography, acres treated, application equipment, etc. A mile setback may be appropriate in certain situations. In other cases, this distance could be reduced. An applicator will have to use their best judgment, but be aware of the potential for injury and the associated liability.

