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INSECT, PLANT DISEASE, & WEED SCIENCE NEWS [No. 91-25] [Nov. 8, 1991]

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IPW Insect Science Plant Disease Weed Science NEWS

UNIVERSITY OF NEBRASKA COOPERATIVE EXTENSION • INSTITUTE OF AGRICULTURE AND NATURAL RESOURCES

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In this issue

Pesticide regulation debate back to the Legislature

The debate over whether Nebraska should assume administration of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) will be before the Nebraska Legislature again this year. While Nebraska has discussed the possibility of adopting the program for more than a decade, this year's debate may also reflect related developments — a warning from the EPA and a recent Supreme Court decision.

This summer the Legislature's Agriculture Committee conducted an interim study on whether the state should assume administration of the federal pesticide regulation program. It will report its findings when the Legislature reconvenes this winter and considers LB 349, a bill to establish a state lead agency to administrate FIFRA. Most states established such programs in the late 1970s. Nebraska is the only state not to have established a FIFRA program.

In Nebraska, the Environmental Protection Agency administers the program for the federal government. It investigates complaints, enforces pesticide regulations, and certifies applicators. The EPA contracts with the University of Nebraska Extension Service for pesticide applicator training for private and commercial applicators.

EPA warning

At the September legislative hearing on LB 349, Leo Alderman, chief of the EPA Toxics and Pesticides Branch for the EPA, Region VII, in Kansas City said that if the state did not assume the program, it could face restrictions on several of the main agricultural chemicals used in the state.

"Recent studies have shown that an increasing number of agricultural chemicals are being found in the groundwater, and to address this problem EPA has proposed a strategy to address the federal, state and local concerns on the potential contamination of groundwater by pesticides.

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Last issue

This is the last issue of the 1991 subscription year for the ***Insect Science, Plant Disease and Weed Science News.*** Production will begin again in early March with scouting information, research results, and as always, the latest news on developing pest situations. Use the order form in this issue to subscribe now.

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This strategy states that where scientific data indicated that a pesticide has the ability to migrate into the groundwater and the risk of human health and environment outweighs the pesticides' benefits, EPA will take regulatory action on the pesticide to prevent contamination of the nation's groundwater... The continued use of pesticides in the state will depend on the existence of an approved enforceable state management plan." Affected chemicals in Nebraska may include atrazine, cyanazine and alachlor, he said.

Opponents to the bill questioned the increased cost to the state, the need for a change, the potential loss of some federal funds, and the effect it would have on businesses and pesticide users. Proponents discussed benefits to the whole state of stricter use and enforcement to minimize the potential for ground water contamination and several described incidents where herbicide drift had affected neighbors. The cost of administering a state program is partially supported by the federal government.

CPMU Dec. 3-4 in Kearney

Two highlights of this year's Crop Pest Management Update conference will be presentations on greenbug biotype development and the importance of international agriculture to Nebraska. Phil Sloderbeck, Kansas State University entomology professor at Garden City, will discuss the rapidly changing factors of greenbug biotype development and Glen Vollmar, dean of international programs at the University of Nebraska-Lincoln, will address international influences on Nebraska agribusiness.

Other program topics include updates on UNL pest management research; methods for calculating economic thresholds; integrated pest management; biological control of pests; pesticides and water quality; health effects of pesticide use; and weather data use for pest management.

CPMU will be held Dec. 3-4 at the Ramada Inn in Kearney. This conference is designed to provide agricultural professionals the latest information about field crop pest management. The intended audience includes agrichemical and fertilizer dealers, commercial applicators, crop consultants, farm and ranch operators, farm lenders, extension agents, conservation officers, and seed company representatives.

The registration fee of $75 ($100 after Nov. 20) includes a copy of the proceedings, two lunches, one dinner, and refreshments. A program summary and preregistration forms are available from your local extension office or by contacting my office at 211 Plant Industry Bldg., 472-2125. Rooms are available at the Ramada Inn at a discounted price for this conference. To make a reservation, call (800) 248-4460.

Steve Danielson

Supreme Court ruling

The discussions concerning state FIFRA administration also may be affected by a unanimous U.S. Supreme Court ruling last June. In overturning the rulings of two lower courts, the court said that local governments can regulate pesticide use more strictly than the FIFRA limits.

In 1985 the town of Casey, Wis., adopted an ordinance requiring anyone intending to apply a pesticide, either by ground application or aerially, to get a permit 60 days in advance. An aerial applicator applied for a permit for aerial application of pesticides on his land. A permit was granted for ground application. The landowner challenged the local pesticide ordinance on the grounds that it wrongfully empowered a local body to forbid what is allowable under FIFRA. Two lower courts sided with the landowner, but the U.S. Supreme Court said FIFRA does not preempt the town's ordinance. This ruling makes it possible for local governments to establish their own pesticide regulations. Thus, the potential exists for a myriad of pesticide regulations developing in governmental subdivisions across the United States. Some officials have contended that this

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Lisa Brown Jasa, Editor

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*The pages in Issue 91-2 were misnumbered 1-6, rather than 7-12. To avoid confusion with page numbers in the 91-1 issue, the correct page numbers (7-12) are used in the index.

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would be much less likely to happen in Nebraska if the state established its own pesticide regulation program.

The program in Nebraska

The Environmental Protection Agency contracts with the University of Nebraska Cooperative Extension to conduct an extensive pesticide applicator education program throughout the state for private and commercial applicators. Educational materials and publications developed for Nebraska are now used nationwide in other training programs. While Extension officials conduct the training, the EPA administers all exams and issues certification.

There are approximately 37,000 certified private applicators in Nebraska, all of whom are agriculturally related, according to Larry Schulze, Extension Pesticide Coordinator. There are 6,000 commercially certified applicators in the state. Private applicators are certified for four years and commercial applicators are certified for three years. There is no written exam for private applicators although they are required to actively participate in a training program and be prepared to answer questions.

To be commercially certified, individuals must pass two exams — a general standard exam and at least one category exam. An individual can be certified in one or all of the 13 categories; most people are certified in just one.

The EPA conducts the pesticide inspection and enforcement program in the state, which includes investigation of complaints, checks of record-keeping, and drop-in inspections. The program has three full-time investigators.

Pesticides must be registered with the Nebraska Department of Agriculture Plant Industry Division before they can be sold in the state. All pesticide products used in the state are registered for a fee of $40, $30 of which goes for administration of the noxious weed program. For each product, $10 of the fee is used for collecting pesticide formulation samples at the manufacturer and dealer level for quality analysis. About 6,700 products are registered annually. This program was established to ensure that applicators were receiving the quality of formulation indicated by the label.

The Plant Industry Division also has responsibilities for special local need labeling, specific pesticide exemptions for applications under special needs circumstances, and pesticide review board meetings.

Pesticide programs in neighboring states

The three other states in the EPA Region VII are Iowa, Kansas, and Missouri, all of which assumed administration of FIFRA regulations in the mid to late 1970s. Nebraska officials meet with officials from the other states in the region several times a year. These states based their programs on a model law developed by the American Association of Pesticide Control Officials and then modified it to meet individual state needs.

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These programs have two basic components: education and enforcement. The EPA contracts with the states to conduct specific elements of these programs, such as a specified number of routine or drop-in inspections.

Several common trends were noticed in these programs: product registration fees were increased significantly in recent years and increased investigation and enforcement powers were provided to the pesticide regulatory offices in Kansas and Missouri. Both were granted civil penalty authority which allows the agency to hold a hearing and issue warning letters, fines or revoke licenses without going to criminal court. They still have the option of pursuing infractions through the criminal court when necessary. Following are brief program descriptions for the three states in this EPA region, as outlined by the state program directors.

Missouri

Education and certification is available to private and commercial applicators. The University of Missouri provides the education and training portion of the program. There is no licensing fee. The commercial applicator program includes three divisions: commercial applicators who are in the business of using pesticides on another person's land for a fee; non-commercial applicators who may need to use a restricted use pesticide on their land or the land of their employers as part of their job; and public operators.

Missouri has eight inspectors and an average of 135 complaints annually. The majority of work includes routine checking of records, licensing, and inspecting commercial applications in progress.

Kansas

Training is available through Cooperative Extension and industry meetings held throughout the state. There are two main groups of applicators: private (mostly farmers) and commercial applicators. A business whose employees apply pesticides commercially has to buy an annual license and have at least one certified applicator and liability insurance or post an assurity bond. The application fee for farmers is $10 and certification is good for five years. Commercial applicators pay a $25 basic fee plus $35 for each certification category. All money collected from fees goes into a dedicated pesticide fee fund.

To register a pesticide for use in the state, a company pays $130 per product. The state annually registers almost 8,000 products which make any kind of pesticide claim. Products range from lawn, garden and agricultural chemicals to chlorine bleach, dog collars, and toilet bowl cleaners.

An average of 200 pesticide misuse complaints are investigated annually, with complaints being almost split between termite related problems and agricultural herbicide drift. The section employs 12 investigators and one attorney for investigation and enforcement.

Iowa

Pesticide applicator training is available through the state program which works through the Cooperative Extension. Licenses are available to private and commercial applicators. The commercial applicator license fee is $25. Certification fees for commercial applicators are $30 for one year or $75 for three years. A dealer license is 1/10 of 1% of annual sales (previously dealers paid a $25 annual fee). Of the dealer fee, $25 of each fee goes to the education and enforcement program and the remainder goes to the Iowa Department of Natural Resources, which receives $300,000-$500,000 annually from this. Pesticide registration fees paid by the company range from $250 to $3,000 annually depending on the product. They pay 2/10 of 1% of total annual sales (previously, this was $20 per product).

The Iowa office has 11 investigators. Last year they had almost 200 complaints, which was double the average for the past five years. A state official attributed the increase to some unusual spraying situations.

Lisa Brown Jasa

Requirements delayed

Private pesticide applicators will likely be given another year before they need to begin their increased record keeping activities in 1993. The 1990 Farm Bill required private applicator recordkeeping of restricted use pesticides, but it did not specify the exact requirements of the records.

According to Bonnie Poli, USDA National Program Leader in Pesticide Education, the proposed regulation will not be published in the Federal Register until early 1992. The USDA Agricultural Marketing Service will encourage interested groups to then comment on the form.

Larry Schulze
Extension Pesticide Coordinator

Meetings set for pesticide applicator certification

Initial certification

Certification is based on satisfactory test scores on a General Standards exam plus one or more categories listed below. Individuals can be trained in General Standards and one category at a training/testing session. You also may take additional category exams without training at a given session. General standards training and testing is held from 8:30-12 p.m. and category training and testing is held from 1-4 p.m.

Preregistration is required for all initial certification sessions. For registration materials, contact: Extension Pesticide Coordinator, 101 Natural Resources Hall, University of Nebraska, Lincoln, NE 68583-0918. Following is a list of sites and the specific categories covered at each one.

Feb. 18 — Lincoln, Nebraska Center, 33rd and Holdrege
Ag plant; forestry; ornamental and turf; right of way; structural; public health; regulatory; food processing, grain handling and grain fumigation; and wood preservation

Feb. 19 — Norfolk, Villa Inn, Hwys 275 and 81
Ag plant; ornamental and turf; right of way; structural; food processing, grain handling and grain fumigation

Feb. 20 — Omaha, Extension Office, 8015 W. Center Road
Ag plant; forestry; right of way; structural; public health; regulatory; food processing, grain handling and grain fumigation; and wood preservation.

Feb. 21 — Omaha, Extension Office, 8015 W. Center Road
Ornamental and turf

Feb. 25 — Scottsbluff, Panhandle Research and Extension Center, 4502 Avenue I
Ag plant; ornamental and turf; aquatics; right of way; structural; food processing, grain handling and grain fumigation

Feb. 26 — North Platte, Stockman Inn, I-80 and Hwy 83
All categories

Feb. 27 — Kearney, Extension Office, 1400 E. 34th St.
Ag plant, ornamental and turf; right of way; structural; food processing, grain handling and grain fumigation

Feb. 28 — Grand Island, Midtown Holiday Inn, 2503 S. Locust St.
Ag plant; ornamental and turf; aquatics, right of way; structural; food processing, grain handling and grain fumigation

Recertification

Sessions will be held from 9 a.m. to 3 p.m. at all sites. Preregistration is not required.

Feb. 4 — Norfolk, Villa Inn, Hwys 275 and 81
Ag plant; forestry; ornamental and turf; right of way; structural; public health; regulatory; demonstration and research; food processing, grain handling and grain fumigation

Feb. 5 — Lincoln, Nebraska Center, 33rd and Holdrege
Ag plant; ag animal; forestry; ornamental and turf; right of way; structural; public health; regulatory; demonstration and research; food processing, grain handling and grain fumigation; wood preservation

Feb. 6 — Omaha, Extension Office, 8015 W. Center Road
Ag plant; right of way; structural; public health; regulatory; demonstration and research; food processing, grain handling and grain fumigation

Feb. 7 — Omaha, Extension Office, 8015 W. Center Road
Forestry, ornamental and turf;

Feb. 11 — Scottsbluff, Panhandle Research and Extension Center, 4502 Avenue I
Ag plant; forestry; ornamental and turf; aquatics; right of way; structural; public health; regulatory; demonstration and research; food processing, grain handling and grain fumigation

Feb. 12 — North Platte, Stockman Inn, I-80 and Why. 83
All categories

Feb. 13 — Kearney, Extension Office, 1400 E. 34th St.
Ag plant; forestry; ornamental and turf; right of way; structural; public health; regulatory; demonstration and research; food processing, grain handling and grain fumigation

Feb. 14 — Grand Island, Midtown Holiday Inn, 2503 S. Locust St.
Ag plant; forestry; ornamental and turf; aquatics; right of way; structural; public health; regulatory; demonstration and research; food processing, grain handling and grain fumigation