

## **EPA INITIATES RULEMAKING TO DISCLOSE INERT INGREDIENTS IN PESTICIDE PRODUCTS**

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The U.S. Environmental Protection Agency (EPA or Agency) has announced its intent "to effect a sea change" in how information about the chemical identities of inert ingredients used in pesticide products will be communicated to the public. With rare exceptions, the specific identities of inert ingredients in pesticide formulations are claimed to be confidential and do not appear on product labels. Now, fewer than ten months after President Obama took the oath of office, EPA has responded to two petitions it received more than three years ago, during the Bush administration. These petitions requested that the Agency use its authority to begin requiring the identification of certain inert ingredients the petitioners consider to be hazardous on the labeling of pesticide products. Responding favorably in part to the petitioners' requests, on Sept. 30, 2009, EPA announced its intention to publish an Advance Notice of Proposed Rulemaking (ANPR) that will solicit comments on potential amendments to the pesticide labeling regulations to require disclosure of hazardous inert ingredients used in pesticide products. (EPA's Response to Petitions Requesting Disclosure of Inert Ingredients (Sept. 30, 2009), <http://www.epa.gov/opprd001/inerts/petitionresponse.pdf>.)

Pesticide products contain ingredients generally identified as either "active" or "inert." Active ingredients are those substances that prevent, destroy, repel, or mitigate the target organism (pest), or are considered to be plant regulators, defoliants, desiccants, or nitrogen stabilizers. EPA's regulations require the active ingredients in the formulation to be identified by name, along with its percentage by weight, on the pesticide product label. Inert ingredients generally are considered to be the other substances intentionally included in a pesticide product and often

play a key role in the product's effectiveness. For example, an inert ingredient might extend the shelf life of a pesticide product or act as a solvent that allows the active ingredient to better penetrate the plant surface. EPA presently only requires a very limited number of inert ingredients to be listed on the product labeling, typically based on the inert ingredient's toxicity.

The petitioners identified to the Agency more than 350 inert ingredients currently used in pesticide products that petitioners argue have been found to pose a hazard to environmental or human health. Accordingly, the petitioners requested EPA to implement a rule requiring the disclosure of these inert ingredients on pesticide product labels. Petition of Northwest Coalition for Alternatives to Pesticides, *et al.*, to Require Disclosure of Hazardous Inert Ingredients on Pesticide Product Labels (Aug. 1, 2006), [http://www.epa.gov/opprd001/inerts/petition\\_ncap.pdf](http://www.epa.gov/opprd001/inerts/petition_ncap.pdf); Petition of New York, *et al.*, Requesting that the United States Environmental Protection Agency Amend Its Rules Governing the Disclosure of "Inert" Ingredients on Pesticide Product Labels to Require the Disclosure of Ingredients for Which Federal Determination of Hazard Have Already Been Made (Aug. 1, 2006), [http://www.epa.gov/opprd001/inerts/petition\\_states.pdf](http://www.epa.gov/opprd001/inerts/petition_states.pdf). In announcing its response to the petitions, the Agency appeared to signal its general agreement with the petitioners that greater transparency with regard to pesticide formulations is needed and that such transparency would allow for better informed decision-making and pesticide use, and lead to increased protection of the environment and public health. In its response, EPA indicated its intent to initiate an ANPR, but stated that it was "not committing, and legally cannot commit, to any particular outcome for rulemaking." EPA's Response to Petitions Requesting Disclosure of Inert Ingredients (Sept. 30, 2009), <http://www.epa.gov/opprd001/inerts/petitionresponse.pdf>. Heretofore, the Agency has not appeared inclined to compel registrants to make such disclosures, although it has discussed, and commits to continuing discussions "pursuing voluntary

initiatives to achieve...broader disclosure.” Inert (other) Ingredients in Pesticide Products, <http://www.epa.gov/opprd001/inerts/>. When soliciting comments in response to the ANPR, EPA expects to gather information from potential stakeholders in order to develop a “sound, practical and defensible proposed rule.” EPA’s Response to Petitions Requesting Disclosure of Inert Ingredients (Sept. 30, 2009), [http://www.epa.gov/opprd001/inerts/petition\\_response.pdf](http://www.epa.gov/opprd001/inerts/petition_response.pdf). EPA anticipates publishing the ANPR by the end of the year.