



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 18 2007

Ms. Brigid D. Klein
Vice President & General Counsel
Consumer Specialty Products Association
900 17th Street, NW, Suite 300
Washington, D.C. 20006

Dear Ms. Klein:

Thank you for your letter of June 11, regarding the Consumer Specialty Products Association's petition to EPA to modify the Minimum Risk Pesticides exemption under 40 CFR § 152.25(f). The petition requested that EPA exclude from the exemption those pesticides that claim to control "pests of significant public health importance" and require an abbreviated registration for minimum risk products that are to be used for the control of public health pests. In the course of responding to your letter I will also take this opportunity to bring you up to date on the status of our consideration of that petition.

As you know, to help gather information to support an Agency decision in this matter, EPA published CSPA's petition and requested public comment. During the public comment period, we received approximately 60 comments, both in support of and in opposition to the petition. We have now reviewed those comments and are actively exploring our options. EPA agrees that products intended for the control of public health pests must be effective. We believe that many of the concerns expressed in your petition have merit and EPA plans to take action toward that end. Over the course of the next few months, the Agency intends to explore various options through its Action Development Process (a process that is required for rulemaking, but which also provides for consideration of other options). Exploration of options may lead to rulemaking or actions short of rulemaking that would achieve this objective.

You have suggested that EPA engage in expedited rulemaking, including promulgating an interim final rule without notice and comment, relying on the good cause exemption of the Administrative Procedure Act. Rather than discussing the applicability of the good cause exemption, I would merely note at this point that, should the Agency decide to conduct rulemaking to revise 40 CFR 152.25(f), EPA would most likely wish to have notice and comment on the specific provisions of the proposed rule. Despite the fact that EPA took comment on your petition, further comment on the specifics of a proposed rule would be highly desirable. There are a number of ways in which the Agency might structure revisions to these regulations, and changes to the provision unrelated to your petition might conceivably be proposed. Notice and comment would provide valuable input into the structure of a final rule.

I appreciate the public health concerns you express in your petition and in your letter, and I understand your argument that moving quickly is important. However, the Agency's response to your petition has the potential to affect a considerable number of both consumers and product manufacturers, and I think it is important for EPA to get all appropriate input before proceeding in a binding fashion. Nevertheless, let me assure you that, whether we decide to pursue rulemaking or some other avenue, we intend to move as expeditiously as possible to identify the most efficient approach to protect the public from unknowingly relying on products that target public health pests and have not been shown to work.

Let me also assure you that we will promptly advise you of any decision we make regarding this matter. Thank you again for sharing your thoughts with us. If you would like to discuss this further, please feel free to contact Don Sadowsky in our Office of General Counsel at 202-564-5638.

Sincerely,

A handwritten signature in black ink that reads "Debra Edwards". The signature is written in a cursive style with a large, stylized "D" and "E".

Debra Edwards, Ph.D., Director
Office of Pesticide Programs