Message

From: Rosado-Chaparro, Wilfredo [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8800FBA334834522A5C5DAABB53F76BF-ROSADO-CHAPARRO, WILFREDO]
Sent: 5/1/2019 10:37:18 PM
To: Weekley, Erin [weekley.erin@epa.gov]
Subject: FW: Wet Cake Response

FYI

Wilfredo Rosado-Chaparro, aka Wilo
Acting Branch Chief
Chemical and Oil Release Prevention Branch (CORP), AWMD
U.S. E.P.A., Region 7
11201 Renner Boulevard
Lenexa, KS 66219
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"La razón no grita, la razón convence." Luis A. Ferré

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From: Robichaud, Jeffery
Sent: Wednesday, May 01, 2019 2:57 PM
To: Green, Jamie <Green.Jamie@epa.gov>; Rosado-Chaparro, Wilfredo <Rosado-Chaparro.Wilfredo@epa.gov>; Singletary, DeAndre <Singletary.DeAndre@epa.gov>
Subject: FW: Wet Cake Response

Hey you this is in your guys shop now

Jeffery Robichaud
Director, Water Wetlands and Pesticides Division, Region 7
United States Environmental Protection Agency
11201 Renner Blvd.
Lenexa, KS 66219
913-551-7146

From: Goodis, Michael
Sent: Wednesday, May 01, 2019 2:33 PM
To: Robichaud, Jeffery <Robichaud.Jeffery@epa.gov>
Subject: FW: Wet Cake Response

Hi Jeff

Below is the incoming request/background from NE along with our draft response that I referred to in my voicemail to you.
Don't know if this is something your office is aware of or not. Let's talk when you get a chance.

Michael L. Goodis, P.E.
Director, Registration Division (RD)
Office of Pesticide Programs (OPP)

Phone 703-308-8157
Room S7623

Ex. 5 DP

DRAFT

From: Creger, Tim <tim.creger@nebraska.gov>
Sent: Tuesday, April 23, 2019 4:23 PM
To: Laws, Meredith <Laws.Meredith@epa.gov>
Subject: Summary of treated seed wetcake issue in Nebraska

MEMORANDUM

TO: Meredith Laws, U.S. EPA
FROM: Tim Creger, Nebraska Dept. of Agriculture
RE: Wetcake Material Resulting from Ethanol Extraction Using Treated Seed

In order to provide an abbreviated summary of the larger case report forwarded to you today, I am providing the following information.

The central issue is that an ethanol plant located in Mead, NE is using discarded treated seed (mostly corn but also some grain sorghum) as a carbohydrate source. The resulting fermentation results in ethanol sold as a fuel additive and "wetcake" solids that are then distributed as a wetcake soil conditioner that is land applied to farm fields. The wetcake biosolids are heavily contaminated with pesticide residues.

The ethanol plant started generating ethanol using treated seed on January 9, 2015, and accumulated the wetcake solids for three years before deciding to land apply it as a soil conditioner. In Nebraska, any material applied to a farm field must either be classified as a fertilizer, unmanipulated animal manure, or a soil conditioner. Since the wetcake was unpredictable and variable in nutrient analysis it was unable to be classified and sold as a fertilizer, and so the company chose to register a label for the product as a soil conditioner which does not have to make plant nutrition claims.

Because the wetcake had been stockpiled for over three years without further conditioning, it developed an overwhelming odor that quickly resulted in citizen complaints whenever it was applied in a field near an occupied structure. Those odor complaints started in spring of 2018, shortly after the wetcake was being moved to the field and land applied. The odor complaints were received every time the company land applied more product with a significant number of complaints filed between the end of December 2018 and early March 2019. NDA became involved in the situation on January 28, 2019.

An unofficial sample of wetcake that had been moved to a field but not yet land applied was collected by the NDA on 1-29-19 and tested for neonicitinoid, pyrethroid and organophosphate insecticides, and strobilurin and triazole fungicides. Four fungicides, three insecticides and one herbicide were detected and reported by the lab on March 1, 2019. NDA then decided to collect an official sample on March 29, 2019 of fresh wetcake collected immediately after the fermentation process and before moving the material to stockpile storage. The lab analysis was reported on April 19, 2019 with significant concentrations of the following pesticides reported: azoxystrobin, clothianidin, fludioxonil, metalaxyl, prothioconazole, tebuconazole, thiamethoxam and trifloxystrobin, and a low concentration of imidacloprid and selenium (this is the only heavy metal reported as detected).

Ex. 7 A

The Nebraska state law governing soil conditioners is somewhat archaic in that it only allows the NDA to cancel the registration of a soil conditioner label if the department ca prove the registration was made as a result of "fraud or deceptive practices", while issuing a Stop Sale or Distribution Order" requires the department to demonstrate the product is adulterated by a compound known or demonstrated to be toxic to "plants or animals". For these reasons, NDA believes a written determination from EPA explaining that the concentrations of pesticides in the most recently tested sample do represent a toxic level to plants or animals would provide the evidence needed to stop further distribution of the wetcake, and allow us enough time to initiate cancellation proceedings for the product registration. It should be noted that the wetcake soil conditioner is being land applied at rate of 15 to 20 tons per acre, which is explained further I my full case report narrative.

Sincerely,

Tim Creger
Pesticide/Fertilizer Program Manager | ANIMAL & PLANT HEALTH PROTECTION

Nebraska Department of Agriculture
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nda.nebraska.gov | Facebook | Twitter

<4603 pesticides.pdf>