



November 09, 2006

Mr. Dick Sula
President
Kiawah Island Community Association, Inc.
23 Beachwalker Drive
Kiawah Island, South Carolina 29455

Re: Mosquito Misting Systems

Dear Mr. Sula,

I am writing on behalf of the National Pest Management Association (NPMA) in response to the October 2nd decision by the Kiawah Island Community Association Board of Directors to temporarily suspend the use of mosquito misting systems and subsequent decision to seek additional information about the systems. NPMA is a national trade association that represents approximately 5,000 member companies that provide a wide range of structural pest control services. These services are typically provided to institutional, commercial and residential customers for the control of pests like termites, rodents, nuisance wildlife, cockroaches, stored product pests, ants, stinging insects and mosquitoes.

Ten years ago, very few pest control companies provided mosquito control services. Since the rapid spread of West Nile Virus that began in the northeast in 1999, consumers have increasingly demanded that pest control companies provide them with services that reduce mosquito populations in and around their residences. The industry responded to this growing consumer demand by providing a wide range of mosquito control services. A recent survey found that about one third of pest control companies in the US offer some kind of mosquito control service. These include source reduction (identifying and mitigating conditions that are conducive to mosquito breeding), periodic foliar application of mosquito adulticides to the perimeter of residential and commercial structures, the application of larvacides to mosquito breeding habitats and, most recently, the installation of mosquito misting systems.

Misting systems have been widely used in agricultural production for a number of years (e.g., fly control in dairy and poultry facilities), but were not used in commercial and residential settings until about five years ago. Like any new technology or new use of an existing technology, the adoption of misting systems to mosquito control in residential settings raised a number of questions. These include:

- Does the use of these systems pose a risk of unreasonable adverse human health or environmental effects?

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- Should the persons who sell, install and maintain the systems be licensed and regulated by federal and/or state pesticide regulators?
- Are the manufacturers and distributors of the systems making false and/or misleading advertising claims?
- Do mosquito misting systems contribute to mosquito resistance to the products delivered by the systems?
- Should homeowners have access to or control over relatively large volumes of pesticides?

These and other questions were the subject of speculation among a wide range of government, industry and other affected parties. Though there was considerable discussion about the systems, there had been no effort to systematically address the aforementioned issues. In December, 2005, NPMA co-hosted a Mosquito Misting System Stakeholders Forum, along with the American Association of Pesticide Control Officials, Association of Structural Control Officials and the U.S. Environmental Protection Agency (AAPCO and ASPCRO are not-for-profit associations that represent state and federal pesticide regulators). The participants included mosquito misting system manufacturers, the manufacturers of conventional pesticides and pesticides that are exempt from regulation under Federal pesticide laws, pest control companies, representatives of the American Mosquito Control Association, state pesticide regulators, EPA officials and representatives of the US Centers for Disease Control. The Forum culminated in the creation of a multi-stakeholder workgroup that agreed to work towards the responsible regulation of mosquito misting systems. Specifically, the group agreed to work on a number of initiatives, which is summarized below. The overall conclusion from this stakeholders' collaboration and subsequent work initiatives by the parties is that the use of mosquito misting systems does not pose an unreasonable risk to humans or the environment and that misting systems, if installed and serviced according to insecticide labels and Best Management Practices guidelines, are an extremely beneficial mosquito control product for individual consumers.

1. EPA Assessment of Risks Associated with Exposure to Products Used in Misting Systems

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and Federal Food, Drug and Cosmetic Act (FFDCA) require that EPA conduct exhaustive risk assessments for every use of a registered pesticide. These laws were amended by the Food Quality Protection Act in 1996 to further require that EPA reassess all pesticides within 10 years, using contemporary scientific standards. FQPA also required that EPA conduct aggregate and cumulative risk assessments (i.e., EPA must consider the "aggregate" risk from every potential route of exposure and "cumulative" risks associated with any products that has a common mode of toxicity). In addition, FQPA requires that EPA take into account the potential impact of pesticides on children and other sensitive subpopulations.

As part of its implementation of FQPA, EPA conducted human health risk assessments for permethrin, pyrethroids and piperonyl butoxide (PBO) during 2005. These three products collectively account for the vast majority of

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conventional pesticides used in misting systems. In performing these risk assessments, EPA evaluated the risks associated with potential exposure from mosquito misting systems. Using extremely conservative assumptions, EPA made a determination that the use of these products in misting systems does not pose an unacceptable risk to human health. Accordingly, EPA has reregistered all three products, allowing the continued use of these products in misting systems, provided the products' labels contain new protective language. Copies of EPA's risk assessments and Reregistration Eligibility Decisions (REDs) are attached.

2. Improved Label Language for Products Used in Misting Systems

Pesticide labels occupy a special niche, unlike the labels for other products. The use directions on a product's label are legally binding and enforceable. In South Carolina, for example, both EPA and the state's Department of Pesticide Regulation have and vigorously use the authority to take enforcement action against persons that use products "in a manner inconsistent with its labeling." As mentioned above, the three products principally used in misting systems were being reassessed by EPA in 2005. An important part of the reregistration process is amending product labels to ensure that the product is used in a manner that will not pose unacceptable risks to human health or the environment.

The work group initially focused its attention on the development of recommendations to EPA on the labeling of products used in misting systems. The reason the group undertook this activity first was because the relabeling of these products would have an almost immediate impact and violations would be easily enforceable. Attached are copies of the workgroup recommendations and EPA's "labeling table," which instructs pesticide manufacturers to amend their labels to be consistent with the table. The revised labels will appear in channels of commerce shortly. A violation of the labels is a violation of federal and state law and subject to enforcement action by EPA and the South Carolina Department of Pesticide Regulation.

3. Best Management Practices

In our view, the most effective way to ensure that a pesticide will be used safely is by modifying its label. Unfortunately, FIFRA very precisely prescribes the language that may appear on pesticide labels. Though there are use directions that we believe further enhance a product's safety and efficacy, FIFRA prohibits their inclusion on product labels. In order to exceed the protections provided by pesticide labels, government agencies and industry groups often supplement label language with "Best Management Practices (BMPs)." Development of Best Management Practices guidelines confirms the commitment of manufacturers and pest control operators to provide professional mosquito control services with special attention paid to the protection of consumer health and the environment.

After completing its label recommendations, the workgroup believed that it would be advisable to develop BMPs governing the sales, installation and servicing of

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misting systems. These are not enforceable, per se, in the same way as labels, but tend to be persuasive and are likely to be adhered to because the courts frequently construe these as industry standards. Failure to adhere to BMPs subjects the person installing or servicing the system to potentially increased litigation and liability.

The workgroup's draft BMPs are attached. These have undergone several revisions and we expect these to be initially adopted by NPMA and the Association of Structural Pest Control Regulatory Officials by the end of January. EPA does not endorse BMPs, but we are optimistic that AAPCO will also adopt the BMPs some time later in the year.

4. Advertising Guidelines

In the opinion of many members of the workgroup, the most glaring issue associated with misting systems is inappropriate advertising. Neither the federal nor most state governments prescribe advertising prohibitions. That notwithstanding, there is a generally well understood set of prohibitions among persons that manufacture or use pesticides, that relate to false or misleading health, safety or environmental claims. These are typically enforced by the Federal Trade Commission and state attorneys' general.

In addition to the BMPs discussed above, the workgroup agreed to develop advertising guidelines for persons that manufacture or sell mosquito misting systems. Like the BMPs, they are not enforceable, per se, but are generally relied upon by state attorneys' general when they are considering taking an enforcement action. Also, like the BMPs, we have worked through several versions of the guidelines and expect to adopt them by the end of January. A copy of the most recent draft is attached.

5. Consumer Information

Members of the workgroup unanimously believe that having educated consumers making well-informed choices is vitally important and agreed to develop a balanced consumer information sheet. It's especially important, in our view that this information come from a credible, third-party. EPA has agreed to develop a consumer information sheet and has appointed an in-house group to develop the document. It is our understanding that the EPA group has produced several drafts of the fact sheet, which we expect will be completed and available by the end of the year. Perhaps if this fact sheet had been available, many of your questions would have been answered and your decision relating to mosquito misting systems might have been very different.

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6. Guidance to State Pesticide Regulatory Agencies

Finally, we think there is a wide discrepancy in the quality of the systems currently being marketed to consumers. Many of these systems are being manufactured by reputable companies and installed and serviced by trained professionals.

Unfortunately, there are also many misting systems being offered to consumers today that do not meet the high public health and environmental standards we are attempting to achieve. After completing the projects cited above, the goal of the work group is to develop guidance and/or model regulations that we can provide to state pesticide regulatory agencies to ensure that any systems that are sold or installed meet these high standards. South Carolina's Department of Pesticide Regulation is one of the state regulatory agencies with whom we have discussed this. You are fortunate that in South Carolina, DPR has already taken independent action to ensure that misting systems are installed and serviced by qualified persons.

Like you, we are interested in ensuring that consumers have safe and affordable solutions to the problems associated with mosquitoes in residential settings. The conclusions of EPA and manufacturers' research support misting systems as one of these solutions. We would welcome the opportunity to provide further detailed information about anything discussed in this letter and would further welcome the opportunity to meet with you to discuss this issue. You can contact me at (703)352-6762 or by email at rosenberg@pestworld.org.

Sincerely,

Robert M. Rosenberg
Senior Vice President

cc: Joe Bunting

Attachments:

1. EPA risk assessments on permethrin, pyrethrins and piperonyl butoxide
2. Workgroup Labeling recommendations
3. EPA Misting System Label Tables
4. Draft Workgroup Best Management Practices
5. Draft Workgroup Advertising Guidelines