

EPA Announces Reversal of Policy Regarding Availability of Pesticide Incident Information

July 31, 2023

On Thursday, July 27, 2023, the U.S. Environmental Protection Agency (EPA) announced an important change in policy for making alleged adverse incident reports on pesticides available to the public. EPA informed registrants and the public via an announcement on its website that it has made publicly available 10 years of pesticide incident reports. EPA's website now includes a portal that posts information from EPA's Incident Data System (IDS) and allows users to access a summary of information submitted on pesticide exposure incidents. The announcement is a major shift from EPA's previous practice of only releasing reported incident information when responding to requests under the Freedom of Information Act (FOIA), or in summary fashion during pesticide Registration Review.

Information available on EPA's adverse incident portal includes reports submitted by:

- Pesticide manufacturers, formulators and other registrants;
- State regulators;
- Members of the public;
- The National Pesticide Information Center (NPIC); and
- The American Association of Poison Control Centers.

EPA's announcement notes the portal is part of its "Equity Action Plan" to advance environmental justice and help the public better understand pesticide exposures, including exposures to vulnerable populations. At the same time, EPA expressly acknowledges on the home page of the database that it has "limited confidence in the accuracy and validity" of the information and acknowledges in the press release that EPA has published data and information that

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Practice Areas

Environment & Product Regulation
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“have never been reviewed for their validity.” EPA further states in its press release that it “cannot guarantee the accuracy, completeness, or adequacy of the contents of the data sets.”

The utility of these unverified reports is unclear, and companies should consider taking some immediate steps to identify and assess this newly available information. Registrants should review the portal to determine whether and to what extent it contains information on their products and then review any publicly available information to identify and, if necessary, take remedial action to address inaccurate, misleading, or demonstrably false information. Registrants should also prepare to respond to inquiries about their products as the public and others access and use this database. Wiley can assist registrants to perform these reviews, address inaccurate or incorrect information that is available on EPA’s portal, and assist with adverse effects reporting questions. For more information, please contact Sara Beth Watson at SWatson@wiley.law.