

Factsheet: Methyl Iodide Lawsuit

Parties involved

A lawsuit was filed on December 30, 2010 by Earthjustice and California Rural Legal Assistance, Inc. on behalf of Pesticide Action Network North America, United Farm Workers of America, Californians for Pesticide Reform, Pesticide Watch Education Fund, Worksafe, Communities and Children Advocates Against Pesticide Poisoning and farmworkers Jose Hidalgo Ramon and Zeferino Estrada. The suit is filed against the California Department of Pesticide Regulation and Mary-Ann Warmerdam in her official capacity as Director of the Department of Pesticide Regulation.

Summary

The suit challenges the state Department of Pesticide Regulation's (DPR) approval of this dangerous pesticide for use in California on the grounds that it is a violation of the California Environmental Quality Act, the California Birth Defects Prevention Act, and the Pesticide Contamination Prevention Act that protects groundwater against pesticide pollution. In addition, the suit contends that DPR violated the law requiring involvement of the Office of Environmental Health Hazard Assessment (OEHHA) in the development of farmworker safety regulations and made an unlawful finding of emergency with its request for Restricted Materials status for methyl iodide. The text of the lawsuit is available at <http://earthjustice.org/documents/legal-document/pdf/mei-final-petition>.

Explanation of Legal Challenges

The **California Environmental Quality Act** requires (among other requirements) transparency in decision-making, evaluation of alternatives, and a cumulative risk assessment, none of which were applied to the methyl iodide decision. The cumulative risk assessment is a particular concern, since most methyl iodide products also contain chloropicrin, which DPR also considers to be a carcinogen and a Toxic Air Contaminant. The risks associated with exposure to the two pesticides simultaneously were not evaluated.

The **California Birth Defects Prevention Act** prohibits registration of a pesticide when any of the mandatory health effects studies is missing, incomplete, or of questionable validity. The Scientific Review Committee that reviewed methyl iodide was concerned that critical data on developmental neurotoxicity was missing and some of the existing toxicity data lacked scientific validity.

The **Pesticide Contamination Prevention Act** was passed to protect groundwater from pesticide pollution and prohibits registration of a pesticide if information related to potential for groundwater contamination is missing. Early research conducted at UC Riverside indicated that methyl iodide has the potential to contaminate groundwater, but DPR did not require additional studies from Arysta. The Scientific Review Committee found it "alarming that there were no reliable data on the potential of methyl iodide to contaminate groundwater."

"Emergency" Registration for Restricted Use

In California, pesticides applicators are required to obtain a permit from their County Agricultural Commissioner 24 hours before they would to apply certain pesticides designated as "Restricted Materials." The process of designating a pesticide as a restricted material requires a public comment period. DPR sought to fast-track final registration of methyl iodide—thereby avoiding the otherwise mandatory public comment period—by declaring an "emergency" when requesting Restricted Materials status. This "emergency" declaration was unlawful because none of the conditions for an emergency existed. The stated reason for the "emergency" regulation was that DPR intended to register methyl iodide on December 20, 2010.