

US EPA ARCHIVE DOCUMENT



**U.S. Environmental Protection Agency  
Office of Pesticide Programs (OPP)**

**Issue paper: “Non--Cropland” as a  
Use Site Opportunity for Public Comment**

# Issue paper: “Non-Cropland” as a Use Site Opportunity for Public Comment

## Issue

The terms “non-cropland,” “non-crop areas” (and other variations) have been used on numerous pesticide labels for years, but there is no clear definition of what sites are included or excluded from these terms. Periodically, State enforcement officials raise questions as to what the term is meant to include, or whether use of a pesticide on a specific site, such as a residential lawn or ornamentals, is a misuse when “non-cropland” is a listed site. The issue of residential sites has particular implications for human safety as well as enforcement policy. Additionally, the use of a term which can be broadly interpreted such as “non-cropland” can impact how ecological risk and drinking water exposure assessments are conducted.

The Agency is considering whether the term “non-cropland” is appropriate as a use site on labels. EPA is interested in receiving comments on these issues from pesticide registrants, pesticide regulators, grower groups, and the general public. Comments will assist the Agency in determining what steps are necessary to make sure pesticide labels are clear for the regulated community as well as enforcement officials.

## Background:

In 1984 EPA promulgated 40 CFR Part 158, data requirements for registration (49 FR 42856), and included a Use Pattern Index in Appendix A. Appendix A listed use patterns in 14 categories which included category #10 named “Noncrop, wide area, and general indoor/outdoor treatments.”

The category listed specific examples such as farmyards, fence rows, rights-of-way, fallow land, barrier strips, uncultivated nonagricultural areas, recreation areas, fairgrounds, race tracks, tennis courts, industrial sites, campgrounds, paved areas, and airports. It also included open-ended terms like “urban areas (unspecified)” and “animal feeding areas”.

In Appendix A, residential lawns and gardens are in a different category from non-crop, namely category #7 “Household.” Thus, historically, EPA has viewed residential lawns as something other than a “non-crop” site. However, a pesticide user or state regulator looking only at the label may interpret “non-crop” as being applicable to lawns or ornamentals.

In 2007, EPA removed Appendix A from Part 158. The Use Site Index was revised and reorganized and now appears on the Office of Pesticide Programs website: <http://www.epa.gov/pesticides/regulating/usesite/>. The term “non-cropland” does not appear in the current Use Site Index. Currently, Appendix A still appears in the 40 CFR Part 161, data requirements for registration of antimicrobial pesticides. It was transferred to Part 161 as an interim measure while antimicrobial requirements are being updated, and will be removed in the future.

### **Policy Considerations for Comment**

- (1) The term “non-crop” is subject to broad interpretation and could be taken to cover any land not used for crops including residential land and possibly even indoors. In light of this, the Agency is considering whether terms such as “non-crop” or “non-cropland” are appropriate use site terms for pesticide labels.
- (2) If a product is not labeled for use on lawns or turf, but only “non-cropland”, applicators may interpret the label as allowing residential use of a product that was not intended for that purpose. EPA needs to ensure that these labels are adequately assessed for the risks that could occur if used on residential sites.
- (3) Use of “non-crop” on labels has implications for ecological and possibly human health risk assessments. For example, this terminology could lead to a broadly focused risk assessment which could include many areas that are not intended use sites, but that cannot be excluded because of the broad scope of the label language. Use of more specific use site terms enables EPA to perform more refined risk assessments.

### **Questions for public comment**

The Agency is interested in receiving comments on the general questions stated below, however, commenters should feel free to offer their views on any issue raised by the use of “non-cropland” and related terms on pesticide product labels.

**Question:** Should EPA allow the use of “non-crop” terms on pesticide labels or should the Agency require more specific use sites?

**Question:** What should EPA and/or other stakeholders do to prevent misinterpretation of “non-crop” terminology?

**Question:** What should be the focus of Agency risk assessments and what data requirements should be applied to products that use the term “non-crop” on the label without any further limiting language?

### **How to Submit Comments**

Comments on this paper should be submitted by December 31, 2011 to: [opp\\_labeling\\_consistency@epa.gov](mailto:opp_labeling_consistency@epa.gov). Comments may also be posted to the Office of Pesticide Programs label discussion forum at <http://blog.epa.gov/enablethelabel/>.

Do not submit information considered to be Confidential Business Information or otherwise protected from disclosure. Any comments submitted may be made available to the public.