



Judge orders EPA to notify retailers, distributors, about pesticide concerns

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By PEGGY ANDERSEN
ASSOCIATED PRESS WRITER

SEATTLE -- A federal judge has ordered the Environmental Protection Agency to send letters to pesticide retailers, distributors and wholesalers in three states, outlining their responsibilities for notifying consumers about the dangers posed to salmon by the chemicals.

The order from U.S. District Judge John Coughenour is a follow up to his January 2004 decision banning the use of pesticides near streams in Washington, Oregon and California until the EPA determines that 38 chemicals won't harm salmon. That ruling was upheld in June by the 9th U.S. Circuit Court of Appeals.

In addition to the 20-yard no-spray buffer zones Coughenour ordered near rivers containing threatened or endangered salmon or steelhead, the plaintiffs wanted to ensure urban consumers in those areas are alerted to potential problems when they shop for garden products.

Coughenour had ordered warning labels posted alongside seven pesticides by retailers in affected urban areas. On Monday, at the plaintiffs' request, he ordered the EPA to advise retailers and suppliers by mail of the new requirements.

Local EPA officials declined to comment, referring calls to headquarters in Washington, D.C. A call there was not immediately returned.

"This is good news for salmon," said Patti Goldman at Earthjustice, which represented the Washington Toxics Coalition and other plaintiffs in the case. "Consumers will have the information in the store to make informed choices to protect salmon from pesticides."

Affected are urban areas in the three states within range of listed salmon or steelhead runs, mostly in coastal areas, Goldman said.

"What we really hope to see are notices posted in stores so consumers can make smarter choices and protect salmon," she said.

EPA has designed such a notice. It reads: "SALMON HAZARD. This product contains pesticides which may harm salmon and steelhead. Use of this product in urban areas can pollute salmon streams."

At issue are products containing Malathion, Carbaryl, Trifluralin and Triclopyr, Diuron, 2,4-D and Diazinon. While listed in the order, Diazinon is not longer sold in urban markets, Goldman said.

In his ruling Monday, Coughenour agreed that publishing a notice in the Federal Register and on the EPA Web site does not constitute the personal notice to retailers required by his 2004 order. Publication on the EPA Web site "is only an effective means of communicating with the relevant retailers if that group is aware that the Web site exists," he wrote.

Coughenour also ordered the EPA to list products containing those chemicals in its notification to retailers. He ordered similar notices sent to pesticide distributors, wholesalers, retailers, brokers, dealers and others.

The coalition and three other fishing and environmental groups sued the EPA in 2001, saying the agency failed to follow Endangered Species Act requirements in assessing the risks that 54 pesticides pose to salmon. The plaintiffs cited National Marine Fisheries Service studies and other reports that indicated even very low levels of pesticides can damage salmon.

Coughenour found in 2002 that the EPA had violated the Endangered Species Act. In January 2004, he applied the restrictions to 38 pesticides, saying the EPA had determined the others posed little risk. He also banned the aerial spraying of pesticides within 100 yards of streams, except for public health reasons like controlling mosquitos.