

Interpretation of DRC-1339 dead bird pick-up directions September 2008

Summary:

- (1) Only certified USDA-APHIS personnel, and certified USDA-APHIS employees under their direct supervision, can apply Compound DRC-1339 (EPA Reg. No. 56228-10) to feedlots.
- (2) USDA-APHIS personnel cannot delegate the post-treatment dead bird pick-up label requirement or any other part of the label to clients or anyone else because supervisory authority does not exist.

Background: Compound DRC-1339 (concentrated Starlicide, EPA Reg. No. 56228-10) is a Restricted Use Pesticide (RUP) used by USDA-APHIS to kill nuisance birds in clients' feedlots. The label specifies post-treatment clean-up requirements. This document clarifies (1) whether APHIS personnel can delegate the post-treatment dead bird pick-up requirement to their clients and (2) how long they have to continue searching for, collecting, and disposing of the dead birds.

The current version of the Section 3 label (EPA stamped 18-JUN-2003) states the following:

(1) RESTRICTED USE PESTICIDE

- (a) Due to high acute inhalation toxicity and eye and skin corrosiveness to humans; high acute toxicity to nontarget birds and aquatic invertebrates; and the need for highly specialized applicator training.
- (b) For retail sale to, and use only by, USDA APHIS Certified Applicators trained in bird control or by persons under their direct supervision.

(2) DANGER-POISON

- (3) This product is **very highly toxic to birds and aquatic invertebrates**. Do not use in any manner that may endanger desirable and protected bird species.
- (4) DO NOT apply in areas where the product may be consumed by **endangered species**.

(5) POSTTREATMENT CLEAN-UP

- (a) Beginning one day after bait application, search treated areas, animal pens, and immediate surrounding areas.
- (b) Collect carcasses of dead or dying birds and bury or burn them according to applicable laws.
- (c) Repeat carcass searches at 1-2 day intervals as long as bai[t] is exposed and likely to remain toxic.

Questions and answers

(1) Who applies the product?

Only USDA-APHIS employees who are certified as a commercial applicator under Wisconsin Administrative Code ATCP 29.25(1) can use or direct the use of this product since DRC-1339 is a restricted use pesticide.

(2) Who picks up the dead birds?

Only USDA-APHIS employees as described in (1). They cannot delegate this responsibility, or any other label requirement, to clients or anyone else because supervisory authority, an employer-employee relationship, does not exist – see 29.01(14) for “direct the use of a pesticide” definition.

(3) How long must the post-treatment cleanup continue?

USDA-APHIS indicated to the department that its applicators remove remaining bait the same day they put it out and do not leave it out overnight. If USDA applicators only expose the bait for one day (e.g. Monday) and remove the remaining bait the same day (Monday), then based on the clean-up directions the applicators would only be required to search for, collect, and dispose of dead/dying birds the next day (Tuesday).

Contact: Matt Sunseri, WDATCP Pesticide Specialist, (608) 224-4547