

Message

From: Beck, Nancy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=168ECB5184AC44DE95A913297F353745-BECK, NANCY]
Sent: 5/19/2017 12:20:58 PM
To: R T [Ex. 6 Personal Privacy (PP)]
Subject: RE: Western Growers Follow up

Robert,

Thank you for following up and the good suggestions. It is helpful to have this information. I will surely follow up on the FIFRA/NPDES intersection with my staff and regarding the Water Transfer Rule, I will pass that along to my colleagues in the Office of Water.

I will surely be in touch with any questions.

Many thanks!

Nancy

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: [Ex. 6 Personal Privacy (PP)]

beck.nancy@epa.gov

From: R T [Ex. 6 Personal Privacy (PP)]
Sent: Thursday, May 18, 2017 12:46 PM
To: Beck, Nancy <Beck.Nancy@epa.gov>
Subject: Western Growers Follow up

Hi Nancy,

Thanks for taking the time meeting with us this past Tuesday. Here are the follow up items that I mentioned that I would provide you.

1. Water Transfer Rule: adopted by EPA in 2008 can be found at 40 CFR 122.3(i). The Rule excludes discharges from "activities that conveys, or connects waters of the United States without subjecting the transferred water to intervening industrial, municipal, or commercial use from the traditional wastewater point source discharge permitting requirements of the Clean Water Act. Various courts have addressed water transfers and the Supreme Court has never addressed whether water transfers require NPDES permits. Because of the continual court challenges is the rule important enough to preserve now would it be appropriate to work with Congress to codify this Rule through the adoption of legislation. Many of us in Colorado feel that it would be as water management in the arid west is critical and as Colorado law has water quality requirement standards built into water transfers.

2. Dual permitting of pesticides in or near waters of the US. As you know use of pesticides are regulated under the authority under FIFRA, but after the court case in 2009 with National Cotton Council vs EPA in which the 6th Circuit of the US Court of Appeals ordered EPA to vacate a 2006 rule defining circumstances in which pesticides use in accordance with FIFRA is not a discharge of pollutant for the purposes of the Clean Water Act. Since that time anybody that applies pesticides according to the labelled instructions still have to file for a NPDES permit as well. In Colorado the state has tried to work with us and has a "general permit" that applicators can apply for but it really is redundant to the record keeping and requirements under the pesticide act. I would hope that EPA could pursue action to remove this redundancy.

Again I would like to emphasize that as a fresh vegetable farmer water quality is of utmost importance and as a former appointee on the Colorado Water Quality Control Commission I felt the working relationship with Region 8 EPA staff came a long way. With the varied ecosystems across the United States I hope that the EPA will be more willing to take sight specific conditions into more consideration than they have in the past. For example on our farm in Brighton we are in a semi arid climate with little to know tile drainage so nutrient run off from agriculture is not as high a risk compared to other regions. The state of Colorado Water Quality Control Commission often used "Temporay Modifications" to standards to allow time to determine the appropriate level of protection and often as an interim standard while remediation was being implemented. I think these should be tools that states should be allowed to use.

Thanks for the time to provide input. Please don't hesitate to reach out if I can be of any assistance.

Best Regards,

Robert T. Sakata
Sakata Farms
Brighton, CO 80601

Sent from my Samsung Galaxy Tab® S