



January 10, 2011

Proposed EPA Action on Food Tolerances for ProFume* gas fumigant

The United States Environmental Protection Agency (EPA) has been reevaluating its regulation of ProFume as part of a larger review of regulatory standards for fluoride in drinking water since the publication of the National Academy of Sciences (NAS) report in 2006.

- EPA has issued a **proposal** to phase out tolerances for ProFume over the next three years. To view this proposed action in detail go to <http://www.epa.gov/pesticides/sulfuryl-fluoride>
- Accompanying this proposal is a public comment period (90 days from the official publication in the Federal Register) offering the opportunity for stakeholder input.
- Finalization of this proposal **will not** occur until all public comment has been considered by the Agency and all administrative remedies have been exhausted by adversely affected stakeholders.
- This proposal is part of a larger government reevaluation of fluoride affecting drinking water standards and other sources of human exposure.

Why is EPA doing this?

- EPA believes that certain segments of the public have too much fluoride (F) exposure and that excess F exposure can lead to “severe dental fluorosis” (SDF), a condition potentially involving pitting of the teeth. For the first time EPA now believes SDF is an “adverse health effect”.
- Based on EPA’s legal interpretation of the controlling federal statute, the Agency believes it cannot legally grant/defend food tolerances under these conditions.
- EPA feels compelled to do this now because activists have threatened to sue the Government in an attempt to enforce their own interpretation of the law.

Perspective

Here are some important facts to keep in mind.

- First and foremost, this is a **proposal** to **phase out** food tolerances for ProFume* that will have to play out **over time**.
- Second, stakeholders will have an opportunity to submit comment to the Agency on the proposal, and we ask them to do so – to explain to EPA in plain terms why they need ProFume and how their operations would be affected without it.
- Third, neither public health nor environmental protection support this Agency proposal. The vast

®™ Trademark of Dow AgroSciences LLC
ProFume is a federally Restricted Use Pesticide.
Always read and follow label directions

majority of human exposure to fluoride comes from a) fluoridation of water for health-related purposes, b) **naturally occurring** fluoride in water in certain geographic areas and c) toothpaste.

- Fourth, by worst-case estimate the contribution from all food-related uses of ProFume combined is negligible (i.e., no more than two to three percent of total human fluoride exposure). As noted in the EPA quote that follows, if the Agency hoped to reduce fluoride exposures, no regulatory decision related solely to ProFume could credibly advance that goal.

“Use of sulfuryl fluoride is responsible for a tiny fraction of aggregate fluoride exposure... Elimination of sulfuryl fluoride does not solve, or even significantly decrease, the fluoride aggregate exposure problems identified earlier.” Federal Register Notice January 10, 2011.

- Fifth, food contaminated by insects, rodents and related pests poses a clear threat to public health. Fumigation is the most cost-effective, reliable and rapid means of eliminating these pests from food and the facilities where food is processed or stored. So not only would phasing out food tolerances for ProFume offer no health, safety or environmental basis, it would actually remove a technology from use that is currently providing a demonstrable public health benefit.

Dow AgroSciences Position

- Dow AgroSciences is extremely disappointed in EPA’s proposal to phase out food tolerances for ProFume* over the next few years. EPA’s proposed action offers no meaningful public health or environmental benefit – and actually even detracts from public health goals.
- What’s more, the U.S. Department of Health and Human Services has already said that in a recent response to increased reports of minor dental fluorosis it is actively considering reducing acceptable fluoride levels in drinking water. Government assessments have shown that drinking water is a primary source of public fluoride exposure and that exposures resulting from the use of ProFume are, in comparison, negligible.
- **What EPA has announced is a proposal, for public comment – not a final action.** EPA will decide what action to take after evaluating the public comments received on this proposal. Dow AgroSciences is committed to working with industry stakeholders and government to address issues raised by the proposal so that ProFume can continue to meet critical needs of the post-harvest industry.
- We believe that there are critical public health and environmental reasons why the practical means of protecting the food supply offered by use of ProFume and the food tolerances associated with them should be maintained.

Use of ProFume Contributes to Protection of Public Health

- ProFume* is used to protect stored food from contamination by pests. Food contaminated by pests poses very real public health risks, among which, as EPA acknowledges, are increased exposures to disease-promoting *E. coli* and *Salmonella* and ingestion of allergens and digestive irritants associated with rats, moths and cockroaches (whole pests and pest parts/waste).
- EPA acknowledges that currently the only practical alternative to the use of ProFume for the protection of food in food processing facilities and for some stored foods is methyl bromide, a fumigant that has been phased out in all developed countries due to its harm to the earth’s ozone layer.

Use of ProFume Reduces the Need for Ozone-Destroying Alternatives

- ProFume* was specifically developed by Dow AgroSciences as an alternative to methyl bromide to allow food storage and processing facilities to continue protecting food.
- ProFume has allowed whole sectors of the U.S. food storage and processing industry to transition away from methyl bromide use over the past six years.
- The contribution of ProFume in this regard has been favorably recognized by EPA (Office of Air and Radiation) in 2002 and 2007 and by the United Nations Environmental Programme in 2007.

EPA's Rationale for the Phase-Out Has No Basis in Public Health

- EPA proposes to phase out food tolerances for ProFume* over the next few years because the Agency believes that public exposure to fluoride is too high. Yet EPA acknowledges that the contribution of ProFume to total fluoride exposure in the U.S. is negligible.
- Fluoride is a breakdown product of ProFume but is also widely used for public health purposes in water treatment, toothpaste and various dental applications.
- EPA acknowledges that public exposures to fluoride resulting from the use of ProFume are negligible compared to much higher exposures from drinking water and toothpaste.
- EPA also acknowledges that its greatest concern over human fluoride exposure is for people living in areas of the U.S. with drinking water containing high, **naturally occurring** levels of fluoride.
- As a result, EPA's concerns over fluoride exposure would be essentially the same if ProFume never existed. Cancelling food tolerances for ProFume will not resolve - or even significantly mitigate - EPA's concerns over fluoride exposure.
- Phasing out food tolerances for ProFume offers no benefit to public health and, on the contrary, imposes significant - unnecessary - public health risks.

EPA's Proposed Action is Predominately an Attempt to Avoid Litigation

- Given what EPA has acknowledged as incontrovertible fact, it would appear that the Agency's proposal to cancel food tolerances for ProFume* is predominantly a defensive legal maneuver intended to avoid litigation - to the detriment of its broader mandate to protect human health and the environment.
- The beneficiaries of this proposed EPA action would be a small but vocal group of activists who want to shape regulatory policy to their own ends. The victims, however, would include public health (due to increased potential for contamination of our food supply); our nation's economy (due to increased food costs, disruption of agriculture and unwarranted new costs imposed on food storage and processing facilities as they grapple with the unintended consequences of EPA's decision); and possibly for U.S. foreign policy (if increased methyl bromide demand were to result in a diminished potential for our nation to honor international treaties for the protection of the ozone layer).

Dow AgroSciences Supports the Long-Term, Continued Use of ProFume

- Dow AgroSciences believes that the adverse results that would stem from EPA’s proposed regulatory action are significant and that the need for the continued use of ProFume is compelling. Should the Agency attempt to finalize its proposed action, we are prepared to exhaust every remedy at our disposal to ensure that our customers retain access to this vital means of protecting our nation's food supply.

Dow AgroSciences Will Keep You Informed and Involved

- As EPA makes any announcements related to ProFume, **we will keep you informed and in the loop.** Specifically, we will:
 1. Educate you on what the proposal means (both in real-world terms and by way of scientific assessment) and on what options we see for responding to it.
 2. Evaluate and document for EPA any potential adverse impacts on food quality, availability, and cost to implement proposed changes.
 3. Prioritize critical commodities and use patterns for which no other efficacious, cost-effective control methods exist.
 4. Evaluate modified product use directions to maintain sustainability of fumigation with ProFume, particularly for critical commodities and use patterns.

Rest assured, we will keep you engaged and involved. We have worked with EPA in addressing issues related to stored food in the past and will continue to work with the Agency – and with you – on this issue as well.