



Status of Imidacloprid Registrations on Long Island , October 2004

- New York State Department of Environmental Conservation (NYSDEC) first registered imidacloprid in March 1995. Bayer originally proposed to restrict Long Island (LI) from imidacloprid products – NYSDEC required registration throughout the state.
- Modeling originally conducted by Bayer, EPA and NYSDEC prior to State approval, predicted low level residues significantly below any health concern might be found in ground water – consistent with what has been found.
- Prior to initial federal registration, EPA proposed a Maximum Contaminant Level (MCL) of 399 ppb.
- In support of recent registration approvals, EPA has utilized a specific imidacloprid Drinking Water Level Of Comparison (DWLOC) of 350 ppb when allowing new uses in May, 2004.
- NYSDEC required Bayer to install and monitor 15 wells as a condition of registration. Monitoring for parent imidacloprid and metabolites has been ongoing since 1998. Suffolk County also conducts an extensive water monitoring program which provides results to NYSDEC.
- In 1998, an Agreement between Bayer and NYSDEC was established:
 - NYSDEC has a generic default trigger for all chemicals of 50 ppb in groundwater.
 - Bayer and NYSDEC agreed if multiple residues are detected in groundwater at 10 ppb, mitigation measures would be put into place and if multiple residues are detected in groundwater at 25 ppb, potential restrictions could be imposed for implicated uses, up to and including withdrawal.
- Currently, NYSDEC has questions about alleged increases in frequency of low level detections of imidacloprid residues in LI ground water.
 - It should be noted that Suffolk County Department of Health Services (SCDHS) maintains a large and effective program that begins as a survey and continues with focused monitoring. To date the modest increase in detections can largely be attributed to SCDHS re-analyzing wells with prior detections and initiating sampling of wells in proximity to these detections.
 - Sampling residues have not hit any trigger (less than 1% of all samples taken had any detections of imidacloprid residues and all were low levels; <7 ppb). These low level detections can not be attributed specifically to consumer or professional uses.
- NYSDEC is now using this issue to make regulatory decisions on imidacloprid products.
 - NYSDEC has indicated they will not allow the continuation of homeowner uses on LI. They are refusing to register the homeowner uses reflecting the new company name (Bayer CropScience) and registration number – this in effect cancels all homeowner uses on LI because of the expiration of the existing products.
 - NYSDEC informed Bayer that they will require ‘Restricted Use’ status of all remaining professional uses (Ag, turf, ornamental, tree).



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- Data collected over the past 6 years do not justify the cancellation of any uses on LI. As a part of our commitment to steward our products, Bayer has proactively developed measures (i.e. label modifications, Best Management Practices, consumer education efforts) in conjunction with stakeholders to minimize any potential of residues reaching trigger levels. The actions proposed above by NYSDEC preclude determining the effectiveness of these measures.
- Bayer believes that sound science should be the basis of making regulatory decisions. Since this decision is not based on science or within the grounds of previously defined agreements, it is difficult to know what constitutes acceptable conditions of use for product registration.
- In light of the current situation, Bayer has decided to not pursue renewal of professional (Ag, turf, greenhouse/ornamental and tree) or consumer (lawn and garden) uses on Long Island.
- Since state requirements preclude continued use after registrations expire, in support of our customers, Bayer is willing to phase-out products on LI under a time-limited registration. NYSDEC, customers and Bayer will agree to a specified period of time after which products will be restricted from use on LI. If we can not come to an agreement for a time-limited registration, individual registrations will expire over the course of the next 2 years, beginning with November 2004.
- Bayer is concerned that NYSDEC is establishing a precedent of canceling uses in the absence of sound science and previously established agreements which are not in the best interest of professional users and consumers.