

Court Cases

U.S. District Court, Western District of New York Decision and Order (December 30, 2004) [Altman v. EPA, NY State Dept. of Environmental Conservation, and Town of Amherst](#)

The plaintiffs in this case argued that the EPA did not abide by the Clean Water Act when they "failed to withdraw approval of the [NY] State permit program for failure to enforce the minimum elements of the approved program", and alleged DEC failed to require NPDES permits for the Town of Amherst's mosquito spraying program. Nonetheless, this decision grants the defendants' motion to dismiss, in part due to the plaintiffs' failure to provide 60 days notice of their intention to sue as required by the CWA.

U.S. District Court for the Southern District of New York Complaint (November 9, 2004) -- [West Harlem Environmental Action and NRDC v. EPA](#)

In this lawsuit, the Natural Resources Defense Council and West Harlem Environmental Action demand that EPA reinstate the requirement that registrants add bittering agents and indicator dyes to consumer rodenticides.

In-depth analysis related to this complaint is discussed in the December 7, 2004 *PESTICIDE.NET Insider eJournal* article, [NRDC Sues To Reinstate EPA Requirement That Bittering Agents And Indicator Dyes Be Added To Rodenticides](#). (access requires a paid [subscription](#).)

U.S. District Court for the District of Columbia Amicus Brief (August 18, 2004) -- [Beyond Pesticides et al. v. EPA](#)

The Creosote Council submitted this legal brief in support of a pending EPA motion to dismiss a lawsuit by Beyond Pesticides which demands an expedited reregistration eligibility decision on creosote.

PESTICIDE.NET Editor's Note: In-depth analysis related to this brief was discussed in the September 13, 2004 edition of the [PESTICIDE.NET Insider eJournal](#).

U.S. District Court for the District of Columbia Complaint (August 2, 2004) -- [Natural Resources Defense Council v. EPA](#)

In this case, the Natural Resources Defense Council is suing EPA to force the agency to disclose the size of the nation's stockpile of methyl bromide.

U.S. District Court for the District of Columbia Complaint (August 5, 2004) -- [Center for Food Safety vs. USDA](#)

In this lawsuit, CFS is seeking the release of documents detailing the qualifications and background of the organic food certifiers that USDA allows to participate in the national organic program.

U.S. Supreme Court Petition for a Writ of Certiorari (July 16, 2004) -- [BASF v. Ronald Peterson, et al.](#)

This U.S. Supreme Court petition pertains to BASF's appeal of the Feb. 19, 2004 Minnesota Supreme Court decision which upheld a \$52 million judgment for consumer fraud when the company overcharged minor crop growers for a pesticide product.

See Related [Minnesota Supreme Court Decision](#)

PESTICIDE.NET Editor's Note: In-depth analysis related to this court case is discussed in the March 2, 2004 edition of the [PESTICIDE.NET Insider eJournal](#).

Notice of Intent to File Suit (July 15, 2004) -- [Washington Toxics Coalition v. Washington Department of Agriculture](#) (PDF)

This notice states that Washington Toxics Coalition intends to file a citizen suit under Section 505 of the Clean Water Act, alleging that the

Washington State Department of Agriculture violated various conditions of an Aquatic Noxious Weed Control NPDES Permit.

U.S. District Court for the Northern District of Texas Memorandum Opinion and Order (June 29, 2004) -- [Nations AG II, et al. v. The Hide Company, et al.](#)

In this case, Nations AG claims that the Hide Company breached their sales agreement contract and misappropriated Nations AG's trade secrets, specifically pertaining to the formula for mepiquat chloride. Using a six-factor test, the Court was unable to find sufficient criteria to establish that Nations AG's formula for mepiquat chloride is a trade secret. As a result, the motion for preliminary injunction is denied.

U.S. District Court for the District of Columbia Plaintiff's Memorandum of Points and Authorities in Support of Motion for Summary Judgment (June 28, 2004) – [Beyond Pesticides, et al., v. EPA](#) (PDF)

Beyond Pesticides argues in this case that EPA has unreasonably delayed the risk assessments of creosote, chromated copper arsenate and pentachlorophenol.

PESTICIDE.NET Editor's Note: In-depth analysis related to this court case was discussed in the September 13, 2004 edition of the [PESTICIDE.NET Insider eJournal](#).

Supreme Court of Canada Appeal (May 21, 2004) -- [Monsanto Canada Inc. v. Schmeiser](#)

The Supreme Court of Canada ruled 5-4 that Monsanto holds a valid patent on the Roundup resistant gene for canola crops, and that farmer Percy Schmeiser infringed the patent by knowingly planting the Roundup Ready seeds.

U.S. District Court, Western District of Washington at Seattle, Order (May 18, 2004) -- [Washington Toxics Coalition, et al. v. EPA, Defendants; ACPA, Intervenor-Defendants](#)

This order denies stays filed by CropLife, the Washington State Potato Commission and the Washington State Farm Bureau against the [January 22, 2004 mitigation order](#) establishing buffer zones to protect endangered salmon.

PESTICIDE.NET Editor's Note: In-depth analysis related to this document is discussed in the May 25, 2004 edition of the [PESTICIDE.NET Insider eJournal](#).

U.S. District Court Order (May 13, 2004) -- [Chemical Producers and Distributors Association v. California Department of Pesticide Regulation](#)

CPDA argued in this case that California's Food & Agricultural Code requiring the registration of generic pesticides interferes with Congress's goals in enacting FIFRA by discouraging competition between original and generic applicants. Although CPDA argued for FIFRA pre-emption, the court dismissed the case.

U.S. Supreme Court Amicus Curiae Brief (May 2004) -- [Dennis Bates, et al. v. Dow AgroSciences, LLC](#)

In this brief submitted to the Supreme Court, U.S. Solicitor General Theodore Olson argues that FIFRA pre-empts tort liability claims against pesticide registrants, sellers and distributors.

PESTICIDE.NET Editor's Note: In-depth analysis related to this document is discussed in the June 7, 2004 edition of the [PESTICIDE.NET Insider eJournal](#).

U.S. Court of Appeals for the Federal Circuit Decision (April 9, 2004) -- [Monsanto v. McFarling](#)

The district court held that farmer McFarling breached the Technology Agreement with Monsanto when he replanted some of the company's patented Roundup Ready® soybeans. The appeals court affirmed the district court's decision in part, but determined the penalty calculation is invalid and ordered a new determination of Monsanto's actual damages.

Los Angeles, California Superior Court Order (March 10, 2004) -- [Syngenta v. California Dept. of Pesticide Regulation](#)

Syngenta sued DPR by claiming that the agency impermissibly relied on its data for the state registrations of generic metalaxyl produced by other companies. This court order determines that DPR may not, actively or passively, use or consider an original registrant's data in support of a subsequent application for registration of a pesticide product, without the data owner's written permission.

PESTICIDE.NET Editor's Note: In-depth analysis related to this document is discussed in the May 25, 2004 edition of the [PESTICIDE.NET Insider eJournal](#).

Los Angeles Superior Court Final Judgment (March 10, 2004) -- [Syngenta Crop Protection and Dow AgroSciences v. California Department of Pesticide Regulation](#)

In addition to the order that DPR may not use original data without the written permission of the data owner, this decision denied Syngenta and Dow's request for injunctive relief, as the Court determined that there was no imminent danger of irreparable harm.

PESTICIDE.NET Editor's Note: In-depth analysis related to this document is discussed in the May 25, 2004 edition of the [PESTICIDE.NET Insider eJournal](#).

State of California Court of Appeal, Fifth Appellate District, Unpublished Opinion (March 5, 2004) -- [EDM Industries, Inc. v. County of Kern et al.](#)

The appeals court affirmed the trial court's decision to strike the complaint brought by EDM Industries, the manufacturer of the herbicide Weedaxe (active ingredient: 2,4-D). EDM sued three state and county regulatory agencies for allegedly making false statements about Weedaxe and otherwise interfering with the company's efforts to market the product.

State of Minnesota Court of Appeals Opinion (February 17, 2004) -- [Anderson v. State of Minnesota Department of Natural Resources](#)

Beekeepers sued the State of Minnesota Department of Natural Resources asserting claims of trespass, nuisance, common-law negligence, and negligence per se for spraying pesticides on poplar groves which killed their bees. The appeals court affirmed the district court's judgment on the negligence claim and found that the DNR was not liable for nuisance. The court reversed the district court's ruling, to hold that the DNR was not liable for the acts of its independent contractor.

U.S. District Court Joint Motion (February 12, 2004) -- [Beyond Pesticides, et al. v. EPA](#)

This joint motion, filed by Beyond Pesticides and EPA, proposes a schedule of procedures and hearings for the lawsuit which charges EPA with unreasonable delays in the risk assessments of chromated copper arsenate (CCA), creosote and pentachlorophenol.

PESTICIDE.NET Editor's Note: In-depth analysis related to this document is discussed in the Feb. 17, 2004 edition of the [PESTICIDE.NET Insider eJournal](#).

State of Minnesota Supreme Court, Court of Appeals Opinion (February 19, 2004) -- [Peterson v. BASF Corporation](#)

The Minnesota Supreme Court upheld a \$52 million judgment against BASF for overcharging minor crop growers for a pesticide that was being sold to major crop growers for less money.

PESTICIDE.NET Editor's Note: In-depth analysis related to this document is discussed in the March 2, 2004 edition of the [PESTICIDE.NET Insider eJournal](#).

See Related Legal Documents:

State of Minnesota Court of Appeals Amicus Curiae Brief (August 21, 2002) -- [Brief of the Chamber of Commerce in Support of BASF Corporation](#)

State of Minnesota Court of Appeals Amicus Curiae Brief (August 21, 2002) -- [Brief of Washington Legal Foundation in Support of BASF Corporation](#)

Bankruptcy Appellate Panel of the Sixth Circuit Opinion (January 30, 2004) -- [Monsanto v. Trantham](#)

The appeals panel reversed the earlier decision, finding that Monsanto's entire judgment of \$592,677.89 for willful patent infringement is nondischargeable. The bankruptcy court decision had determined that the pre-petition patent infringement judgment obtained by Monsanto against Trantham, a farmer using seed produced with Monsanto's patented Roundup Ready® gene technology without a license, is dischargeable.

U.S. District Court Western District of Washington Order (January 22, 2004) -- [Washington Toxics Coalition v. EPA](#) (PDF)

This court order restricts the use of 38 pesticides near salmon streams and requires point of sale warnings on products containing pesticides that may harm salmon. The ruling came in a case brought by fishing and conservation groups which alleged that EPA failed to solicit National Marine Fisheries Service consultations on

the risks from 54 pesticides to 26 distinct populations of endangered fish.

U.S. District Court for the Western District of Washington Complaint (January 15, 2004) -- [Washington Toxics Coalition, et al. v. EPA](#)

In this complaint, Earthjustice attorneys allege that EPA has an improper relationship with the FIFRA Endangered Species Task Force (FESTF), an industry group utilized by EPA to develop a database on the location of endangered species.

U.S. District Court for the Western District of Washington Complaint (January 13, 2004) -- [United Farm Workers of America, et al. v. EPA](#)

Farmworker groups sue EPA for the re-approval of two organophosphate pesticides, azinphos-methyl (AZM) and phosmet.

U.S. District Court Order Denying Plaintiff's Motion to Enforce Consent Decree (December 16, 2003) -- [NRDC v. EPA](#)

This order denies NRDC's motion to enforce the modified consent decree. In the court's judgment, EPA has satisfied its obligations under the consent decree regarding atrazine.

Supreme Court of the State of New York Consent Order and Judgment (December 12, 2003) -- [Eliot Spitzer and the State of New York vs. Dow AgroSciences LLC](#)

In the largest enforcement penalty ever obtained in a pesticide case, Dow AgroSciences has been ordered to pay \$2 million for illegally advertising safety claims about its pesticide products in New York between 1995 and 2003.

See Related [Press Release](#)

U.S. Court of Appeals for the Second Circuit Decision (December 9, 2003) -- [No Spray Coalition v. City of New York](#)

In this decision, the court reversed the district court's November 26, 2002 dismissal of a Clean Water Act lawsuit against mosquito spraying in New York City in 1999.

See Related [Court Decision](#) (October 2, 2000) and [Appeals Court](#)

[Decision](#) (June 5, 2001)

Ontario Superior Court of Justice Judgment (December 8, 2003) -- [CropLife Canada v. City of Toronto](#)

In this case, an application by Croplife Canada and others to quash a City of Toronto By-Law which purports to regulate the use of pesticides within the boundaries of the City of Toronto is dismissed.

See Related: City of Toronto By-Law (May 23, 2003) -- [Chapter 612, Use of Pesticides](#)

U.S. District Court for the Southern District of New York - Complaint (September 15, 2003) -- [States of New York, Connecticut, New Jersey, and Massachusetts v. EPA](#)

This complaint from several states' Attorneys General is a companion to the Natural Resources Defense Council lawsuit regarding EPA's use of the FQPA safety factor.

United States District Court Documents (October 24, 2003) -- NRDC v. EPA
(*Endangered Species Case Relating to Atrazine*)

[CropLife's Motion to Intervene](#)

[Memorandum of Points and Authorities in Support of CropLife America's Motion to Intervene](#)

[\[Proposed\] Answer of Proposed Defendant-Intervenor CropLife America](#)

U.S. District Court -Western District of Washington at Seattle Order (August 8, 2003) -- [Washington Toxics Coalition, et. al. v. EPA, Defendants, ACPA, et. al., Intervenor-Defendants](#)

In this endangered species case, the Court orders ground and aerial buffer zones to be imposed on the use of 52 pesticide active ingredients, and addresses additional urban-use restrictions with respect to 13 pesticide active ingredients. Oral argument for this case is scheduled for August 14, 2003.

See Related [Order](#) (July 16, 2003)

Court of Appeals for the First District of Texas Opinion (July 31, 2003) -- [Brookshire Brothers, Inc., v. Wesley Smith](#)

The appeals court in this case overturned a lower court ruling awarding an injured maintenance worker \$246,000 in damages for exposure to certain cleaning products because the employee failed to establish that the cleaning supplies had caused his medical problems.

U.S. District Court (Western District of Washington at Seattle) Order (July 16, 2003) -- [Washington Toxics Coalition v. EPA](#)

This order states that the Washington Toxics Coalition is entitled to injunctive relief in its effort to protect endangered species, and that EPA is permitted to continue its actions as long as it shows that its actions do not jeopardize threatened and endangered salmonids. Oral argument for this case is scheduled for August 14, 2003.

Florida Supreme Court Opinion (July 10, 2003) -- [John Castillo, et. al. v. E.I. DuPont De Nemours Co., Inc. et. al.](#) (PDF)

The judge in this case overturned the District Court's decision, saying that expert testimony given in defense of the Castillo family, whose son's birth defects are believed to be caused by the fungicide Benlate, is admissible evidence.

U.S. Court of Appeals for the Fifth Circuit Opinion (June 11, 2003) -- [Dow AgroSciences v. Dennis Bates, et al.](#)

In this FIFRA preemption case, 29 Texas peanut farmers sought to sue Dow for damages caused by the Dow herbicide, Strongarm. The court affirmed Dow's declaration that (1) FIFRA preempts the farmers' state law claims; (2) the "Limitation of Remedies" paragraph on the Strongarm label limited the farmers' remedies to the purchase price of the product; and (3) the "Warranty Disclaimer" paragraph on the label barred any other claims based on a warranty of representation.

Supreme Court of the United States Opinion (June 9, 2003) -- [Dow Chemical Company, et al, Petitioners v. Daniel Raymond Stephenson et al. on Writ of Certiorari to the U.S. Court of Appeals for the Second Circuit](#)

In this opinion, the U.S. Supreme Court voted 4-4 (Justice Stevens did not vote), on a ruling by the 2nd U.S. Circuit Court of Appeals, thereby allowing lawsuits by Vietnam veterans not included in the original settlement against Dow Chemical, the maker of Agent Orange, to continue to proceed.

See Related [Court of Appeals Decision](#) (November 30, 2001)

U.S. Court of Appeals for the D.C. Circuit Opinion (June 3, 2003) -- [CropLife America](#)

[v. EPA](#)

This decision overturns a ban that prohibits pesticide testing on humans. The court's rationale asserts that the ban constituted a binding regulation since it was issued without notice or the opportunity for public comment.

See Related [EPA Press Release with Letter to NAS](#) (December 14, 2001)

U.S. Supreme Court Amicus Curiae Brief (May 2003) -- [American Cyanamid Company v. Terry Geye and Brandon Geye](#)

In this brief on behalf of the United States, the Solicitor General recommends to the U.S. Supreme Court that it not grant certiorari to this Petition seeking review of a decision of the Texas Supreme Court. That decision held that plaintiffs' claims were not preempted by FIFRA, clearing the way for trial in state court. The U.S. Supreme Court has yet to rule on the Petition.

See Related [Texas Supreme Court Decision](#)

Supreme Court of Delaware Decision (April 15, 2003) -- [Brown, et. al v. E.I. Dupont Company](#)

In this Benlate birth defect lawsuit, the Supreme Court of Delaware dismissed an earlier ruling, holding that a Delaware personal injury law requiring claims to be filed within two years does not apply. The court's decision asserts that the statute of limitations did not begin until the plaintiffs became aware of the harmful effects of the toxic exposure.

State of Minnesota Court of Appeals Decision (March 11, 2003) -- [Ronald Peterson, et. al v. BASF](#)

In this decision, a \$52 million judgment against BASF Corp. for consumer fraud is upheld. The class action lawsuit was filed against the company for marketing two chemically similar products at different prices and for different uses.

California Superior Court Petition (January 9, 2003) -- [DeltaKeeper, et al. v. California Regional Water Quality Control Board](#)

A coalition of environmental groups filed this lawsuit to challenge a controversial decision made last month by the Central Valley Regional Water Quality Control Board that exempted agricultural discharges from meeting statewide water quality objectives.

U.S. District Court Answer to Complaint for Declaratory and Injunctive Relief

(December 23, 2002) -- [CPDA v. DPR](#)

California's Department of Pesticide Regulation answers CPDA's complaint regarding state data requirements needed for pesticide registration in California.

See Related [Complaint](#)

U.S. District Court for the Central District of California Complaint (December 23, 2002) -- [Chemical Producers and Distributors Association v. California Department of Pesticide Regulation](#)

In this complaint, CPDA argues that state data exclusivity requirements are pre-empted by the data compensation scheme in FIFRA. As such, the objective of this case is to enable generic registrants to register products in California without securing any additional data rights over and above those secured for federal registration.

U.S. District Court for the District of Columbia Complaint for Declaratory and Injunctive Relief (December 10, 2002) -- [Beyond Pesticides, et al. v. EPA](#)

In this lawsuit, Beyond Pesticides, the Communications Workers of America, and others seek to end the continued use of the wood preservatives chromated copper arsenate (CCA), pentachlorophenol (penta) and creosote.

U.S. District Court for the District of Oregon Complaint (December 9, 2002) -- [Oregon Natural Resources Council v. Oregon Department of Environmental Quality and U.S. EPA](#)

The Oregon Department of Environmental Quality and the EPA are being sued in this Endangered Species Act lawsuit for failing to consult with the U.S. Fish and Wildlife Service before granting the Klamath Irrigation District a permit to place the pesticide acrolein in the Klamath Basin.

Eleventh Circuit Court of Appeals Opinion (December 6, 2002) -- [Lowe's Home Centers, Inc. v. Olin Corporation](#)

Lowe's filed suit against Olin asserting that Olin failed to properly warn Lowe's of the dangers involved in the storage and handling of a pool chlorinating product, *Pace Superchlorinator Shock Treatment*, despite packaging labeling which indicated the chemical's dangers. Lowe's contended that its failure to warn claim is not preempted by FIFRA because its claim is completely unrelated to labeling or packaging. The district court granted judgment in favor of Olin finding that Lowe's claims were preempted by FIFRA. This appeals court decision affirms the district

court ruling.

West Nile NYC Pesticide Spraying Lawsuit Update:

A federal judge has thrown out a lawsuit brought by a coalition of environmental groups that accused New York City of acting illegally when it sprayed pesticides to prevent the spread of West Nile virus.

See Related Article: [Lawsuit Over West Nile Spraying Dismissed by Judge, City Says](#). New York Times, December 3, 2002. (External Link)

See Related [Court Decision](#) (October 2, 2000)
and [Appeals Court Decision](#) (June 5, 2001)

U.S. District Court Motion for Further Injunctive Relief (November 26, 2002) --
[Washington Toxics Coalition, et al v. EPA](#)

Environmental and fishing groups have filed for this injunction to stop the pesticide uses most likely to harm salmon. The groups are seeking the injunction to put interim protections in place until EPA brings its pesticide regulations into compliance with the Endangered Species Act.

Superior Court of the State of California Verified Petition for Writ of Mandate (November 20, 2002) -- [Californians for Alternatives to Toxics v. California Department of Pesticide Regulation](#)

Californians for Alternatives to Toxics allege in this lawsuit that CDPR failed to reevaluate the registration of pesticides that drift from agricultural crops in Central Valley to the Sierra Nevada, and claim that pesticides have led to the decline of Sierra frog populations in recent years.

New York State DEC Consent Order (November 7, 2002) -- [In the Matter of The Scotts Company](#)

The Scotts Company applied for registration of two pesticides with New York's Department of Environmental Conservation, but distributed and sold the pesticides before gaining approval from DEC. As a result, The Scotts Company is fined \$300,000 and is required to pay \$900,000 towards an Environmental Benefit Project for disposal of old, unregistered, unusable or unwanted pesticide products.

New York Supreme Court Memorandum and Order (November 7, 2002) -- [In the Matter of Jeremy W. Alderson v. NYS State College of Agriculture and Life Sciences at Cornell University, et al.](#)

The New York Supreme Court has ruled that Cornell University is subject to the Freedom Of Information Law, and must turn over documents pertaining to its biotech research.

See Related [Article](#) (External Link)

U.S. Supreme Court Decision (November 5, 2002) -- [Syngenta Crop Protection, Inc., et al. v. Hurley Henson](#)

The U.S. Supreme Court rejected attempts by Syngenta to move a class action suit from a Louisiana state court to federal court where a settlement had been reached in a related case. The suit was filed by Syngenta workers who alleged they suffered from exposure to one of the insecticides manufactured by the company.

U.S. Court of Appeals for the Ninth Circuit Opinion (November 4, 2002) -- [League of Wilderness Defenders, et al. v. U.S. Forest Service](#)

This court decision holds that the U.S. Forest Service is required to secure a NPDES permit for the aerial application of insecticide to control moths.

U.S. District Court for the District of Oregon Complaint (October 21, 2002) -- [Oregon Natural Resources Council, et al. v. U.S. Bureau of Reclamation](#)

This lawsuit demands better regulation and monitoring of pesticides that can harm fish in the Klamath Basin. The groups are concerned about the U.S. Bureau of Reclamation's (BOR) regulation of acrolein and several copper hydroxide pesticides known to be toxic to fish.

Delaware Supreme Court Order (October 18, 2002) -- [United Phosphorus v. Micro-Flo and BASF Corporation](#)

This order affirms the judgment of the Superior Court on September 19, 2002.

Second Circuit U.S. Court of Appeals Summary Order (September 26, 2002) -- [Altman v. Town of Amherst, N.Y.](#)

This appeals court decision vacates the lower court's dismissal of the plaintiffs' claims that a municipal mosquito control program required a NPDES discharge permit under the Clean Water Act. As a result, the District Court is directed to further examine the issues concerning the use of pesticides as they relate to the Clean Water Act.

State of Nebraska Appellate Court Decision (September 6, 2002) -- [Harold D. Eyl v. Ciba-Geigy Corporation and Northeast Cooperative](#)

A jury awarded Harold D. Eyl a \$2,146,000 verdict for injuries he sustained after he was exposed to the herbicide “Pramitol 5PS”, manufactured by Ciba-Geigy Corporation. In this appeal, it was determined that Eyl’s common-law failure-to-warn claims are labeling based and preempted by FIFRA. Accordingly, the earlier decision is reversed and remanded with directions to dismiss.

U.S. Court of Appeals for the Fifth Circuit Unpublished Opinion (August 19, 2002) -- [Millers Mutual Fire Insurance Company v. Terral Seed, Inc.](#)

Because “seed” was excluded from Terral Seed's insurance policy, Millers has no liability for the damage caused by the Fipronil/Icon rice seed. This appeals court decision is a reversal of the decision of the district court.

Supreme Court of Delaware Decision (July 24, 2002) -- [United Phosphorus v. Micro-Flo](#)

The Delaware Supreme Court reversed the trial judge's decision to dismiss this case based on her conclusion that it should be tried in Georgia. As a result, the case may now be litigated in either Georgia or Delaware.

Supreme Court of Texas Decision (June 6, 2002) -- [American Cyanamid Co. v. Geye](#)

The Texas Supreme Court ruled in agreement with an earlier appeals court that FIFRA does not preempt claims that an herbicide mixture damaged a farmer's crop. American Cyanamid was sued for label recommendations which advised mixing two of their products, resulting in alleged crop damage. This decision was based on the fact that EPA does not regulate product labeling according to product efficacy.

U.S. District Court for the Middle District of Georgia -- Order on Motion to Dismiss and Motion to Stay Discovery (May 29, 2002) -- [Micro Flo vs. United Phosphorus, Ltd.](#)

In the largest enforcement case ever brought by the federal government for pesticide-related violations, EPA charged Micro Flo with importing and selling illegal, counterfeit pesticides over several years. The latest developments in the lawsuit between Micro Flo and UPL, pertaining to the contract between the two companies, are detailed in this Georgia Court decision.

See Related:

United Phosphorus [Lawsuit](#) (October 28, 1999)

Wright & Sielaty [Press Release](#) (October 28, 1999)

EPA [Complaint](#) (September 11, 2001)

EPA Region 4 [Press Release](#) (September 13, 2001)

Wright & Sielaty [Press Release](#) (September 14, 2001)

U.S. District Court for the Northern District of California Consent Decree (April 19, 2002) -- [Californians for Alternatives to Toxics, et al., vs. Environmental Protection Agency](#)

According to the terms of this settlement, EPA will consult with two other federal agencies, the National Marine Fisheries Service and the U.S. Fish and Wildlife Service, on specific uses of eighteen pesticides in California. Some of the pesticides to be considered are chlorpyrifos, diazinon, atrazine, Roundup, and 2,4-D. The pesticides will be analyzed for effects on endangered salmon and certain other species.

U.S. District Court for the Northern District of California Complaint (April 2, 2002) -- [Center for Biological Diversity vs. EPA](#)

In this lawsuit, The Center for Biological Diversity claims EPA's pesticide registration program is harming the California red-legged frog, a federally listed threatened species, and damaging the frog's critical habitat.

U.S. Court of Appeals for the Eighth Circuit Decision (March 26, 2002) -- [Kim Netland v. Hess & Clark, Inc.](#)

The 8th U.S. Circuit Court of Appeals has upheld FIFRA pre-emption in this damage claim lawsuit involving use of an insecticide product containing dichlorvos to control flies on horses.

Second District Appellate Court of Illinois Opinion (March 18, 2002) -- [Diehl v. Polo Cooperative Association](#)

In this case, the appellate court reversed the lower court decision. The lower court ruled that herbicide label warnings indicated FIFRA preemption. The appellate court ruled that because the label advice was not being challenged, but rather, the off-label advice given by the herbicide retailer, FIFRA did not preempt the claim by Diehl that his injuries were the result of the retailer's advice.

U.S. Court of Appeals D.C. Circuit Petition for Review (February 12, 2002) -- [CropLife America, et al. v. EPA](#)

CropLife America is challenging EPA's interim moratorium against the consideration of human test data in the regulation of pesticides.

See Related [Letter to EPA](#) and [OPP Update](#) (December 17, 2001)

Supreme Court of the State of Washington Opinion (February 7, 2002) -- [Juan Rios and Juan Farias v. Washington Department of Labor & Industries, et al.](#)

The Washington Supreme Court held that the state's Department of Labor and Industries violated the Washington Industrial Safety and Health Act by failing to require blood testing of agricultural pesticide handlers for cholinesterase levels.

U.S. District Court for the District of Columbia Memorandum and Order (January 31, 2002) -- [American Crop Protection Association, et al., v. U.S. EPA](#)

In this case, the American Crop Protection Association (now known as CropLife America) challenges EPA's 6(a)(2) rule which requires the reporting of adverse incidents related to pesticides. The court opinion states, however, that the interpretation of FIFRA by EPA regarding the 6(a)(2) rule is reasonable.

U.S. Court of Appeals (D.C. Circuit) Settlement Agreement (January 18, 2002) -- [American Crop Protection Association and BASF Corp. v. U.S. EPA](#)

This Settlement Agreement is the result of lawsuits filed by pesticide manufacturers challenging air toxic emission limits set in a [1999 final rule](#) for producers of pesticide active ingredients.

See Related [Federal Register](#)

State of Delaware Superior Court Order (November 26, 2001) -- [United Phosphorus v. Micro-Flo and BASF Corporation](#)

The judge in this case granted Micro-Flo's motion to dismiss. The decision subsequently was reversed on appeal.

See Related [Delaware Supreme Court Reversal](#) (July 24, 2002) of this decision.

U.S. Court of Appeals for the Second Circuit Decision (November 30, 2001) -- [Stephenson, et al v. Dow Chemical Company et al.](#)

This appeals court decision holds that the prior Agent Orange settlement does not preclude the plaintiffs from asserting their claims alleging injury due to Agent Orange exposure.

U.S. District Court for the District of Colorado Memorandum Opinion and Order (November 20, 2001) -- [Bioganic Safety Brands, Inc., v. Don Ament, Colorado Commissioner of Agriculture](#)

This decision asserts that FIFRA preempts Colorado's Department of Agriculture Pesticide Rules as they apply to safety claims on the labels of and advertising for exempt pesticide products.

U.S. Court of Appeals Decision (November 15, 2001) -- [Bano v. Union Carbide Corporation](#)

The case against Union Carbide was dismissed by a trial court in 2000. The appeals court reinstated the claims for toxic pollution and environmental contamination resulting from the Bhopal disaster. Those claims were returned to the trial court for reconsideration. (*See Related [Press Release](#) and [Article](#) for outcome of the case before the trial court*)

State of Delaware Superior Court Order (October 22, 2001) -- [Home Paramount Pest Control Company v. State of Delaware, Department of Agriculture](#)

Home Paramount's appeal of a decision that imposed a fine for improperly applying a termiticide to a home residence is dismissed since the Delaware statute excludes fines (under \$2500) from appellate review and permits the Department of Agriculture to enforce Delaware Code with civil penalties.

U.S. District Court Order (September 25, 2001) -- [NRDC v. EPA](#)

The U.S. District Court in San Francisco issued this order approving a consent decree between NRDC (Natural Resources Defense Council), United Farm Workers of America, AFL-CIO, and other environmental groups, with the U.S. EPA. The agreement requires EPA to carry out certain legal obligations under FQPA and FIFRA.

See Related [Consent Decree](#) and [Court Order](#)

Indiana Supreme Court Interlocutory Appeal (August 23, 2001) -- [Dow Chemical Company, et. al. v. Todd Ebling](#)

In this case, the Indiana Supreme Court ruled that FIFRA does not preempt a "failure to warn" state tort action.

State of California Appeal (August 14, 2001) -- [Ashley Arnold, et al., v. Dow Chemical Co., et. al.](#)

This State of California court case deals with FIFRA preemption. The appeals court defended the right of the injured parties to pursue state tort claims, since, in the opinion of the court, no objective of FIFRA, a labeling statute, is frustrated in the pursuit of this case.

U.S. Court of Appeals for the Ninth Circuit Opinion (Filed July 10, 2001) -- [Kimmel, Inc., et al. v. DowElanco](#)

Kimmel, a manufacturer of protective plastic bags for use during fumigations, challenged DowElanco's attempt to gain an advantage over competitors' products. Previously, DowElanco had convinced EPA to amend labels for the termiticide Vikane, requiring the use of only DowElanco-brand protective bags. The district court concluded that Kimmel's demands to change the labels to include their product, requiring state-mandated labeling, would be preempted by FIFRA. This conclusion was agreed upon by the appeals court. Kimmel's second claim, that DowElanco intentionally interfered to gain economic advantage, was dismissed by the district court but was then reversed by the appeals court, however.

Superior Court of Delaware Order (June 27, 2001) -- [P. Wilson Exterminating Co. v. State of Delaware Department of Agriculture](#)

This Court orders the Delaware Department of Agriculture to provide detailed findings if the original decision revoking the license of P. Wilson is to be upheld. In the administrative decision, license revocation was sought as a penalty for P. Wilson's incomplete records, but because this action could cause the company to cease its operation, an appeal is sought on the original decision.

U.S. District Court for the Northern District of California - Final Brief in Opposition to Consent Decree (June 26, 2001) -- [Natural Resources Defense Council, et. al. v. EPA, et. al.](#)

This final brief submitted by the the American Farm Bureau Federation, the American Crop Protection Association, and the American Chemistry Association summarizes the groups' objections to the partial [Consent Decree](#) filed between the NRDC and EPA. Due to the retirement of the previous judge on this case, a new judge will be appointed who will set a new hearing date on the issue of whether to accept the consent decree.

U.S. District Court for the District of North Dakota (June 20, 2001) -- [Attorney General for the State of North Dakota v. EPA](#)

The U.S. District Court in North Dakota dismissed this lawsuit against EPA in which ND claimed that EPA misinterpreted FIFRA when it refused to allow ND farmers and dealers to import crop protection products from Canada into the U.S. The court dismissed the case based on a lack of jurisdiction stating that ND did not have standing to bring suit against the federal government.

U.S. Court of Appeals for the Second Circuit Decision (June 5, 2001) -- [No Spray Coalition, et al. v. The City of New York et al.](#)

In this appeals court decision, the district court's decision denying No Spray Coalition's motion for a preliminary injunction is affirmed. No Spray Coalition argued that pesticides sprayed onto or into the air, land, and waters of New York City become discarded solid wastes within the meaning of the Resource Conservation Recovery Act, and thereby pose a risk in which citizens can demand injunctive relief.

See Related [District Court Decision](#)

U.S. District Court for the District of Columbia - Defendant's Status Report to the Court (May 16, 2001) -- [Landmark Legal Foundation v. EPA](#)

This is the text of a status report by the U.S. Attorney's office and the EPA concerning deleted files on the computers of senior officials at the EPA in the final days of the Clinton administration. Federal District Court Judge Royce Lamberth issued a preliminary injunction on January 19, 2001, ordering the EPA to preserve information potentially responsive to Landmark's [FOIA lawsuit](#).

State of Louisiana Court of Appeal Opinion (May 11, 2001) -- [Kevin Lemaire and Ned Wilson v. Ciba-Geigy](#)

This decision affirms the judgment of a trial court awarding damages to an individual who was occupationally exposed to atrazine and its metabolites.

U.S. District Court Memorandum in Support of Plaintiff's Motion for Summary Judgment (May 4, 2001) -- [Washington Toxics Coalition, Northwest Coalition for Alternatives to Pesticides, et. al. v. EPA](#)

This motion for summary judgment is part of an Endangered Species Act lawsuit seeking protections for salmon from pesticides. The plaintiffs claim that EPA has determined that pesticides harm fish but has failed to take required action.

See Related [Press Release](#)

U.S. District Court Order (April 13, 2001) -- [Natural Resources Defense Council, et al., v. EPA, et al.](#)

This order requires the [January 19 proposed consent decree](#) between EPA and the Natural Resources Defense Council to be published on EPA's web site. The lawsuit was brought by the NRDC against the EPA about deadlines for pesticide reassessments under FQPA. In this ruling, affected stakeholders will have until May 14 to provide comments to EPA, which

will then be forwarded to the court. A hearing on the proposed consent decree has been scheduled for June 14.

Ninth Circuit U.S. Court of Appeals Motion to Reconsider (March 26, 2001) -- [Headwaters, Inc. and Oregon Natural Resources Council Action v. Talent Irrigation District](#)

Talent Irrigation District seeks a rehearing of the Panel's [March 12, 2001 decision](#) holding that TID must obtain a discharge permit for an aquatic herbicide under the Federal Water Pollution Control Act.

U.S. District Court Motion to Compel Publication of Proposed Consent Decree (March 23, 2001) -- [Natural Resources Defense Council, et al., and American Farm Bureau Federation, et al., v. Christine Todd Whitman, et al.](#)

In this case, the American Farm Bureau Federation, American Crop Protection Association, and American Chemistry Council request that the Court require EPA to publish in the Federal Register the proposed [Partial Consent Decree](#) filed on January 19, 2001, so as to allow public comment on the decree.

U.S. District Court Opposition to Enter Partial Consent Decree (March 23, 2001) -- [Natural Resources Defense Council, et al., and American Farm Bureau Federation, et al., v. Christine Todd Whitman, et. al.](#)

The American Farm Bureau Federation, American Crop Protection Association, and the American Chemistry Council express their opposition to the [Partial Consent Decree](#) submitted on January 19, 2001 by EPA and the Natural Resources Defense Council in this presentation to be made to the U.S. District Court.

EPA Memorandum (March 20, 2001) -- [Directive on Implementation of EPA Obligations Under the Consent Decree in NRDC v. Whitman](#)

See Related [Consent Decree](#) and [Press Release](#)

Class Actions and Proposed Settlements (February 27, 2001, March 1, 2001) -- [Fox v. American Cyanamid, Lowell v. American Cyanamid](#)

Over 400,000 farmers may recover overpayments they allegedly made for chemicals manufactured by American Cyanamid Corporation. The company has agreed to settle these two lawsuits involving the sale of its crop protection chemicals.

For additional information about these lawsuits, click [here](#).

U.S. District Court Amended Complaint (February 16, 2001) -- [Natural Resources Defense Council, et al., and American Farm Bureau Federation, et al., v. Christine Todd Whitman, et. al.](#)

The American Farm Bureau Federation, American Crop Protection Association, American Chemistry Council, and People for the Ethical Treatment of Animals filed this amended complaint in response to the partial [Consent Decree](#) filed between the NRDC and EPA. This complaint challenges the legality of the provisions of the proposed Consent Decree on the basis of several claims.

D.C. District Court Complaint for Declaratory and Injunctive Relief (February 15, 2001) -- [State of New York, et. al. v. EPA](#)

In this complaint, the Attorneys General of New York, Connecticut, Massachusetts, and Alaska sued EPA for failing to act on an essential public health petition relating to pesticides labeling. The States requested three years ago that EPA require pesticide manufacturers to disclose all ingredients in pesticides on product labels, including "inert" ingredients.

U.S. Ninth Circuit Court of Appeals Opinion (Filed March 12, 2001) -- [Headwaters, Inc., and Oregon Natural Resources Council v. Talent Irrigation District](#)

This decision holds that a Clean Water Act National Pollution Discharges Elimination System ("NPDES") permit is required for the application of an herbicide to the waters of the U.S., notwithstanding the fact that the herbicide is labeled for application to water and the herbicide label does not require the user to secure a NPDES permit prior to application.

U.S. Court of Appeals for the D.C. Circuit- On Petitions for Review of an Order of EPA (January 30, 2001) -- [Utility Solid Waste Activities Group, et. al., v. EPA](#)

EPA's decision to post a rule change notice only on its Web site was challenged in this lawsuit. The court ruled that the Internet notice does not constitute adequate notification and is not an acceptable substitute for publication in the Federal Register.

U.S. District Court for the Western District of Washington Complaint for Declaratory and Injunctive Relief (January 30, 2001) -- [Washington Toxics Coalition, et al., v. EPA](#)

This lawsuit challenges EPA's failure to take steps required by the Endangered Species Act to protect salmon from harmful pesticides.

See Related [Press Release](#)

Landmark Legal Foundation (January 23, 2001) -- Re: Landmark Legal Foundation v.

EPA - [Letter to EPA](#)

This is Landmark's latest letter to the government in its FOIA lawsuit against the EPA.

U.S. District Court for the District of Columbia Court Order (January 19, 2001) -- [Landmark Legal Foundation v. EPA](#)

This is the text of Judge Royce Lamberth's order for a preliminary injunction in Landmark's [Freedom of Information Act lawsuit](#) against the EPA.

U.S. District Court Partial Consent Decree (January 2001) -- [Natural Resources Defense Council, et al., v. Carol Browner, EPA, et al.](#)

In this partial consent decree, EPA agrees to deadlines for conducting a cumulative risk assessment for organophosphate pesticides and risk assessments or risk management decisions for eleven pesticides. This agreement does not change the pesticide reregistration or tolerance reassessment procedures or priorities.

Settlement Agreement (January 2001) -- [Natural Resources Defense Council, et. al. v. Carol Browner, EPA, et. al.](#)

In this settlement agreement, EPA agrees to flexible target dates for (1) completing development of a data base that will be used to prioritize chemicals for screening in the Endocrine Disruptor Screening Program, (2) completing validation of the screens and tests that are part of the Program, and (3) starting to require screening and testing of chemicals under the Program.

U.S. District Court for the District of Columbia - Memorandum in Support of Motion for Preliminary Injunction (January 2, 2001) -- [Landmark Legal Foundation v. EPA](#)

Landmark Legal Foundation asked a federal judge to prevent EPA from destroying documents Landmark has sought in a FOIA request concerning new environmental regulations being promulgated by the EPA in the last days of the Clinton Administration.

Montana Supreme Court Opinion (December 29, 2000) -- [Sleath v. West Mont Home Health Svcs., Inc.](#)

In this ruling, the court decided that federal pesticide law does not preempt common law damage claims by office workers allegedly exposed to a pesticide. The ruling reversed earlier court decisions that preemption, based on federal law, was valid.

D.C. District Court Memorandum Opinion (October 30, 2000) -- [American Farm Bureau v. EPA](#)

This ruling affirms industry's right to challenge science policies issued by EPA under FQPA. The potential precedent of this case is that EPA would not be able to use policies to reassess or revoke pesticide tolerances or registrations unless it promulgates them as regulations, such as was the case when this ruling permitted the possibility of an industry challenge on EPA's earlier failure to promulgate regulations on emergency pesticide uses under FIFRA Section 18.

See Related [Complaint](#) (January 2000)

Complaint Seeking Declaratory and Injunctive Relief (October 27, 2000) -- [Tozzi, et. al vs. EPA](#)

This action seeks declaratory and injunctive relief against EPA for their use of draft cancer risk assessment guidelines in performing human carcinogen hazard classification and risk assessments for certain environmental chemicals including a review of the pesticide pyrethrins.

NCAP Complaint (October 17, 2000) -- [Northwest Coalition for Alternatives to Pesticides v. Carol Browner, Administrator, EPA](#)

This complaint, filed by the Northwest Coalition for Alternatives to Pesticides, seeks the release of information from EPA identifying all inert ingredients in pesticide products.

U.S. District Court Decision (October 2, 2000) -- [No Spray Coalition, Inc. v. City of New York](#)

The No Spray Coalition argued in this case that the spraying program for mosquitoes potentially carrying the West Nile virus is both ineffective and a danger to the community. This decision, however, denies an injunction to stop the public spraying in connection with the West Nile virus. The Court dismissed all claims except that which was brought under the Clean Water Act.

U.S. District Court Memorandum Opinion and Order (September 29, 2000) -- [Alliance for Bio-Integrity v. Donna Shalala](#)

A coalition of groups and individuals, including scientists and religious leaders concerned about genetically altered foods, have brought this action to protest FDA policy on such foods in general, and in particular on various genetically modified foods that already have entered the marketplace. In this case, the Court determines that FDA did not violate

FFDCA and FDA regulations. The Court agrees that GM foods need not be labeled and that the FDA's policy does not violate the First Amendment Free Exercise Clause or the Religious Freedom Restoration Act.

U.S. District Court for the District of Columbia Complaint for Declaratory Relief (September 29, 2000) -- [Landmark Legal Foundation vs. EPA](#)

This is the full text of Landmark's Freedom of Information Act lawsuit against EPA.

U.S. Court of Appeals Decision (September 6, 2000) -- [Bielicki v. Terminix International Co.](#)

In this case, the appeals court upheld a \$2 million punitive damages award for three New Mexico prison workers who were severely harmed when exposed to a toxic insecticide applied by an employee of Terminix International Co.

CA Supreme Court Case (March 2, 2000) [Monique Etcheverry et al., v. Tri-Ag Service, Inc., et al](#)

The question presented by this case is whether state law claims for failure to warn of the risks of using a pesticide are preempted by FIFRA.

U.S. District Court for the District of Columbia - Fourth Amended Complaint for Declaratory and Injunctive Relief (January 2000) [American Farm Bureau Federation, et al, v. EPA](#)

This document outlines the complaints filed by the American Farm Bureau and others regarding EPA's failure to promulgate rules as required by FFDCA, FIFRA, and APA.

See Related [Memorandum Opinion](#) (October 30, 2000)

United Phosphorus v. BASF and Micro-Flo (Oct. 28, 1999) -- [Complaint](#)

In one of the first such lawsuits in the United States, United Phosphorus is seeking injunctive relief and recovery of over \$56 million, plus punitive damages. The complaint alleges that BASF and Micro-Flo imported millions of pounds of unregistered acephate

and permethrin under the false claims that the pesticides were registered by EPA and produced by United Phosphorus. United Phosphorus is represented by James Wright and Michael Kelly.

See Related [Press Release](#)

Oregon U.S. District Court Case - Opinion and Order (August 3, 1999) -- [Amvac Chemical Corp. v. Termilind, Ltd., et al](#)

Amvac claims that the defendants misappropriated its trade secrets by obtaining copies of analytical and process descriptions it provided to the EPA during the certification process for NAA pesticides. Amvac brought this action to prevent further sales of NAA pesticides by Termilind et al and recoup lost profits and damages.

EPA Amicus Curiae Brief (March 1999) -- [Monique Etcheverry, et al., v. Tri-Ag Service, Inc., Bayer Corp., et al.](#)

EPA argues in this legal brief that FIFRA does not preempt state-law failure to warn actions; that FIFRA does not preempt damages actions challenging label claims regarding pesticide efficacy; and that FIFRA does not preempt damages actions challenging off-label representations regarding pesticides.

U.S. District Court (March 1999) -- [Petition - Greenpeace, et. al. v. Browner, U.S. EPA](#)

A coalition of environmental and consumer groups, organic grower organizations, and individual organic growers sued EPA over its alleged failure to assess fully the environmental risks of Bt crops and the impacts of their registration on organic growers. This petition charges that EPA did not properly assess three major environmental risks: the development of insects resistant to Bt, the transfer of Bt genes to other plants, and effects of Bt crops on beneficial, nontarget insects.

See Related [Summary of Complaint](#) and [Press Release](#)

Summary of Complaint (Feb. 18, 1999) -- [Greenpeace, et al. v. Browner](#)

This summary describes the legal action taken against the U.S. EPA regarding the regulation of Bt crops. Greenpeace International joined over seventy plaintiffs, demanding that EPA withdraw all current registrations and deny future approvals of Bt crops, pending appropriate evaluation of risks to the environment and economic impacts on organic growers.

See Related [Petition](#) and [Press Release](#)

U.S. District Court - Complaint for Permanent Injunction and Other Equitable Relief (October 15, 1998) -- [FTC, et al. v. United Industries Corporation](#)

The FTC brings this action to secure a permanent injunction, preliminary relief and other equitable relief against defendant for its unfair or deceptive acts or practices in violation of the FTC Act during the advertising for and distribution of the product Terminate.

See Related Press Releases ([Oct. 15, 1999](#)) and ([March 18, 1999](#))

U.S. District Court - Eastern District of VA - Civil Action No. 97-2056-A (March 26, 1998) -- [Nation's Ag, LLC v. U.S. EPA, Carol Browner, Lynn Goldman, and Novartis Crop Protection, Inc.](#)

This document outlines the settlement agreement which delineates the process for Nation's Ag's registration application for the fungicide Metalaxyl Technical. At the core of the dispute is whether or not the active ingredient is a "new active ingredient", and whether or not EPA acted arbitrarily and capriciously in deciding to process the application under Section 3(c)(5) of FIFRA.

[Burt v Fumigation Service and Supply \(May 20, 1996\)](#)

This decision dismisses a suit brought against an industrial fumigator and a manufacturer of methyl bromide (Great Lakes Chemicals). The plaintiffs claimed exposure to the product and the suit had to do with the fact that the product did not contain a warning agent.

D.C. Circuit Court Decision (February 21, 1995) -- [Ciba-Geigy Corporation v. EPA](#)

Ciba-Geigy petitioned for review of a final rule which set the MCL for atrazine based on a Reference Dose (RfD) set at the same time by EPA. Although the petition was dismissed due to Ciba-Geigy's failure to exhaust administrative remedies, EPA was remanded to reconsider the appropriate MCL in light of a later revision of the RfD by EPA.