



Please submit response to:
Derrick Lastinger, Program Director
Structural Pest Control Section
Georgia Department of Agriculture
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Atlanta, GA 30334-4201

June 13, 2012

Steve Bradbury, Director
Office of Pesticide Programs
USEPA Headquarters
Ariel Rios Building
1200 Pennsylvania Avenue, N. W.
Mail Code: 7501P
Washington, DC 20460

Dear Mr. Bradbury,

On behalf of the Association of Structural Pest Control Regulatory Officials (ASPCRO), I am writing in regard to the document titled 'Environmental Hazard and General Labeling for Pyrethroid Non-Agricultural Outdoor Products' which details the label language amendments to be made by registrants of pyrethroid products as part of the Pyrethroid Risk Mitigation Decision. This letter serves as an opportunity to provide input based on discussions held by ASPCRO's Label Language Committee.

As you know, ASPCRO is a national professional organization comprised of state regulatory officials that works to resolve issues related to the regulation of pest management and pesticide use, focusing on structural and urban pest management issues. On behalf of our membership, I am requesting the agency's consideration of issues outlined below related to the proposed pyrethroid label statements.

We support the agencies goal of mitigating unnecessary risk associated with run-off into surface water in urban settings and concur with several of the statements in the label tables. However we would like to provide further input, suggestions and request clarification in order to be able to adequately carry out our role in ensuring compliance by applicators with the labels.

Placement of Language in Environmental Hazards Section of Label

States that have reviewed labels containing the new label language have a concern that statements found in the in the Environmental Hazards section, conflict with statements appearing in the Directions for Use section. Because the language in the Environmental Hazards section of the label is applicable to actual use of these products, we recommend the language be placed in both sections. Although applicators are responsible for reading the entire label, it is a reality that a majority of applicators rely primarily on the Directions for Use section. We suggest putting the most pertinent statements related to actions preventing runoff in this section in order to gain more consistent compliance among applicators.

Spot Treatment

Questions arising from the definition of “spot treatment” and “crack and crevice” applications have also resulted in some concerns for member states. Specifically what constitutes a spot and crack and crevice treatment, and are there limitations to the limitations to the number of or distance between these kinds of treatments. In EPA’s response letter to CDPR, for pyrethroid label language, spot treatment was indicated to be defined as 2 square feet, with reference to PRN 73-4. The notice also defines application into cracks and crevices where pests hide or can gain entry. States support this determination related to spot and crack and crevice treatments as appropriate where no state level definition exists. States also agree the distance between and number of spot treatments is to be left to state discretion as long as they consider the intended goal of limiting runoff into waterways.

Foundation Type

Some minor concerns have been raised over treatments to a “foundation”, primarily in what constitutes a foundation which is typically the slab or other supporting structure, not the vertical wall surface. EPA’s letter to CDPR included a clarification to the term foundation and indicated the intent is any material on the vertical side of the structure. It is suggested to restate the instruction to be ‘3 feet up from exterior grade’. This eliminates any question as to the type of foundation or siding, as it more closely relates to terms as used in the structural pest control industry.

Impervious Surfaces

The general intent of this requirement is understood, however clarification is needed in relation to rock landscaping. Popular in the west, landscapes often include rock/gravel covering with an underlying landscape barrier fabric which is usually either a water permeable fabric or a plastic liner that acts as a weed barrier. Is it correct that if the fabric is permeable, it qualifies under the exception? If so then if plastic materials are used, would that still qualify under the exception? Does the plastic qualify as an impervious surface or is it not a factor in these settings, given the rock is the top cover which would be exposed to application?

Application to Windows, Doors, and Eaves

While ASPCRO understands the intent of limiting applications where heavy rains may rinse off residues and result in runoff, we do not understand the intent of limiting applications to the underside of eaves when these areas are protected from rain. Even in the most severe rain storms, runoff from applications to the underside of an eave is not likely to contribute to runoff during rain events. Overhangs, eaves, soffit areas, etc. are by nature designed to keep rainwater away from structures. Surface treatment application to the underside of eaves or overhangs should be allowed. If pesticide depositions to the ground during an application are a concern, then limit to spot or crack and crevice only when the area below is an impervious surface.

Treatment of Vertical Surfaces

ASPCRO believes EPA should reconsideration its position on treatment of any vertical surface when the following two conditions are both met:

1. the treatment is for specific pests for which coverage of the application area is important and
2. the ground beneath the vertical surface is one of the allowable exceptions.

The pests would include brown marmorated stink bugs, kudzu bugs, box elder bugs, spiders, cluster flies, multicolored Asian ladybeetles, clover mites, elm leaf beetles, carpenter bees and other similar insects. These pests are known to be problematic in large migrating populations occurring on the exterior looking for harborage and entrances to the interior. Treatment of a vertical surface is a necessary control option for managing these pests. Maintaining this control option would not contribute to the risk of run-off to surface water if the area beneath the vertical surface was capable of capturing residue from an application.

'Do not water to runoff' for Granules

Granular products have a provision to "not water to runoff". A problem can exist in relation to who does the watering in. In some instances the applicator may perform the watering in but it is also a fairly standard practice for the applicator to instruct the homeowner to water in at the next time their sprinklers are set to water. Is the applicator responsible if runoff occurs from the homeowner's actions?

Also depending on the topography of the property, "run off" could occur from a residential yard naturally. Is the applicator in violation for applying the product in an area such as this?

Preconstruction Termiticide Treatments

Requirement to cover soil prior to a rain event

A requirement to cover treated soil under a slab prior to a rain event is understandable. The language indicates the applicator must do the covering or provide written notification to a contractor or other responsible person on site – most states do not have authority to take action against anyone other than the applicator. A statement on the label which shifts responsibility is problematic. States do not support any label language other than what is directly applicable to the applicator. What does the agency anticipate if the applicator met the obligation to provide written notification but the other party fails to cover the area?

If EPA intends to keep the language discussed above, further clarification is needed based on questions by a number of states. Is the covering requirement intended to be when rain is "predicted"? If best efforts are made and an unpredicted rain event occurs, will this be considered a violation? Is state discretion applicable when determining if an applicator met this requirement in terms of anticipating rain?

In many states like Florida and Washington, daily rains may be predicted during certain seasons. Builders in these areas of the country, typically coordinate the preconstruction treatment with pouring of the slab. Builders are not likely to leave a treated area exposed because of the potential liability of exposure to workers or unauthorized personnel at the construction site. As a result of practices already in place by applicator and builders, the necessity for label language that requires protecting treated slab areas may not be necessary.

The language utilizes the term soil – should it be assumed only soil is required to be covered or would gravel fill or other material also need to be covered?

Limitation within 25 feet of aquatic habitat

What is the basis for this distance? Does this include ditches or areas which are 'dry' at the time of application? This might include irrigation ditches or low lying areas which collect water only during limited periods.

Wind speed at nozzle height

We request clarification from the Agency on the intent of this requirement. It appears to be over reaching and places a regulatory burden on states to ensure wind speed at the nozzle height. We recommend the wording be changed to a more general requirement stating wind speed cannot exceed 10 mph at the application site.

ASPCRO appreciates the opportunity to provide the Agency with input from the states. We also appreciate and value our working relationship and the Agency's willingness to respond to our questions. ASPCRO is available to assist in any further discussions of workable solutions to the indicated issues. Thank you in advance for your consideration and feel free to contact me with any questions.

Sincerely,



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President, ASPCRO
Program Director, Georgia Department of Agriculture



Bonnie M. Rabe
Chair, ASPCRO Label Stewardship Committee
Division Director, New Mexico Department of Agriculture