



August 4, 2011

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Dear Ms. Rossi and Mr. Keigwin:

The Department of Pesticide Regulation (DPR) placed pesticide products containing pyrethroids into reevaluation in 2006. The reevaluation is based on monitoring surveys and toxicity studies revealing the widespread presence of synthetic pyrethroid residues in the sediment of California waterways, at levels toxic to the aquatic invertebrate, *Hyalella azteca*.

DPR's Registration Branch Staff has worked with your staff to keep you informed of the progress of DPR's reevaluation and data requirements, including requesting your staff's comments on study protocols and study results. We are also aware, and have been closely following, actions taken by your Agency with regard to pyrethroids. In particular, Ms. Denise Alder worked closely with Jacqueline Guerry on your Agency's June 4, 2009 letter to pyrethroid registrants regarding "Environmental Hazard and General Labeling for Pyrethroid Non-Agricultural Outdoor Products Notification."

In order to address concerns regarding pyrethroid residues in California's urban creeks and streams from structural and landscape use, DPR plans to propose regulations (draft enclosed) to restrict the use of pyrethroid products applied outdoors to structural, residential, industrial and institutional sites by any person performing pest control for hire, including landscape maintenance gardeners. DPR intends for the proposed regulation to closely follow the labels changes your Agency requested of pyrethroid registrants in its June 4, 2009 letter.

Specifically, the regulations will propose that applications to the soil surface, mulch, gravel, lawn, turf, or groundcover can only be made by: 1) spot; 2) pin stream; 3) perimeter band of three feet wide or less from the base of a building outward; and 4) broadcast treatment but not



Ms. Lois Rossi
Mr. Richard Keigwin
August 4, 2011
Page 2

within two feet from any horizontal impervious surface. For granular applications to the soil surface, mulch, gravel, lawn, turf, or groundcover, the applicator will be required to sweep any granules that land on horizontal impervious surfaces onto the treatment site.

Applications to horizontal impervious surfaces will be limited to: 1) spot; 2) crack and crevice; and 3) pin stream. Applications to vertical structural surfaces, such as walls, foundations, windows, doors, and fencing, will be limited to: 1) spot; 2) crack and crevice; 3) pin stream, and 4) perimeter band treatment up to a maximum height of two feet above the grade level. In addition, the proposed regulation will prohibit certain other applications (see enclosed draft).

DPR worked with various stakeholders to obtain input on common practices by the pest control industry, application methods used to control pests under various scenarios, and the language proposed. In drafting the regulations, we have come across some areas where we would like your input. For example, the label language you requested that pyrethroid registrants place on product labels, states "All outdoor application must be limited to spot or crack-and-crevice treatment only, except for the following permitted uses: (1) Treatment...(3) Applications to building foundations, up to a maximum height of 3 feet." In California, many houses are built on slab foundations that are typically about three to four inches above the grade level. DPR is proposing to reduce the 3 foot allowance to 2 feet and use the wording "perimeter band treatment up to a maximum height of two feet above the grade level." If a structure has a four inch foundation above grade level, this wording would allow an applicator to continue to apply material another 20 inches up the vertical side of the house on the house siding material. Does the word "foundation" exclude application of the chemical to the siding material of a structure? We suggest the label language be changed to address differences in building structures.

The same paragraph limits applications to "spot or crack-and-crevice treatment only." DPR would like to allow applicators to apply product as a "pin stream" defined as "one inch wide or less." A pin stream application is often made to a surface where there is no crack-and-crevice. Does the term "crack-and-crevice" include DPR's definition of a pin stream application? Regardless of the interpretation, we would like to discuss with you possible label changes to address this concern and clarify the language.

You also asked registrants to add the following language "Other than applications to building foundations, all outdoor applications to impervious surfaces such as sidewalks, driveways, patios, porches and structural surfaces (such as windows, doors, and eaves) are limited to spot and crack-and-crevice applications, only." DPR would like to allow broadcast application to "areas protected by a structure from precipitation." For example, under the eaves of a house or under a covered patio. Would DPR's use of such wording in the proposed regulation be interpreted by your Agency as "less restrictive" than the label language? Pest control operators often treat large areas under the eaves to control spiders and other pests. These are not typically considered spot or crack and crevice applications. We do not have a concern with these types of

Ms. Lois Rossi
Mr. Richard Keigwin
August 4, 2011
Page 3

applications contaminating surface water since the areas are protected from rainfall. Adding an exception to the label language would allow this application method to be used.

In addition to proposing regulations to restrict the professional use of pyrethroid products outdoors, DPR is in discussions with bifenthrin registrants regarding the placement of additional restrictions on bifenthrin products. These restrictions would go beyond the restrictions proposed by your Agency. Specifically, we would like to prohibit professional application of bifenthrin to horizontal impervious surfaces, unless the surface is protected from rainfall and spray from sprinklers. We would also like to prohibit professional application of bifenthrin to vertical impervious surfaces, unless the surface is protected from rainfall and spray from sprinklers or the abutted horizontal surface does not drain into streets. In our discussions, registrants have stated that they prefer to amend product labels, rather than have DPR place the additional restrictions in regulation. Since the amended labels will need to be approved by U.S. EPA before they come into California, I want to inform you of our intent to work with registrants on these label amendments and will need your Agency's support to process these changes. I will keep you informed as we get further along in the process.

We hope to notice the proposed regulations for public comment by the end of August. Therefore, we would like to resolve the above issues with your Agency as soon as possible.

If you have any questions, please contact me or Ms. Ann Prichard, Chief of the Pesticide Registration Branch by e-mail at <aprichard@cdpr.ca.gov> or by telephone at 916-324-3931.

Sincerely,



Charles M. Andrews
Associate Director
916-445-3984

Enclosure

cc: Ms. Ann Prichard, DPR