Message

From: Wheeler, Maya [Wheeler.Maya.B@epa.gov]
Sent: 7/23/2021 6:05:35 PM
To: Maignan, Tawanda [Maignan.Tawanda@epa.gov]
Subject: RE: OR-090007 and OR-090009 chlorpyrifos SLN amendments

Thank you, Tawanda!

Perfect, I will add that text in and change his name to David.

Best,

Maya

From: Maignan, Tawanda <Maignan.Tawanda@epa.gov>
Sent: Friday, July 23, 2021 1:36 PM
To: Wheeler, Maya <Wheeler.Maya.B@epa.gov>
Subject: RE: OR-090007 and OR-090009 chlorpyrifos SLN amendments

Great job Maya – I really like your closing statements. ☺

I added the text in red and feel free to use "David" in your greeting.

Thanks!
Tawanda

From: Wheeler, Maya <Wheeler.Maya.B@epa.gov>
Sent: Friday, July 23, 2021 12:59 PM
To: Maignan, Tawanda <Maignan.Tawanda@epa.gov>
Subject: RE: OR-090007 and OR-090009 chlorpyrifos SLN amendments

Hi Tawanda,

Thank you again for meeting with me today! I am glad we were able to discuss the next steps for the chlorpyrifos amendments as well as the checklist. Below is a draft of the email I will reply to David's message with.

"Dear Mr. Priebe (David or Mr.Priebe?),

Thank you for getting back to us, we are sorry to hear that you were on unexpected sick leave but hope that you feel better.

As Tawanda shared with Rose, we acknowledge that these SLNs were not established to be more restrictive and that OR implemented a state rule for those purposes. As such, our responses to your proposed the SLN labeling language is as follows:

> **On page 3:** we concur with the proposed label changes you would like to ask the registrant to make.
>
> *"According to Oregon law, the use of chlorpyrifos* ***under this SLN label*** *is subject to limitations imposed by the Oregon Permanent Chlorpyrifos Rule, OAR 603-057-0545."* (Note that our revision is highlighted here only for your reference. Will not be highlighted on the label.)

On page 5: we agree that the URL should come after the OAR Rule instead of it being separated by a phrase, however, we would like to keep the parentheticals around "including special PE respirator requirements and application recordkeeping requirements", because it is what was suggested by OGC. Below is our proposed wording:

"Use of Lorsban Advanced under this SLN (including mixing, loading, and pesticide application) is subject to all provisions of the Oregon Permanent Chlorpyrifos Rule, OAR 603-057-0545, <URL> (including special PPE respirator requirements and application recordkeeping requirements)"

To respond to your question about the other Lorsban Advanced SLN labels you submitted on May 3: OR-090008, OR-090010, OR-090011, OR-090012, and OR-090013, if they also require the changes from the OAR Rule then yes, please ask the registrant to revise those as well.

We apologize for the short timeframe we gave you and understand that asking the registrants to revise their labels and to send them back to us takes longer. With that being said, it is not problem to receive the revised labels in a week or so.

Thank you for the work you are doing on your end,

Maya and Tawanda"

Please let me know if I missed anything or if there is a better way to word something.

Thank you!

Maya

From: David Priebe <dpriebe@oda.state.or.us>
Sent: Friday, July 23, 2021 9:53 AM
To: Maignan, Tawanda <Maignan.Tawanda@epa.gov>; Wheeler, Maya <Wheeler.Maya.B@epa.gov>
Cc: Rose Kachadoorian <rkachadoorian@oda.state.or.us>
Subject: Re: OR-090007 and OR-090009 chlorpyrifos SLN amendments
Importance: High

Tawanda and Maya:

I am sorry I was temporarily unavailable earlier this week to attend to Maya's request to amend these SLN registrations.

I ***think*** I do understand the concern that Maya expressed in her email ... *States may include localized restrictions and use directions on 24(c) labels, but may not extend those state-specific restrictions to the federally approved uses by way of a 24(c) label.*

As Rose said earlier: These Oregon chlorpyrifos SLNs were not amended to place restrictions on crops not covered by the SLNs. We struggled mightily to make meaningful and appropriate amendments to the labels this spring, while keeping within the bounds of the Oregon Chlorpyrifos Rule, **and** within the limitations of FIFRA Section 24(c). But we probably didn't get that one statement quite right on page 3.

To address the two sentences where revisions are requested:

Ex. 5 Deliberative Process (DP)

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Please consider this alternative wording: *"According to Oregon law, the use of chlorpyrifos* ***under this SLN label*** *is subject to limitations imposed by the Oregon Permanent Chlorpyrifos Rule, OAR 603-057-0545."* (Note that our revision is highlighted here only for your reference. Will not be highlighted on the label.) Will this revision be acceptable?

On page 5, our original sentence: *"Use of Lorsban Advanced under this SLN (including mixing, loading, and pesticide application), and including special PPE respirator requirements and application recordkeeping requirements, is subject to all provisions of the Oregon Permanent Chlorpyrifos Rule, OAR 603-057-0545: <URL>."*

Please consider this alternative wording: *"Use of Lorsban Advanced under this SLN (including mixing, loading, and pesticide application) is subject to all provisions of the Oregon Permanent Chlorpyrifos Rule, OAR 603-057-0545, including special PPE respirator requirements and application recordkeeping requirements: <URL>"*

Note that THIS proposed version simply sets off the last phrase in Maya's proposed sentence by a comma instead of parentheses. We dislike the fact that the OAR reference is now separated from the URL by a phrase, but I believe this is cleaner and more readable than Maya's suggestion of having two parentheticals in one sentence, while still accomplishing her intent of making the sentence more readable, if I understand her intent correctly. Will this revision be acceptable?

Please understand that we will need to work with the registrant to have these label changes made, and that may take at least another few days.

Ex. 5 Deliberative Process (DP)

Let me know whether the changes I propose above will be acceptable to address Maya's requirements, and I will get back with the registrant ASAP.

Also, please let me know whether EPA will be wanting the same changes to be made on all of the other Lorsban Advanced SLN label amendments that I submitted on May 3: OR-090008, OR-090010, OR-090011, OR-090012, and OR-090013.

Thank you for the timely review of our amendments to these SLNs. I know it is a major undertaking!

Sincerely yours,

David L. Priebe, State Registration Specialist
Oregon Department of Agriculture – Pesticides Program
635 Capitol St NE, Salem, OR 97301-2532
PH: 503.986.4656 | WEB: Oregon.gov/ODA

On Jul 21, 2021, at 5:31 PM, Rose Kachadoorian <rkachadoorian@oda.state.or.us> wrote:

Tawanda,

David Priebe has been out on unexpected sick leave all week. Hopefully he will be back this week.

I understand that certain people at EPA are now having a dim view of the long standing practice of SLAs issuing SLNs for the exclusive purpose of adding restrictions, rather than adding a new use site (which may or may not add restrictions specific to the new use site). I realize that it was in EPA's guidance for many years; however I had no idea that certain states were semi-commonly issuing these types of registrations, and we have never issued a SLN for the exclusive purpose of adding restrictions. But I suppose that is because it is easier to adopt laws which increase environmental protections and protect people and wildlife in Oregon than in some other states. Even though we have never used SLNs for this purpose, I support states that have issued these types of SLNs. Without this option, they could not use these products without excessive risk. I applaud them for caring about the environment.

Important: These Oregon chlorpyrifos SLNs were not amended to place restrictions on crops not covered by the SLNs. We have a law in place which imposes restrictions on all* uses of chlorpyrifos in the State of Oregon, including of course any uses on any SLNs. The SLNs are just referring back to the state law. It is a challenge sometimes for pesticide users to be aware of a new law unless it is printed on a label.

But I will take a definitely look at your changes, and try and get back to you this week.

FYI: All uses of chlorpyrifos will be prohibited in Oregon after December 31, 2023, except for granular and cattle ear tags
https://www.oregon.gov/oda/programs/Pesticides/RegulatoryIssues/Documents/Documents/2020/ChlorpyrifosRule.pdf

Thank you

Rose

* excluding cattle ear tags

On Jul 21, 2021, at 12:36 PM, Maignan, Tawanda <maignan.tawanda@epa.gov> wrote:

Hi Rose,

Recently, the notice below was sent to David's attention regarding the subject SLNs amended this year that we were hoping you could assist us with. There were a couple of revisions identified below that need to be addressed as soon as possible. Therefore, we would appreciate your immediate attention to this matter.

Please let me know if you have any questions.
Thanks,
Tawanda

From: Wheeler, Maya <Wheeler.Maya.B@epa.gov>
Sent: Monday, July 19, 2021 5:13 PM
To: dpriebe@oda.states.or.us
Cc: Bohnenblust, Eric <Bohnenblust.Eric@epa.gov>; Maignan, Tawanda <Maignan.Tawanda@epa.gov>
Subject: OR-090007 and OR-090009 chlorpyrifos SLN amendments

Dear Mr. Priebe,

The two chlorpyrifos amendments (OR-090007 and 090009) you submitted are currently under review. Under FIFRA 24(c), States may include localized restrictions and use directions on 24(c) labels, but may not extend those state-specific restrictions to the federally approved uses by way of a 24(c) label. Therefore, we request that Oregon modify the SLN labels to ensure that the state-specific restrictions are more clearly limited to use pursuant to the SLN, and not to all uses of the products. Specifically, please revise the following sections of the labels:

On Page 3, revise the following statement to limit the restrictions to use pursuant to this SLN: *"According to Oregon law, the use of chlorpyrifos is subject to limitations imposed by the Oregon Permanent Chlorpyrifos Rule, OAR 603-057-0545."*

On Page 5, revise the statement from *"Use of Lorsban Advanced under this SLN (including mixing, loading, and pesticide application), and including special PPE respirator requirements and application recordkeeping requirements, is subject to all provisions of the Oregon Permanent Chlorpyrifos Rule, OAR 603-057-0545."* **To**
"Use of Lorsban Advanced under this SLN (including mixing, loading, and pesticide application) is subject to all provisions of the Oregon Permanent Chlorpyrifos Rule, OAR 603-057-0545 (including special PPE respirator requirements and application recordkeeping requirements)."

Please send the revised labels back to me by COB Wednesday, July 21, 2021. If you have any questions, please reach out.

Thank you,

Maya