Message

From: Rosenblatt, Daniel [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AEEDBDCE1DD0473AAB1628C69953F724-DANIEL J. ROSENBLATT]
Sent: 3/10/2021 11:25:31 PM
To: Laws, Meredith [Laws.Meredith@epa.gov]
CC: Benbow, Gene [Benbow.Gene@epa.gov]
Subject: RE: Guidance on what is acceptable for issuing an SLN for dinotefuran

Hi – so this has gotten really confusing.

My main suggestion is this is a candidate for a consultation with OGC. Scott Garrison and Michele Knorr have been the leading voices on these provisions.

Ex. 5 Deliberative Process (DP)

Let me know if you want to talk about it more or I can help you on this.

From: Laws, Meredith <Laws.Meredith@epa.gov>
Sent: Wednesday, March 10, 2021 1:38 PM
To: Rosenblatt, Daniel <Rosenblatt.Dan@epa.gov>
Cc: Benbow, Gene <Benbow.Gene@epa.gov>
Subject: FW: Guidance on what is acceptable for issuing an SLN for dinotefuran

Dan – please see the email exchange below between me and Gene. NY issued an SLN as Restricted Use. The parent is not RU.

Now what do we do?

Meredith

From: Benbow, Gene <Benbow.Gene@epa.gov>
Sent: Wednesday, March 10, 2021 10:16 AM
To: Laws, Meredith <Laws.Meredith@epa.gov>
Subject: FW: Guidance on what is acceptable for issuing an SLN for dinotefuran

She says NY designates RUP via a "stamp", and not a label heading. I didn't know this.

It looks to me like they're issuing a SLN that is more restrictive than the section 3 label due to:

1. The NY SLN being Restricted Use (whereas the parent 74779-15 is not a RUP)
2. The NY SLN only permitting a subset of the labeled uses for the parent (74779-15).

Should I advise her not to issue this SLN?

Gene Benbow
Product Manager 7
Invertebrate & Vertebrate Branch 3
Registration Division
Desk: 703-347-0235
Cell: 703-712-9669

From: McBath, Paula (DEC) <paula.mcbath@dec.ny.gov>
Sent: Wednesday, March 10, 2021 10:01 AM
To: Benbow, Gene <Benbow.Gene@epa.gov>
Subject: Re: Guidance on what is acceptable for issuing an SLN for dinotefuran

Thank you for looking at my SLN labeling and responding so quickly. In NYS we restrict products per our regulations and indicate those restrictions on the state issued certificate and by stamping the NYS accepted label with our "Restricted Use" stamp. NYS has reviewed the active ingredient dinotefuran and denied outdoor use patterns to protect pollinators. Therefore, the SLN label allows use of Transect **only** for the control of the invasive pests listed on the NYS SLN label. The full section 3 label for application to listed use sites and pests are not allowed in NYS, only the use sites and pests listed on the NYS SLN label. The section 3 label is not registered for use in NYS but is allowed to be sold and used only in conjunction with the NYS SLN labeling.

Your thoughts are much appreciated,

Paula McBath
Environmental Chemist II
Pesticide Product Registration Section
phone: (518) 402-8768
fax: (518) 402-9024

From: Benbow, Gene <Benbow.Gene@epa.gov>
Sent: Wednesday, March 10, 2021 7:13 AM
To: McBath, Paula (DEC) <paula.mcbath@dec.ny.gov>
Subject: RE: Guidance on what is acceptable for issuing an SLN for dinotefuran

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Hi Paula,

I compared the SLN label you attached to the parent section 3 product (74779-15 https://www3.epa.gov/pesticides/chem_search/ppls/074779-00015-20190918.pdf) and the only difference I can determine that exist between them is the targeting of a couple of additional pests and tree species for injection. If the purpose for the SLN was just to add these additional pests and tree species—provided NY has found that the product is efficacious against emerald ash borer—I wouldn't see any problem on our end with NY issuing the SLN. However, I'm confused by this statement in the SLN letter –

> The SLN registration for Transtect Infusible (SLN NY-200004), as noted on the "restriction" column of the certificate, is classified as "restricted use" in New York State under rules and regulations 6NYCRR 326.23(e). As such, this product is restricted in its purchase, distribution, sale, use, and possession in New York State.

I don't see any obvious Restricted Use box on the SLN label, so I don't understand what this statement means or whether the product is truly intended to be classified as Restricted Use under this SLN. Our recent policy with regard to SLNs has been that we will no longer accept ("acknowledge") SLNs that are more restrictive than the EPA section 3 label, or that are more restrictive than EPA's assessments if no section 3 "parent" label exists for the SLN use.

Regards,

Gene Benbow
Product Manager 7
Invertebrate & Vertebrate Branch 3
Registration Division
Desk: 703-347-0235
Cell: 703-712-9669

From: McBath, Paula (DEC) <paula.mcbath@dec.ny.gov>
Sent: Tuesday, March 09, 2021 4:46 PM
To: Benbow, Gene <Benbow.Gene@epa.gov>
Subject: Guidance on what is acceptable for issuing an SLN for dinotefuran

Dear Mr. Benbow,

I believe that I am understanding the changes in EPA approvals for SLNs but wanted to be sure as I am receiving some pushback from registrants. I was about to submit a 24(c) application to register an injectable dinotefuran product for control of invasive species only in New York State, but upon review of the EPA web page for SLN submission found that our state "restriction" of a product use just to invasive species may not be allowed under FIFRA 24(c). regulations. I would appreciate your insight as to whether the attached SLN labeling and reasoning as discussed in the attached letter are valid and approvable for SLN registration by EPA.

Kind Regards,

Paula McBath
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