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California Notice 2018-01

TO: Pesticide Product Registrants and Other Stakeholders

SUBJECT: EXPANDING USE OF PESTICIDE PRODUCTS UNDER REEVALUATION

Effective immediately, the Department of Pesticide Regulation (DPR) will not act upon an Application for Pesticide Registration or Application to Amend Pesticide Product if DPR determines the registration or acceptance would potentially “expand use” (as described below) of an active ingredient or pesticide product currently under reevaluation until the conclusion of the reevaluation. This applies to new pesticide products, including supplemental distributor registrations (subregistrations) and amendments to currently registered pesticide products, when “expanding use” of the active ingredient relevant to the concern that prompted the reevaluation. When DPR completes the reevaluation, DPR will be able to, in light of the reevaluation determination, consider the application for product registration or amendment.

BACKGROUND

DPR is committed to protecting human health and the environment while regulating pesticide sales and use in California. In pursuit of this mission, DPR implements a science-based program of initial evaluation before registering a pesticide for the first time in California and continuous evaluation of registered pesticides. Pursuant to Title 3, California Code of Regulations (3 CCR) section 6220, et seq., DPR may evaluate a California registered pesticide at any time and is required to investigate all reported episodes and information received indicating that a pesticide may have caused, or is likely to cause, a significant adverse impact. If DPR finds, from the investigation, a significant adverse impact to human health or the environment has occurred or is likely to occur, the pesticide involved shall be reevaluated. When a pesticide enters reevaluation, DPR reviews existing data related to the subject of the reevaluation and may require registrants to provide additional data to satisfy reevaluation data requirements.

Until DPR receives and assesses data applicable to the reevaluation and can mitigate the concern that prompted the initiation of the reevaluation, it is not in a position to determine that an expanded use will not cause a “significant adverse environmental impact,” as required under its certified regulatory program (3 CCR section 6254).



DPR interprets the following types of actions, related to a new or amended product containing the active ingredient under reevaluation, as examples of “expanding use:”

- A proposed new pesticide product, including any Special Local Needs registration or Experimental Use Permit, with a label bearing uses or exposure scenarios relevant to the concern that prompted the reevaluation. This includes any product label that is identical or substantially similar to a currently registered product in California.
- Amendment of a currently registered product to add or modify uses or exposure scenarios relevant to the concern that prompted the reevaluation, even if such use is already on other currently registered pesticide products in California. Examples of such changes include:
 - New or modified uses (e.g., new crops, pests, or use sites)
 - New or modified use patterns (e.g., adding aerial, aquatic, soil applications, or outdoor use)
 - Significant formulation changes (unless prompted by the reevaluation)
 - Increased application rates or total use amount allowed (e.g., acreage or frequency of application)
 - Other label additions or changes that may increase pesticide exposure in a manner that is relevant to the basis for the reevaluation

This notice does not preclude expanded use of a product if the expansion is not consistent with uses or exposure scenarios relevant to the concern that prompted the reevaluation. For example, products containing a specific active ingredient may be under reevaluation over concerns regarding exposure to wildlife. As a result, a pesticide product application containing the same active ingredient labeled solely for indoor use, with no potential wildlife exposure, would not be precluded under this notice.

SECTION 18 EMERGENCY EXEMPTION REQUESTS

DPR acknowledges a pest management or public health need could arise during a reevaluation that would support the issuance of an Emergency Exemption request under the Federal Insecticide, Fungicide, and Rodenticide Act section 18. If such a case arises, DPR will assess the request by relying on currently available information and risk mitigation strategies.

PRODUCTS CURRENTLY AFFECTED

DPR is currently reevaluating certain pesticide products containing the following active ingredients:

- Chloropicrin
- Copper-based antifouling paints (copper oxide, copper hydroxide, and cuprous thiocyanate¹)
- Cyfluthrin
- Diazinon
- Nitroguanidine neonicotinoids (imidacloprid, thiamethoxam, clothianidin, and dinotefuran)

Effective immediately, this notice applies to any submissions that are currently pending at DPR and all future submissions. If DPR determines a proposed new pesticide product or amendment is subject to an ongoing reevaluation and may “expand use” of the active ingredient and/or pesticide product relevant to the concern that prompted the reevaluation, the applicant will be given an opportunity to withdraw or modify its submission. If the applicant does not withdraw or modify its submission within ten (10) business days after they are informed of DPR’s determination, DPR will return the submission. For any submission prior to February 1, 2018, if the submission is withdrawn within ten (10) business days after they are informed of DPR’s determination, DPR will refund the application fee. For submissions submitted after February 1, 2018, the application fee will not be refunded. Once DPR returns an application, the applicant has six (6) months to resubmit the application before a new application fee is required. After a withdrawal or six (6) months after a return, a new application, proposed labels, and fee must be submitted for the product to be considered for registration.

For more information regarding DPR’s Reevaluation Program, including documents associated with both current and completed reevaluations, visit DPR’s Web site at <<http://www.cdpr.ca.gov/docs/registration/reevaluation/reevals.htm>>. For questions regarding the DPR’s Reevaluation Program or this notice, contact Russell Darling at <Russell.Darling@cdpr.ca.gov> or by telephone at 916-324-3547.

Original signed by Shelley Lopez

Ann M. Prichard, Chief
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January 3, 2018

Date

cc: Mr. Russell Darling, DPR Senior Environmental Scientist (Specialist)
Ms. Denise Alder, DPR Senior Environmental Scientist (Specialist)

¹DPR anticipates concluding this reevaluation within the next month based on the January 1, 2018, enactment of 3 CCR section 6190, “Copper-based Antifouling Paints and Coatings.”