



UNIVERSITY
of HAWAII®
MĀNOA

April 16, 2013

Michelle Arling
Field and External Affairs Division (7506P)
Office of Pesticide Programs
Environmental Protection Agency
1200 Pennsylvania Ave. NW.
Washington, DC 20460-0001

Subject: **Docket ID Number EPA-HQ-OPP-2012-0906**

Comments in Response to *Pesticides; Draft Guidance for Pesticide Registrants on Web-Distributed Labeling for Pesticide Products*

The following comments are being submitted in response to the January 16, 2013 *Federal Register* notice announcing the availability of and seeking public comment on the draft Pesticide Registration Notice, *Web-Distributed Labeling for Pesticide Products*. These comments are being submitted on behalf of the Western Integrated Pest Management Center and provide input compiled by the University of Hawai'i.

Web-distributed labeling (WDL), as proposed, is voluntary for registrants and is limited to pesticide products marketed for agricultural, turf, structural sites, and production of agricultural commodities. Based on the proposal, it appears that participating registrants would have to host the WDL site themselves, providing a URL address on the container labels linking to that website. Comments, below, are based on these characteristics of WDL.

- **Consistency of labels and label language between EPA, registrant-hosted WDL site, and state approved labeling.**

The Hawai'i Department of Agriculture and many other state lead agencies (SLA) review new and revised labels prior to acceptance for sale within their states. Their processes assure that the language on the marketplace label is in compliance with state and Federal rules. The draft PR notice speaks nothing about the requirement for registrants participating in WDL to make sure WDL label language associated with that product (for the state in which product will be used, and site of use) will be consistent with the label that each SLA has approved. How will delivery of state-approved label language be assured? Will the burden fall to the states to go to each WDL-hosting web site to check label versions and "accept" them, similar to the procedures in electronic state-registration systems such as ALSTAR? This mechanism would put added pressure on SLAs' already minimal resources to review newly revised labels right away. Or would EPA allow registrants (by an unspecified mechanism) to link to label versions available in ALSTAR (or other third party state registration services) to reduce duplication of efforts by SLA's?

- **Enforceability issues.**

Web-distributed labeling could pose many issues in regards to enforceability, both during the course of an investigation and after. How will it be assured that the label language provided at the registrant's

WDL is based on the EPA accepted language? In addition, EPA “believes that web-distributed labeling could allow addition of new uses, modifications of existing labeling requirements, and implementation of labeling-based risk mitigation measures more quickly.” Therefore, it is possible that WDL could result in a user receiving a label--which includes a new use or other label directions--that has not been approved by the state.

The guidance also indicates that the user has the option of using the container label or the label printed from the WDL site. How will the enforcement staff be certain which label was, in fact, applicable for the application? If, for example, one label has higher PPE restrictions and the user did not comply, they could claim they were using the other label. Who has the burden of proof?

- **User identification of sites**

According to the PR notice, “Users would . . . select the use site from an established list of some or all uses approved on the master labeling for inclusion as part of the WDL.” States approve pesticide labels which appear on or attached to containers in the marketplace, not master labels. Marketplace labels frequently do not include all of the sites listed on master labeling. Thus, users may receive a WDL for a site which was not on the label approved by their state, or submitted for state-approval by the registrant. Regarding, new label language, the PR notice says, “In instances where the additional web-distributed labeling conflicts with the container label, the user may choose a single, valid version of the labeling to follow.” Is the burden on the user to determine which version of the label is valid in their state?

Information for these comments was compiled with input received from the Hawai‘i Department of Agriculture.

Comments submitted by:



Mike Kawate
Pesticide Registration Specialist
Voice: 808-956-6008
mike@hpirs.stjohn.hawaii.edu



Cathy Tarutani
Educational Specialist
Voice: 808-956-2004
cathy@hpirs.stjohn.hawaii.edu