

SFIREG Issue Paper: Pollinator protection language conflicts between “Environmental Hazards” statements and “Directions for Use” instructions found on new neonicotinoid pesticide product labels

Priority: High

Issue:

USEPA recently established requirements for specific language on labels of foliar applied neonicotinoids (and selected other pesticides) to mitigate risk to bees. Some of these product labels also include prescriptive environmental hazard statements that can override the new directions for use. An example (among many product labels) is imidacloprid (Admire Pro Systemic Protectant, EPA Reg. No. 264-827), for which the Environmental Hazards section states, “Do not apply this product or allow it to drift to blooming crops or weeds if bees are visiting the treatment area.” The Directions for Use section of this label also includes pollinator protection language that states:

1. FOR CROPS UNDER CONTRACTED POLLINATION SERVICES

Do not apply this product until flowering is complete and all petals have fallen unless the following condition has been met.

If an application must be made when managed bees are at the treatment site, the beekeeper providing the pollination services must be notified no less than 48-hours prior to the time of the planned application so that the bees can be removed, covered or otherwise protected prior to spraying.

2. FOR FOOD CROPS AND COMMERCIALY GROWN ORNAMENTALS NOT UNDER CONTRACT FOR POLLINATION SERVICES BUT ARE ATTRACTIVE TO POLLINATORS

Do not apply this product while bees are foraging. Do not apply this product until flowering is complete and all petals have fallen unless one of the following conditions is met:

- The application is made to the target site after sunset*
- The application is made to the target site when temperatures are below 55°F*
- The application is made in accordance with a government-initiated public health response*
- The application is made in accordance with an active state administered apiary registry program where beekeepers are notified no less than 48-hours prior to the time of the planned application so that the bees can be removed, covered or otherwise protected prior to spraying.*
- The application is made due to an imminent threat of significant crop loss, and a documented determination consistent with an IPM plan or predetermined*

economic threshold is met. Every effort should be made to notify beekeepers no less than 48-hours prior to the time of the planned application so that the bees can be removed, covered or otherwise protected prior to spraying.

Many state lead pesticide regulatory agencies (SLAs) interpret the “Do not apply” language of the Environmental Hazards statement to be enforceable and to essentially trump the more flexible pollinator protection conditions established in the “Directions for Use” portion of the label.

The net result of the “do not apply” language in the Environmental Hazards is to supersede the more specific and more flexible pollinator protection requirements in the Directions for Use portion of the label (including crop specific directions for use that incorporate this language or refer to it). This effectively prevents applicators from taking advantage of the pollinator protection statements in the Directions for Use, which were created to provide applicators flexibility in making applications to protect crops while providing risk mitigation for bees.

Attached is a document “FDACS Citrus Insecticide Label Language Interpretive Guidance (March 13, 2014)”, developed by the Florida Department of Agriculture and Consumer Services to provide interpretation guidance on pollinator protection language to pesticide applicators in Florida. This document provides a number of other examples where Environmental Hazard statements are more restrictive than general or crop-specific Directions for Use.

Background:

On August 15, 2013, USEPA announced in a letter to registrants of nitroguanidine neonicotinoid insecticides, that the products registered for foliar application were required to incorporate a set of label statements intended to reduce risks to pollinators, especially honey bees. These statements include options for application under certain conditions in which risks to bees can be mitigated, but that allow crop producers to make applications to protect crops. These statements may vary by active ingredient and reflect crop and product specific risk mitigation measures developed by the registrant and accepted by the USEPA.

The Environmental Hazards Statement is a set of statements intended to provide information to applicators on general risks of the product to water resources and non-target organisms, including pollinators. These statements are usually advisory in nature, but can be more prescriptive. The USEPA Label Review Manual provides guidance on what statements should be included in the Environmental Hazard Statements for products that meet certain criteria.

The August 15, 2013 letter to registrants appropriately establishes risk mitigation measures that are crop- and product-specific, and provides flexibility to applicators to make applications when risks to bees are mitigated through notification to bee keepers, participation in particular state apiary programs, or when other conditions exist (e.g., application during nightfall, low temperatures) . The letter does not provide for modification of the Environmental Hazard

statements to accommodate the general or crop-specific directions for use pertaining to pollinator protection.

Recommendations:

SFIREG recommends that USEPA work to incorporate or modify language in the Environmental Hazard section of the labels of products that include pollinator protection provisions so that statements in this section are not more restrictive or prescriptive than the newly established Directions for Use or crop-specific directions for use that are provided to mitigate risks for pollinators. For example, instead of the statement: “Do not apply this product or allow it to drift to blooming crops or weeds if bees are visiting the treatment area”, products such as Admire Pro, could alternatively state, “Apply this product in accordance with all pollinator protection directions included in this label.”

SFIREG recommends that the USEPA Label Review Manual be revised to provide for flexibility in required Environmental Hazard statements to avoid superseding directions for use that are intended to mitigate risks to pollinators.