MEMORANDUM OF AGREEMENT BETWEEN THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AND DENKA REGISTRATIONS, TROY CORPORATION, AND WELLMARK INTERNATIONAL REGARDING THE ILLEGAL MISUSE OF METHOMYL CONTAINING FLY BAITS PRODUCTS

Background

It is known that for years, private individuals have posted information on the internet advising that a mixture of dry granular fly-bait with methomyl as the active ingredient, dissolved in a can of a carbonated beverage, acts as a fast acting poison for nuisance wildlife such as raccoons and opossums. State pesticide regulators are aware of this and in 2013 submitted a request to the Environmental Protection Agency (EPA) to classify the methomyl fly-bait products as Restricted Use Pesticides (RUPs) as a means of reducing public availability of the products. The states’ issue paper described numerous incidents of non-target wildlife kills as well as companion animals. State regulators also found that some retail farm and garden supply stores would recommend the use of the methomyl containing fly bait products to customers seeking information on raccoon control despite this use being a violation of the label directions.

EPA considered undertaking the formal regulatory process to re-classify the fly-baits as RUPs, but also discussed alternative approaches with the three registrants of these products. The registrants proposed changes to the labeling, packaging and marketing of their products and proposed to monitor the success or failure of these product management steps to reduce incidents over time. The Agency concluded that these product stewardship proposals could be an adequate approach to resolving the poisoning of non-target animals that should be tried before turning to a reclassification of methomyl products.

Agreement

The United States Environmental Protection Agency (“EPA”) and Denka Registrations, Troy Corporation, and Wellmark International (“registrants”) hereby enter into this Memorandum of Agreement (“Agreement”) in order to address the illegal misuse of methomyl containing fly bait products to poison non-target animals in violation of label directions.

To implement this agreement, the EPA and the registrants agree as follows:

1) The registrants will implement the following product labeling changes aimed at highlighting language to discourage misuse.

   a) Highlight on the front panel of the product in red. “It is illegal to use this product with the intention to kill raccoons, skunks, opossums, coyotes, wolves, dogs, cats, or any other non-target species.”
b) Place on the front panel of the product a red icon with a line through it with the image of a raccoon in the circle.

EPA expects the registrants to submit their label amendments by January 30, 2015. EPA intends to require, in its approval of the amendments, that labeling changes be implemented at the next scheduled printing of the product labels.

2) The registrants intend to discontinue the 1- and 5-pound container sizes that are the sizes most likely to be purchased by customers with the intent of misuse rather than fly control for economic fly control purposes by April 1, 2017. After April 1, 2017, the registrants agree to no longer manufacture or release for shipment the 1- and 5-pound container sizes or containers that do not bear the labeling changes discussed above. The registrants may continue to sell the 10- and 40-pound containers which is the size typically purchased for application around livestock production facilities.

3) The registrants intend to control distribution of the products so that they shall only be distributed to or sold in agricultural, farm and tractor stores or directly to PCOs and via animal health distributors, and that registrants will not sell or distribute products containing methomyl in channels of trade likely to result in retail sale in hardware and home improvement stores, grocery stores, convenience stores, drug stores, club stores, big box stores, and other general retailers. The registrants intend to change their distribution chains by April 1, 2017.

4) The registrants agree to distribute educational pamphlets and point of purchase literature to their distributors for display in agricultural, farm and tractor stores and animal health distributors. Limiting distribution to agricultural and animal health outlets will allow the registrants to communicate more effectively with their customers about this fly bait issue.

5) Registrants agree to monitor the success of these mitigation measures by reviewing 6(a)(2) adverse incident data that are submitted to the EPA and by working with the state regulatory agencies that regulate pesticides as well as fish and game or natural resource agencies to monitor the number of complaints and incident reports received at the local level. If EPA determines that the number of incidents has not decreased significantly over the next 5 years, from the date that this agreement is signed, EPA intends to notify the registrants and then the registrants will voluntarily request that the classification of their product be changed to be restricted-use products.

a) Registrants should seek incident data from a representative number of states, for example 12 to 15, and should include some states from various areas of the country.

b) The states of Ohio, Michigan and Wisconsin should be among the states surveyed.

c) The registrants agree to report the incident data annually to the Chemical Review Manager for methomyl in the Office of Pesticide Programs Pesticide Re-evaluation Division. The registrants may file a joint report on an annual basis.
The registrants and EPA product registration numbers and names are as follows:

- Denka Registrations  product number  7319-6  Lurectron Scatterbait
- Troy Corporation  product number  53871-3  Stimukil Fly Bait
- Wellmark International  product number  2724-274  Golden Malrin Fly Killer

We agree to this:

____________________________________   __________________
United States Environmental Protection Agency   Date

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