



October 20, 2015

Via Electronic Submission Only

Ms. Esther Barajas-Ochoa
Office of Environmental Health Hazard Assessment
P.O. Box 4010, MS-19B
Sacramento, California 95812-4010
P65Public.Comments@oehha.ca.gov

RE: Request for Comment on Proposed Prop 65 Labor Code Listing of Malathion

Dear Ms. Barajas-Ochoa:

Western Plant Health Association (WPHA) appreciates the opportunity to comment on the proposed notice of intent to list malathion as known to the state to cause cancer under the Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"). WPHA represents the interests of crop protection and fertilizer manufacturers, agricultural biotechnology providers, and agricultural retailers and distributors in California, Arizona, and Hawaii. Our members comprise more than ninety percent of all the companies marketing crop production and fertilizer products in these states.

This letter serves to support the more technical and comprehensive comments provided by Cheminova A/S. We share their opposition to the Office of Environmental Health Hazard Assessment's (OEHHA) intent to list malathion as a known carcinogen through the labor code listing mechanism because there is no valid and substantial evidence that any adverse acute or chronic risk to human health will occur from its occupational use when used as directed.

We recognize that OEHHA interprets Labor Code section 6382 to presume substances listed as human or animal carcinogens by the International Agency for Research on Cancer (IARC) to be potentially hazardous and to list those substances under Prop 65. However, it also provides that the director shall not list a substance or form of the substance if the substance as present occupationally, is not potentially hazardous to human health or there is no valid and substantial evidence that any adverse acute or chronic risk to human health may occur from exposure. Malathion fits these criteria for exemption.

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Under federal law, the U.S. Environmental Protection Agency (EPA) is required to review hundreds of studies including acute and chronic exposure data, and may not approve any pesticide product if it cannot ensure that the product, when used in accordance with its labeling, will not cause unreasonable risks to human health. The product label specifies use directions to reduce or eliminate exposure, despite data that confirms the product is not a carcinogen.

U.S. EPA and California Department of Pesticide Regulation (DPR) have reviewed toxicological studies on malathion and have determined there is no substantial evidence that any adverse acute or chronic risk to human health will occur from exposures when products containing malathion are used in accordance with their approved labels. Subsequent international agencies such as the Canadian Pest Management Regulatory Agency concur with these findings.

The review conducted by IARC was incomplete and excluded consideration of hazard identification and human exposure. Without such an assessment, IARC's listing provides no justification that malathion presents a potential occupational human health hazard. As noted, evaluations by U.S. EPA and DPR have concluded just the opposite.

When used as labeled, malathion is not potentially hazardous to human health from exposure at occupational levels and does not qualify for listing under the Labor Code. We therefore request that OEHHA rescind its proposal to list malathion as a Prop 65 substance. If you have any questions, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "Rachel Kubiak".

Rachel Kubiak

Director of Environmental and Regulatory Affairs