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RE: FWAA Comments on Mitigation Options provided March 2, 2020 by the ODA Chlorpyrifos Workgroup

Dear Director Page and Program Manager Kachadoorian:

Thank you for your work on this issue and the opportunity to comment on the March 2, 2020 Mitigation Options. I will reference them by number, but first wish to reiterate who our association is and who our members are by general description.

Far West Agribusiness Association (FWAA) is a 61-year old five state regional association made up of primarily retailers who provide crop inputs and agronomic services to farmers in Oregon, Washington, Idaho, Utah and Nevada. Our member agronomists, who are most commonly certified crop advisers with commercial applicator licenses, make recommendations and advise their farmer clients on crop requirements. This includes but is not limited to which product to use, when and how the application takes place, and regulatory/safety precautions relative to the label. FWAA recently held a conference call with several member agronomists to discuss the chlorpyrifos mitigation options proposed by ODA and develop a list of comments and recommendations to share with you. The result of our deliberations are reflected in the list below:

1. Regarding buffers near sensitive areas (by-standers). FWAA understands the sensitivity of proximity applications near concentrated human populated areas and while we understand that misapplication is rare, protection and consequences must

exist for bad actors. A buffer around schools, as presented in the minority report for HB 4109, involving above ground applications of Chlorpyrifos is without objection.

2. Regarding court-ordered buffers around or near bodies of water. Having learned the consequences of a troublesome “Waters of the US” regulation under the Clean Water Act, we support the federal approach to water quality protection and thus avoid a checker-board approach which would be both difficult and expensive to regulate. FWAA does not support court-ordered buffers.
3. Regarding an increase of Restricted Entry Intervals (REI) from the 24-hour baseline. Our members and I personally have been invited and toured the manufacturing R&D laboratories at the Research Triangle in North Carolina. These strictly controlled state of the art facilities base their exposure and safety protocols on scientific testing which results in precautions found on the EPA approved label. Unless a different third-party entity, with peer reviewed scientific data, could counter the results of the manufacturers and EPA review of the process, FWAA continues to support the existing REI. Any deviation would not have a scientifically backed basis.
4. Regarding a change in pre-harvest intervals (PHI) applications. The time of application has no connection with the harvest date since Chlorpyrifos is typically applied well in advance. Individual state regulations should not affect out of state and out of country trade opportunities and would disadvantage Oregon businesses. FWAA does not support PHI expansion beyond the label.
5. Regarding a mandate that all Chlorpyrifos products be categorized as a restricted use product. FWAA does not oppose, except for “fly tags” used within the livestock industry and products containing Chlorpyrifos applied and used beneath the ground on seed coatings and contained within granular products.
6. Regarding a requirement that only certified and licensed applicators apply products containing Chlorpyrifos. FWAA is not opposed but supports the concept of having workers and mixers who work under the supervision and credentials of the applicator be able to do so. A system like the EPA required training for paraquat is acceptable.
7. Regarding pesticide application record retention. FWAA supports the practice however suggests that the applicators have 3-days from application to complete the records and make them available without penalty.
8. Regarding the conversion of best management practices (BMP) into regulations. The industry encourages BMP’s and would not want farmers to oppose adaptation in fear that if they do, one day the BMP will be a regulation. BMP have and should remain voluntary. FWAA is broadly opposed.
9. Regarding a further discussion of current application methods. FWAA is always open to discussions regarding current and future application methods. Discussions provide an opportunity to share new innovative technology in nozzle development, variable pressure regulation, and improved efficiencies, which reduce drift. FWAA could

facilitate an educational presentation by equipment manufacturers and applicators if warranted.

10. Regarding the revisions to respirator requirements on Chlorpyrifos labels. Oregon State is an OSHA State meaning it has retained its ability to go beyond the federal OSHA requirements. If additional requirements are made, FWAA would support State OSHA requirements, not requirements separate and independent of the State OSHA. It is important to note that Industry Associations such as ours will hire trainers to cover Federal OSAA requirements, not independent State requirements so training in this area may be difficult to source. It may also be advisable for the work group to learn more about the curriculum which covers the federal OSHA requirements for handling hazardous materials before they decide to recommend changes. FWAA could provide a summary of what is listed under the current federal OSHA curriculum if needed.
11. Regarding a prohibition on the use of Chlorpyrifos in greenhouses and enclosed structures. Enclosed structures are a controlled environment which can be secured from entry, they can be atmospherically controlled, externally posted and ventilated when needed. FWAA would be opposed to a prohibition.

Thank you again for the opportunity to provide comments and for working toward a fair and balanced solution to a concern brought forth by the legislature and public. We remain available to answer questions, provide clarity or offer the facilitation of resources as the work group proceeds.

Kindest Regards,

*Jim Fitzgerald*  
Far West Agribusiness Association

Cc: Nicole Crane, Dalton Advocacy, Inc.