

**FROM:** Pesticide Registration Program**APPROVED by MANAGEMENT TEAM****SUBJECT:** Pollinator Protection Label Restriction**DATE:** October 16, 2018

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The Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) is responsible for enforcing pesticide label restrictions. This document clarifies the role DATCP plays in enforcement of pollinator protection label restrictions and what resources it utilizes to assess bee foraging.

**Regulations:**

Wis. Stat § 94.70(3)(g), No person may use any pesticide in a manner inconsistent with its labeling except as authorized by the department.

Wis. Admin. Code, ch. ATCP 29.50(1)(a), No person may do any of the following: Use or direct the use of a pesticide in a negligent manner, or in a manner inconsistent with the pesticide label.

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Certain pesticides which are highly toxic to bees have label restrictions such as: “Do not apply this product or allow it to drift to blooming crops or weeds while bees are foraging/visiting in the treatment area.” This is not new label language. This label restriction, or others with similar wording or intent, has appeared on many pesticides labels for over forty years.

As with any pesticide product, the applicator is responsible for following all label directions/requirements. Specific to this policy, pesticide product label language containing wording/tasks similar to the following: “...determine the presence of foraging pollinators...”; “...prohibition against applying to plants which are blooming/flowering while bees are foraging...”, continues to remain the responsibility of the individual applying the pesticide containing product.

When assessing if the applicator has determined the presence of foraging pollinators, DATCP will also utilize, as a resource, the USDA publication – Attractiveness of Agricultural Crops to Pollinating Bees for the Collection of Nectar and/or Pollen (2017). This publication is an aid for determining guidance, and assisting in the investigatory process for assessing the level of determination the applicator had made in the application of a pesticide product to plants which are blooming/flowering while bees are foraging.

This publication can be found at the following URL:

[https://www.ars.usda.gov/ARSUserFiles/OPMP/Attractiveness%20of%20Agriculture%20Crops%20to%20Pollinating%20Bees%20Report-FINAL\\_Web%20Version\\_Jan%202018.pdf](https://www.ars.usda.gov/ARSUserFiles/OPMP/Attractiveness%20of%20Agriculture%20Crops%20to%20Pollinating%20Bees%20Report-FINAL_Web%20Version_Jan%202018.pdf)

**Determination 1:**

The person applying pesticide products must review and follow all label directions. Common label language, specifically related to pollinators, contains language (examples are not all inclusive) with words to effect of:

- Do not apply to blooming crops if bees are visiting the treatment area.
- Physically verify if bees are actively foraging.
- Do not apply while bees are foraging.

Performing some degree of a physical observation activity that assesses for the presence of pollinators is necessary. Subsequently, making the determination that pollinators (e.g., bees) are not present, actively foraging, etc., is a requirement that falls within the direct responsibility of the applicator.

In addition to the applicator’s verification activity that assesses for the presence of pollinators, DATCP will consider the following in determining the potential presence of foraging pollinators:

For each of the crops listed within the USDA Publication: Attractiveness of Agricultural Crops to Pollinating Bees for the Collection of Nectar and/or Pollen (2017), the degree to which pollen and nectar are attractive and used by honey bees, bumble bees, solitary bees, or any other bee species, is listed using the following scales:

- [Minus] = Not attractive
- + [Plus] = Attractive under certain conditions
- ++ [Plus, Plus] = High attractiveness in all cases

**Determination 2:**

DATCP has determined that flowering/blooming crops with a “++” rating in the USDA publication for either honey bees, bumble bees, solitary bees, or any other bee species, will have bees foraging in/within them, during daylight hours, and throughout the flowering/blooming period (e.g., actively producing pollen and/or nectar).

Crops that have been listed with a “+” or a “-” rating in the USDA publication are not necessarily assumed to have bees foraging during the flowering/blooming period unless bees are observed at the time of application.

Regardless of the attractiveness scale published by USDA, simply reviewing the publication in lieu of performing some degree of a physical observation activity that assesses for the presence of pollinators is not acceptable.

**Summary:**

In these cases, it remains the applicators responsibility to determine if bees are foraging in a treatment area prior to applying a pesticide which contains a prohibition against applying to plants in flower/bloom while bees are foraging.

DATCP will investigate all bee kill complaints it receives that may possibly have been negatively impacted by pesticides. DATCP will evaluate all pertinent elements associated with each complaint to assist DATCP in making determinations that a pesticide product(s) was used in a manner inconsistent with the pesticide label.

For all inquiries related to best management practices to maximize pollinator health, DATCP will continue to refer those individuals to review the Wisconsin Pollinator Protection Plan.

<https://datcp.wi.gov/Documents/PPPComplete.pdf>.