

From: [Baris, Reuben](#)
To: ["MARVIN, THOMAS \[AG/1920\]"](#)
Subject: terms and conditions (comments)
Date: Tuesday, October 10, 2017 6:45:00 PM
Attachments: [Response to Terms and Conditions Page1 - Monsanto revisions - EPA comments 10-11-17.docx](#)

As promised. Please share with Phil.

REUBEN BARIS | ACTING CHIEF | HERBICIDE BRANCH

U.S. ENVIRONMENTAL PROTECTION AGENCY, OFFICE OF PESTICIDE PROGRAMS | (703) 305-7356

1. Stickers, new paper label (*i.e.* supplemental labeling to accompany the product):

- Sticker – Sticker that was submitted to EPA for approval contains the following information:
 - “Restricted Use Pesticide”-;
 - “Product cannot be used if user does not possess new label(ing) that can be found at www.xtendimaxapplicationrequirements.com; and
 - “User must comply in all respects with new label(ing), regardless of any contrary language on existing label.”
- In addition to the new label being available on the website listed above, paper labels will be provided to accompany stickered products.

2. Registrant will take all reasonable steps to:

- As soon as new glossy labeling (booklets) become available, affix the new label to XtendiMax products at the time of manufacture in registered facilities;
- Notify EPA, within one week of the booklet becoming available, of the date the booklet became available. All product manufactured after the booklet is available must contain the new glossy label;
- For other XtendiMax products – whether in retail inventories, in the distribution chain, or for which manufacturing will occur before new glossy label booklets become available – produce and distribute sufficient quantities of stickers and new paper labels to update product (recognizing that stickering must occur in a registered establishment);
- ~~Inform retailers of the need to sticker and supply new paper labels for products currently in inventory and products received with the former label.~~
- Inform retailers of the need to sticker and supply new labels for products currently in inventory and products received with the former label as well as ---Provide provide specific instructions to the retailers that are registered establishments on how to affix the sticker on the label and provide the as well as that the supplemental label be provided at time of purchase;
- Inform retailers that are not yet EPA registered establishments about the importance of stickering the products currently in their inventory and products received with the former label in their possession and and that stickering and providing the new labels can only occur in an EPA registered establishments; inform retailers of the process for establishment registration and reporting; communicate that retailers should not sell product until stickering is appropriately conducted.
- ~~Inform retailers who do not intend to become registered establishments the importance of -the new labeling and stickering product in their possession and to contact Monsanto immediately, so that Monsanto can reclaim the retailer inventory and provide replacement product with labeling updated in a registered~~

Commented [A1]: Deleted this bullet and incorporated it into the following bullets

Commented [A2]: Copied the language from the next bullet to help address the issue of not wanting unregistered establishments to sell older labeled products

| establishment. Communicate that retailers should not sell product until stickering is appropriately conducted;

- Provide a copy to EPA of the communications used to inform retailers and others as described above.
- Provide access to new label through an internet webpage located at www.xtendimaxapplicationrequirements.com.

From: Philip.Perry@lw.com
To: [Knorr, Michele](#); [Baris, Reuben](#); thomas.marvin@monsanto.com
Subject: Response to Terms and Conditions Page1 - EPA comments (3).docx
Date: Tuesday, October 10, 2017 4:59:36 PM
Attachments: [Response to Terms and Conditions Page1 - EPA comments \(3\).docx](#)

Michele and Reuben:

Attached please find our response on the terms and conditions. We are providing a clean copy because the redline was difficult to follow. We accepted a number of the proposed changes, but did not incorporate all the iterative communications with retailers proposed in the last draft. In particular, we are concerned that those iterative communications might require a potentially significant period of time to complete. Instead, we believe the better course is to move quickly, with a clear letter explaining the fundamental points of the plan to retailers – specifically including instructions that unregistered retailers cannot sticker the products, and must either register with EPA or contact Monsanto immediately (so that Monsanto can reclaim the product). This should mitigate concerns that unregistered establishments might engage in unauthorized stickering themselves. We are currently working on that letter and hope to supply it to you soon.

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Latham & Watkins LLP

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 - “User must comply in all respects with new label(ing), regardless of any contrary language on existing label.”
- In addition to the new label being available on the website listed above, paper labels will be provided to accompany stickered products.

2. Registrant will take all reasonable steps to:

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- Notify EPA, within one week of the booklet becoming available, of the date the booklet became available. All product manufactured after the booklet is available must contain the new glossy label;
- For other XtendiMax products – whether in retail inventories, in the distribution chain, or for which manufacturing will occur before new glossy label booklets become available – produce and distribute sufficient quantities of stickers and new paper labels to update product;
- Inform retailers of the need to sticker and supply new paper labels for products currently in inventory and products received with the former label;
- Provide specific instructions to the retailers that are registered establishments on how to affix the sticker on the label as well as that the supplemental label be provided at time of purchase;
- Inform retailers that are not yet EPA registered establishments that stickering can only occur in an EPA registered establishment; inform retailers of the process for establishment registration and reporting;
- Inform retailers who do not intend to become registered establishments to contact Monsanto immediately, so that Monsanto can reclaim the retailer inventory and provide replacement product with labeling updated in a registered establishment. Communicate that retailers should not sell product until stickering is appropriately conducted;
- Provide a copy to EPA of the communications used to inform retailers and others as described above.
- Provide access to new label through an internet webpage located at www.xtendimaxapplicationrequirements.com.

From: [Baris, Reuben](#)
To: ["MARVIN, THOMAS \[AG/1920\]"](#)
Subject: Label comments
Date: Tuesday, October 10, 2017 6:43:00 PM
Attachments: [MASTER LABEL 524-617_ADDDTuses_Oct102017_EPAreview- EPA comments.pdf](#)
[35008R1-39_Xtendimax_VPG Tech Restricted Use Pesticide Sticker2 - EPA comments.pdf](#)

Please share with your team. Like I said, no surprises.

REUBEN BARIS | ACTING CHIEF | HERBICIDE BRANCH

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