

MEMORANDUM

DATE: To be determined

TO: Pesticide Regulatory Agencies in the United States, Territories, and Tribes

FROM: Gary Bahr, Chair
State FIFRA Issues, Research and Evaluation Group

SUBJECT: Distributor Multi-pack Pesticide Product Registration

During the September 2019 State FIFRA Issues Research and Evaluation Group (SFIREG) Pesticide Operations & Management (POM)/Environmental Quality Issues (EQI) Joint Working Committee Meeting, representatives from the US Environmental Protection Agency (EPA) indicated that distributor products cannot be part of a multi-pack.* The Joint Working Committees have been actively engaged with the EPA since that meeting to provide clarification to assist pesticide regulatory officials in the review, evaluation and registration of pesticides in their jurisdictions. *[Insert approved stock language, indicating this is SFIREG's understanding of EPA's view of the 40 CFR requirements for distributor pesticide products. EPA is unable to officially confirm agreement or endorse this letter.]*

Summary:

A distributor product cannot be placed in a multi-pack if the master label for the basic registration does not include the specific language for that combination. For example, a distributor pesticide pool product cannot be packaged with other pool cleaning supplies, pesticides, or equipment if those items are not specifically listed within the language on the EPA accepted master label for the basic product.

Background:

Per 40 CFR 152.132:

(b) The distributor product is produced, packaged and labeled in a registered establishment operated by the same producer (or under contract in accordance with §152.30) who produces, packages, and labels the registered product.

(c) The distributor product is not repackaged (remains in the producer's unopened container).

(d), a distributor product can only differ from the basic product as follows:

1. The product name may be different (but may not be misleading);
2. The company name and address of the distributor may appear instead of that of the registrant;
3. The EPA registration number must be followed by the distributor's company number;
4. The EPA establishment number must be that of the final establishment where the product was produced; and
5. Specific claims may be deleted, provided that no other changes are necessary. No new claims can be added.

All other aspects of the distributor product must be the same as the master label. Therefore, if a distributor product is being packaged in a multi-pack but the master label does not provide specific language that would allow the combination of those products, the distributor product is non-compliant with 40 CFR 152.132 and the multi-pack is misbranded.

Here are some examples of how the language for multi-packs on the master label would allow for a distributor product to be placed in a multi-pack:

- “KIT can include [this], [this], [this] and [that]”
- [[Kit] contains:
 - [[X] lb of (insert ABN or supplemental for EPA Reg. No. XXXX-XX, product name)]
 - [[X] lb of (insert ABN or supplemental for EPA Reg. No. XXXX-XX, product name)]
 - [[X] lb of (insert ABN or supplemental for EPA Reg. No. XXXX-XX, product name)]
 - [Specific non-pesticide products X, Y, or Z]

In addition to the above,

- A distributor product must be produced, packaged and labeled at the same establishment operated by the basic registrant (or under contract in accordance with 40 CFR 152.30) (40 CFR 152.32.b)
- A distributor product cannot be repackaged (40 CFR 152.32.c)
- A distributor product cannot include two company names (sold by X, manufactured by Y) if one of those company names is not the basic registrant. A distributor company may not sell or distribute the distributor product under another company name.
- If a product is in a multi-pack, the full labeling is required on the individual packages (within the larger package) and on the outside of the packaging.
- If the multi-pack requires a new name or changes to the directions for use compared to when the product is sold individually, a new registration with EPA would be required.

Additional information regarding distributor label is available at:

- EPA Website, Question & Answers: <https://www.epa.gov/pesticide-labels/pesticide-labeling-questions-answers#distributor>.
- EPA Label Review Manual (Chapters 3, 14 & 18): <https://www.epa.gov/sites/production/files/2018-04/documents/lrm-complete-mar-2018.pdf>

** For the purpose of this document, the term “multi-pack” will also include co-packs and kits. Per Chapter 18 of EPA's [Label Review Manual](#), multi-packs often contain one or more FIFRA-regulated products or in some cases, FIFRA-regulated products along with one or more non-FIFRA products.*