

September 10, 2021
Derrick Lastinger
AAPCO Industry Workgroup Chair

Re: AAPCO Multiple Products Packaged Together Registration Review Guidance

Dear Mr. Lastinger,

On behalf of the Household & Commercial Products Association¹, we thank you for opportunity to comment on the proposed AAPCO *Multiple Products Packaged Together Registration Review Guidance*. We appreciate the chance to provide constructive input in advance of AAPCO finalizing the document and look forward to continued engagement in the future should the need arise.

It is not fully clear what is scope of guidance is. At some points, it appears to be MPPT products only Sect. 3, i.e., federally registered pesticides which require EPA review, while at other times in appears to include products regulated under FIFRA but not registered or reviewed by EPA (i.e., minimum risk pesticides or non-pesticidal products included within the MPPTs). We also note that a registered product combined in one package with an unregistered product must be reviewed by USEPA to determine if a separate registration is necessary. HCPA suggests clarifying accordingly.

HCPA suggest that inclusion of links to individual state resources would be a meaningful exercise as the issues do not appear to a specific SLA or EPA but rather the variations of requirements between states that often lead the compliance challenges identified in the guidance. The inclusion of EPA resources such as the Label Review Manual and EPA Pesticide Labeling Q&A Website are important but many of the discrepancies noted occur after EPA has completed its review. Consequently, inclusion of the corresponding state resources and references would be helpful.

HCPA recommends that the guidance clearly identify which sections are designed

¹ The Household & Commercial Products Association (HCPA) is the premier trade association representing the interests of companies engaged in the manufacture, formulation, distribution and sale of more than \$180 billion annually in the U.S. of familiar and trusted consumer products that help household and institutional customers create cleaner and healthier environments. HCPA member companies employ hundreds of thousands of people globally. Products HCPA represents include disinfectants that kill germs in homes, hospitals and restaurants; air fresheners, room deodorizers, and candles that eliminate odors; pest management products for home, lawn and garden, and pets; cleaning products and polishes for use throughout the home and institutions; products used to protect and improve the performance and appearance of automobiles; aerosol products and a host of other products used every day.

for SLAs and which are designed for registrants/industry. For example, the section “Things to Look at During Inspections or Label Reviews” appears directed at SLAs or EPA Regional Office or Enforcement. HCPA suggests clarifying accordingly.

HCPA encourages a careful reading of the guidance to ensure consistency of terminology and clarity of terms. For example, the guidance appears to use MPPTs and kits interchangeably while noting in the definitions that a kit is a specific type of MPPT. In addition, all acronyms should be spelled out fully, e.g., POM should be the State FIFRA Issues Research and Evaluation Group (SFIREG) Pesticide Operations and Management (POM) Working Committee. Also, the third paragraph refers to “appropriate division” and it is not clear if this is referring to EPA Divisions, i.e., Antimicrobial, Registration, or Biological pesticides or SLA Divisions. HCPA suggests clarifying accordingly.

HCPA notes that the examples of marketplace issues are appropriate but there are examples of outer packaging claims that would generally be allowable. For example,

- Pricing and packaging statements. These statements should not lead to new brand names, i.e., “2 for 1”, “Value Pack”, “150 More Wipes”, etc.
- Non-efficacy related marketing (non-pesticidal) claims would be acceptable on exterior packaging, i.e., “Clean more with 24 extra wipes”
- Terms such as “Value Pack” or “BOGO” appearing on multi-packs do not constitute separate and distinct product names requiring federal review. However, the terms must appear on the stamped accepted label for each product contained in the multi-pack.

HCPA notes that the following portions of the Definitions require additional clarity.

- The definitions are not universal and these and other terms are often used by registrants to describe multiple packaging configurations. These terms are not standardized. We acknowledge that the need for standardization and the terms should be defined for purposes of the document itself. HCPA encourages continued engagement with stakeholders to achieve naming consistency and to minimize confusion.
- Under Co-packs, it indicates that “Co-packs direct the user to mix the two products together before application.” This may not be fully accurate. There are products that should be mixed prior to usage as a stand-alone product but may also be a sub label of a registered product.
- Under Multipacks, it indicates that “Each container must bear the full pesticide

label.” It is not clear if this is referring to containers themselves, the outer multi-pack or both? HCPA recommends clarifying as needed. Also, two registered products when shrink-wrapped together do not necessitate a federal review as long as the labels are completely visible at the point of purchase. Likewise, two registered products packaged inside an outer carton do not need to be reviewed by EPA provided the labels are either be accessible through a cutout in the carton, or they must be reprinted on the outer carton.

Under the “Things to Look at During Inspections or Label Reviews” section, it notes that “If the full pesticide label (on the immediate container) cannot be seen through the outer package, the full pesticide label must be duplicated on the outer label (box, wrapping, etc.) for the kit.” This statement may not be fully accurate and would be more accurately stated as “If the information of full label must be visible and if portion of label is obscured, it should be repeated on visible outer panel.”

Under the Frequently Asked Questions section, we offer the following suggestions

- HCPA recommends that “What is required on the outer package of a MPPT?” be the first question.
- HCPA suggests that the question “What about online sales and marketing is this considered labeling?” either be removed or significantly revised. It is vague as written.
- HCPA is concerned that the following is confusing and unclear. “What can State Lead Agencies (SLAs) conclude regarding registration compliance if the name of the kit/multi-pack/co-pack is listed as an ABN in EPA’s Pesticide Product Label System (PPLS), but the kit/multi-pack doesn’t have its own unique EPA registration number? For example, “Product X Kit” is listed as an ABN for EPA-registered “Product X”, but “Product X Kit” doesn’t have its own unique EPA Reg. No.” We also note that registrants often submit a variety of alternate names to cover current and future marketing ideas. The names may or may not ever be used and should not be relevant to state registrations. We suggest removing or revising
- HCPA is concerned with the question “Can a kit/multi-pack/co-pack contain more than one registrant’s product(s) (whether primary registrant or distributor)? Example: There was a registration submitted that had three different companies represented in a single multipack. The registrant’s reasoning was that the two distributors represented (one was registering the multipack) were owned by the primary registrant. We think the answer is NO, but would like EPA to clarify.” It does not appear to address when non-pesticidal products are distributed in a MPPT. We also recognize EPA may address this

consideration in their response.

Thank you again and HCPA appreciates the efforts to develop the MPPT guidance and goal of the document increase consistency of packaging and label review by state lead agencies.

Sincerely,

A handwritten signature in black ink, appearing to read 'Steven Bennett', with a long horizontal flourish extending to the right.

Steven Bennett, Ph.D.
Executive Vice President, Scientific & Regulatory Affairs
Household & Commercial Products Association