



February 12, 2007

Stephen Johnson
Administrator
US Environmental Protection Agency
Ariel Rios Building – Mail Code 1101A
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Sent via eMail Attachment,
and US Mail

SUBJECT: AAPCO OBJECTIONS TO PESTICIDE PRODUCT LABEL "CAUSE-RELATED MARKETING"

Dear Mr. Johnson:

The Association of American Pesticide Control Officials (AAPCO) is notifying the US Environmental Protection Agency (EPA) of its strong objections to the recent EPA Office of Pesticide Programs (OPP) approval of "cause-related marketing" statements on an EPA registered pesticide product label. This apparently unique and radical departure from the agency's own operating policy and protocol is now problematic for EPA's pesticide regulatory partners, whom AAPCO represents.

AAPCO's objections in great part mirror what others are also simultaneously reporting to EPA, however, our issues are additionally of a state regulatory nature. These objections and their basis are as follows:

- 1) It is our understanding that the EPA/OPP "Label Review Manual" (Chapter 16; Graphics and Symbols on Labels, Section III.A.9), and 40 Code of Federal Regulations Part 156.10(a)(5) expressly prohibit the placement of such cause-related marketing statement on a registered pesticide product label. This departure for Clorox Company products is inconsistent with those established, fair, relied-upon standards, and unnecessarily challenges the credibility of EPA's registration program.
- 2) It is also our understanding that the EPA, in regulating the content of labeling, discourages any statement(s) that could mislead, be misinterpreted, or be falsely offering assurances of safety or non-toxicity. Unfortunately, the "Red Cross" being utilized by Clorox Company on these labels is long honored and well understood to mean safety and aid (medical and otherwise). AAPCO applauds the efforts of Clorox Company in supporting the Red Cross charity. However, inclusion of such a symbol on a pesticide product label can and will be easily and widely interpreted by consumers to mean "this product is safe" or at the very least, offering a margin of safety (that perhaps other pesticides cannot offer).

- 3) Inclusion of such a symbol and cause-related marketing is easily interpreted by many as an endorsement, no matter any intent or statements to the contrary. As with the "safety" implication noted above, such an endorsement (intended or unintended) is wholly inappropriate from a government agency.
- 4) To the issues, and traps, surrounding EPA cooperation with a charitable organization, and its expressed intent to determine legitimacy and appropriateness of others in the future, AAPCO finds this fraught with uncertainties, problems, and issues:
 - a) This subject Clorox product approval apparently offers to others future similar access and opportunity. AAPCO wonders how and who will regulate the selection and oversight of these charities, and worries that the "charitable" criteria will allow diverse, sometimes publicly objectionable, and potentially unwanted organization access to such pesticide product marketing. AAPCO is aware that certain US registered charitable organizations have become suspect from time to time, and recently, with serious questions regarding the ethical or legal nature of their activities.
 - b) Such approval to one charitable organization and possible refusal or different treatment to another has great potential for resource draining litigation by those persons who believe equal access and treatment were not fairly available or administered.
 - c) AAPCO also notes that any agency resources now or thus diverted in the future (regarding oversight of cause-related marketing issues) are resources now in relative scarcity and most certainly more needed for normal EPA/OPP regulatory tasks and activities.
- 5) Finally, EPAs approval of the subject cause-related marketing has put state lead agency's pesticide product registration programs in the untenable position of wanting to refuse registration of these Clorox products- for the good and sufficient reasons described above- but being unable to under our respective state pesticide control law(s).

This situation arises because our state registration requirements rely first and foremost upon initial EPA pesticide product registration as essential to our subsequent state registration. This unwanted but likely inevitable state registration of labels containing cause-related marketing language and symbol places the state lead agency registration programs in the position of being perceived as agreeing with and supporting such (EPA) labeling. This is simply not the case.

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Please be informed that a few states may be able to decline registering these cause-related labeled products; unfortunately, these states may necessarily need to reference state specific health or endorsement prohibition regulations to accomplish this control, not finding such rejection or regulatory authority in their pesticide law.

In conclusion, AAPCO recommends that EPA/OPP consider revocation or other rescission of all Clorox Company, or other company's, cause-related marketing labeled products, and that EPA/OPP refrain from approving cause-related marketing on pesticide product labels in the future.

AAPCO also recommends and reminds EPA that its funded forum for discussion and resolution of such issues- SFIREG- was and continues to be available for EPA proposed initiatives prior to actualization. The AAPCO is disappointed that this matter was not brought to the SFIREGs attention in a timely manner, wherein EPA/OPP could have been made aware of the states now noted objections. The SFIREG (State FIFRA Issues, Research and Evaluation Group) has proven very useful for open discussion of many pesticide regulatory proposals, and the ensuing expected or potential consequences.

Sincerely,

A handwritten signature in black ink, appearing to read "Jack Peterson", with a long horizontal flourish extending to the right.

Jack Peterson, President, AAPCO, on behalf of
AAPCO Board of Directors

cc: Jim Gulliford, Asst. Admin., EPA/OPPTS
Jim Jones, Director, EPA/OPP
AAPCO Board of Directors
Phil Gray, AAPCO Secretary