



Innovative Products For **Home. Work. Life.**

Nora Stoner
Mission Support Division (7101M), Office of Program Support
Office of Chemical Safety and Pollution Prevention
Environmental Protection Agency
1200 Pennsylvania Ave. NW, Washington, DC 20460-0001

November 8, 2021

Re: Agency Information Collection Activities; Proposed Renewal of an Existing Collection and Request for Comment; Labeling Requirements for Certain Minimum Risk Pesticides Under FIFRA Section 25(b)

Dear Ms. Stoner,

On behalf of the Household & Commercial Products Association¹, we thank you for opportunity to comment on the Agency Information Collection Activities; Proposed Renewal of an Existing Collection and Request for Comment; Labeling Requirements for Certain Minimum Risk Pesticides Under FIFRA Section 25(b). The members of HCPA recognize that minimum risk pesticides are an important analogue to conventional pesticides, and we have undertaken numerous efforts to improve and expand the 25(b) program. We recently submitted comments to EPA on a recent Advance Notice of Proposed Rulemaking (ANPRM) on Pesticides; Modification to the Minimum Risk Pesticide Listing Program and Other Exemptions Under FIFRA Section 25(b)² and proposed a refinement to this important program by implementing changes at the Federal level that are inclusive of the needs of all stakeholders. While outside of the scope of the ICR, we encourage a careful consideration of multitude of comments on the ANPRM.

HCPA remains concerned that this ICR does not alone capture the full burden of the regulation placed on registrants and state regulatory agencies. We offer these comments to assist the agency in ensuring the burden estimates are reflective of all stakeholders for these products. Below are summary points of HCPA's largest burden

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.

² Comment submitted by Household and Commercial Products Association, July 9, 2021, <https://www.regulations.gov/comment/EPA-HQ-OPP-2020-0537-0019>

concerns.

HCPA is concerned that the labeling burden upon registrants and state lead agencies is not adequately captured with the current Information Collection Request. While the description of the registration requirements at the state level is accurate,³ it does not fully reflect the disparity of state labeling and other requirements that are placed upon 25(b) products. To help visualize the disparity, the figure below shows the varied state requirements for 25(b) products that either require registration within an individual state or are fully exempt from registration.

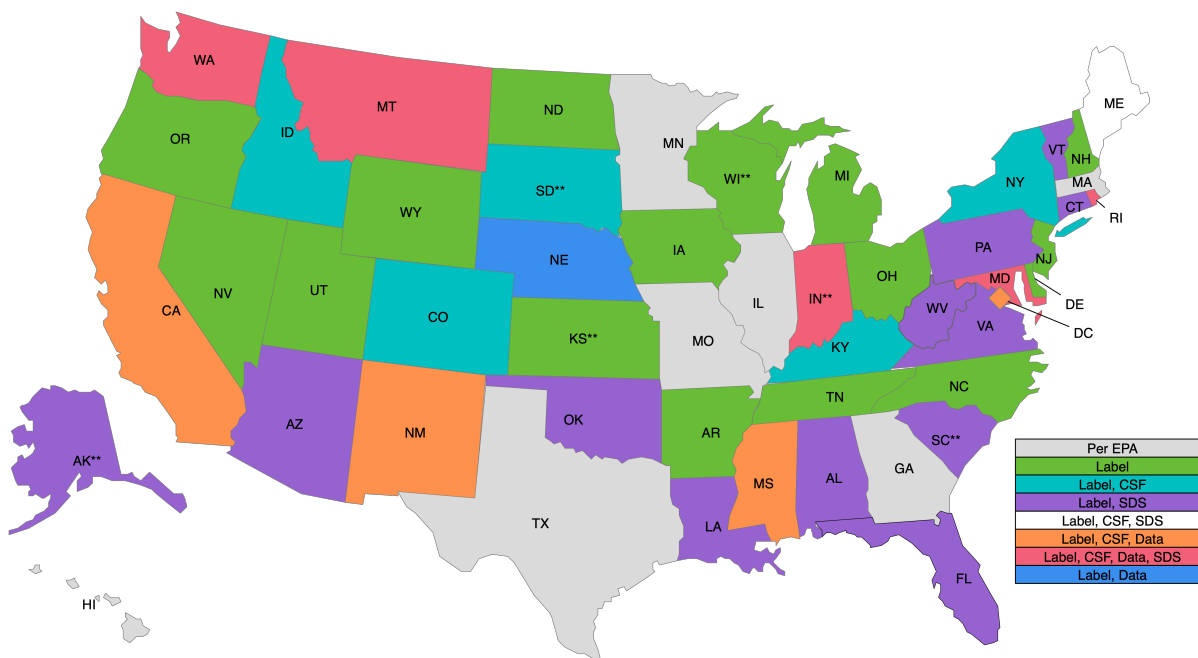


Figure 1: State Registration Requirement for 25(b) Products, October 2021

HCPA completely agrees that states can and should review 25(b) products to ensure compliance with the exemption under FIFRA and that a state can add further registration requirements, if necessary. The point we are trying to make is that describing this activity as simply a labeling exercise significantly undercounts the burden associated with 25(b) products.

Further the ICR notes “(h)owever, to help companies comply with the labeling requirements, EPA provides and periodically updates web guidance applicable to minimum risk products,”⁴ but has not apparently been updated since 2015 rulemaking

³ Supporting Statement for an Information Collection Request (ICR) Under the Paperwork Reduction Act (PRA), Supporting Statement 2, <https://www.regulations.gov/document/EPA-HQ-OPP-2021-0346-0010>

⁴ Supporting Statement for an Information Collection Request (ICR) Under the Paperwork Reduction Act (PRA), Supporting Statement 12, <https://www.regulations.gov/document/EPA-HQ-OPP-2021-0346-0010>

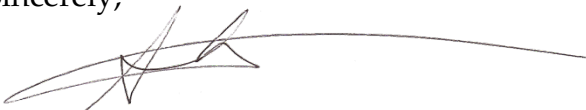
upon which this ICR is based.⁵ In the ensuing time, the Association of American Pesticide Control Officials (AAPCO) has published initial and subsequently updated label guidance to assist states and registrants.⁶ The AAPCO Label Guidance is voluntary by individual states and while most states generally follow the latest version, an individual state could follow the earlier version of the label guidance or the simply meet requirements under the FIFRA 25(b) exemption. Moreover, since the AAPCO label guidance is voluntary, it is under no obligation to follow a regulatory process to elicit stakeholder feedback or assess the burden upon registrants or states.

HCPA is also concerned with the statement that “(s)ince these minimum risk products do not have to be registered at the Federal level, significant cost savings are available for small business to benefit from this exemption,”⁷ is not effectuated in reality. Many states do not distinguish businesses, small or large, during the registration process and it is unlikely that would be any associated benefit for a small business.

HCPA appreciates the efforts to estimate the number of companies and new products that meet the requirements of the minimum risk pesticide exemption but is concerned that utilizing the efforts from a small number of states (Indiana, Maine and New Mexico).⁸ While these states would likely have the most accurate inventory of 25(b) products, they also have registration requirements beyond labeling which may discourage registration of 25(b) products within these states. HCPA recommends inclusion of additional states to better account for the number of companies and 25(b) products registered.

We thank you for this opportunity to share our concerns on the burden estimates on the Minimum Risk Pesticides Under FIFRA Section 25(b).

Sincerely,



Steven Bennett, Ph.D.

Executive Vice President, Scientific & Regulatory Affairs
Household & Commercial Products Association

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⁵ <https://www.epa.gov/minimum-risk-pesticides/commonly-consumed-food-commodities>

⁶ Original Guidance dated October 2018, updated February 2021. <https://aapco.org/wp-content/uploads/2021/02/25b-label-guidance-with-labels-revised-2021.pdf>

⁷ Supporting Statement for an Information Collection Request (ICR) Under the Paperwork Reduction Act (PRA), Supporting Statement 5, <https://www.regulations.gov/document/EPA-HQ-OPP-2021-0346-0010>

⁸ Supporting Statement for an Information Collection Request (ICR) Under the Paperwork Reduction Act (PRA), Supporting Statement 12, <https://www.regulations.gov/document/EPA-HQ-OPP-2021-0346-0010>