EPA Releases Final Guidance on Placement of First Aid Statements on Pesticide Labels

Monday, March 12, 2018

On March 8, 2018, the U.S. Environmental Protection Agency (EPA) announced its release of final guidance clarifying where first aid statements should appear on the label of pesticide products. EPA also posted a response to public comments. Links to the final guidance and to the response to public comments documents are below:

- First Aid Guidance Document -- EPA’s Guidance for Pesticide Registrants on Location of the First Aid Statement per 40 CFR 156.68.
- First Aid Guidance: Response to Public Comments on EPA’s Guidance for Pesticide Registrants on Location of the First Aid Statement and Clarification on Definition of Label “Panel” per 40 CFR 156.68.

EPA states that it was prompted to develop this guidance when it learned “that there was a discrepancy in how the ‘location of first aid statement,’ per [40 C.F.R. Section 156.68(d)] is interpreted by EPA and those in the pesticide registrant community.” EPA notes that its review and approval of pesticide labeling is generally of a “master” label and thus does not always include a review of the location or placement of specific language on a label.

On December 7, 2016, EPA posted a memorandum for public comment entitled “EPA’s Guidance for Pesticide Registrants on Location of the First Aid Statement and Clarification on Definition of Label ‘Panel’ per 40 CFR 156.68” to clarify the interpretation of the term “panel” in the context of 40 C.F.R. 156.68 and to clarify where first aid statements must appear on pesticide labels, based on their Toxicity Category.

In its final guidance, EPA states it “will continue to require that Toxicity Category I products have the first aid statements on the front panel except in cases where a variation has been approved.” Further, based on comments received and the wide reliance by the regulated community on the interpretation that “any panel” includes inside panels, EPA is changing its position from its 2016 memorandum and now “will not require Toxicity Category II and III products to bear the first aid statements on a visible front, back or side panel.”

EPA also listed three recommendations for registrants to consider when printing their container labels:

1. For Toxicity Category I products, EPA strongly recommends that registrants consider placing duplicative first aid language on the very back page of the booklet/accordion/saddle stitch label that is immediately “stuck” to the container in case the booklet/accordion/saddle stitch label is accidentally removed.
2. Regardless of whether a registrant chooses to place the first aid statements for Toxicity Categories II and III products on a visible front, back, side or inside panel, EPA recommends that duplicative first aid language appear on the very back page of the booklet/accordion/saddle stitch label that is immediately attached to the container in case the booklet/accordion/saddle stitch label is accidentally removed. EPA states that this recommendation is not intended to suggest other information that registrants typically include on the label.

In the response to public comments, EPA stated it would still allow registrants of Toxicity Category II and III products to place first aid statements on visible panels other than the back page of the booklet/accordion/saddle stitch label, but only if registrants are willing to accept the uncertainty that the label may be inadvertently removed and that duplicative first aid language not be placed on the label. EPA notes that it received comments from the regulated community indicating that registrants did not agree with the requirement that duplicative first aid language be placed on the back page of the label.
very back page should be moved elsewhere.

3. EPA recommends that the registrant community consider designing new booklets/accordion/saddle stitch labels that are not easily removed from the containers. Per 40 C.F.R. Part 156.10(a)(4), the labels are to be “securely attached” to the immediate container of the pesticide product. EPA believes that in many instances these labels are easily removed which is why, EPA states, it believes many registrants have already chosen to put the duplicative first aid statements on the very last page of the label that is attached to the container.

Registrants should review this guidance carefully, as this issue has been the subject of concern and controversy for a number of registrants.

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