

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, DC 20460

AMENDED MEMORANDUM OF UNDERSTANDING BETWEEN  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
AND ASSOCIATION OF STRUCTURAL PEST CONTROL  
REGULATORY OFFICIALS

This Memorandum of understanding ("MOU") is entered into between the United States Environmental Protection Agency ("EPA") and the Association of Structural Pest Control Regulatory Officials ("ASPCRO") for the purpose of implementing section XI of Pesticide Regulation ("PR") Notice 96-7 (Oct. 1, 1996). The ASPCRO has established a Termiticide Review Committee (hereinafter "the Committee") to fulfill the ASPCRO's commitment, as outlined in Section XI of PR Notice 96-7 to consider applications and amendments for certain termiticide products. Paragraphs 1-7 and 9 of this MOU reflect the terms and limitations ASPCRO has established for the selection of the Committee, the work of the Committee, as well as, among other things, protection of CBI, and do not reflect a commitment or endorsement by EPA. Paragraphs 8, 10-11 reflects the terms agreed upon by EPA and ASPCRO and define the nature of the interaction between the Committee and EPA.

1. Purpose of Committee – The Committee's sole function shall be to act on behalf of ASPCRO as a resource, to EPA and termiticide registrants on the subjects of proposed labeling Directions For Use (subdivision H, Guideline No. 105-18(a) and 40 CFR § 156.10(l) and supporting efficacy data (OPPTS Guideline 810.3600) in connection with FIFRA § 3 applications for (i) new soil treatment termiticide active ingredients, termite bait products, and wood treatment products used for termite control (hereinafter referred to as "termite control products") and (ii) amendments to label rates or methods of application for currently registered termite control products. In carrying out this function, the Committee may raise with EPA and/or a registrant questions regarding proposed labeling Directions for Use and supporting efficacy data.

2. Appointment of Committee – ASPCRO has determined that the following criteria shall apply to the composition and membership of the Committee: (1) The Committee shall be comprised of 3-5 state officials who are members of ASPCRO and at least one, preferably two, member(s) who represents the scientific research community as a technical resource. (2) Consistent with ASPCRO's Bylaws, the members of the Committee shall be appointed by the President of ASPCRO, who also shall designate one of the Committee's members as its Chair. (3) Each member of the Committee must be from a state whose laws enable them to protect from disclosure information that would also constitute protected CBI under federal law. (4) Committee members shall serve for three years, and may be reappointed.

3. Scope of Committee's Activities – Only proposed labeling Directions for use (subdivision H, Guideline No. 105-18(a) and 40 CFR § 156.10(l) and supporting efficacy data (OPPTS Guideline 810.3600 and relevant guidelines for termite bait



systems, OPPTS Guideline 810.3800) in connection with FIFRA § 3 applications for new termite control products, or amendments to label rates or methods of application for currently registered termite control products, shall be within the scope of the Committee and received by the Committee. Proposed labeling and efficacy data in connection with any other FIFRA application, including but not limited to, an application involving fumigants or completely new technology, shall be outside the scope of the Committee and shall not be considered by the Committee.

4. Registrant Submissions—Subject to the limitations set forth in paragraphs 1 and 3 of this MOU, registrants (including new applications) may submit copies of proposed labeling and efficacy data to the Committee following submission of the same proposed labeling and efficacy data to the EPA. Submission of proposed labeling and efficacy data to the Committee is optional. However, a submission to the Committee should allow EPA to expedite the completion of the registration request. Registrant submissions shall be sent directly to each member of the Committee by the registrant.

5. Protection of CBI— To the fullest extent provided by law, the Committee shall treat as CBI all registrant submissions (i.e. proposed labeling and efficacy data) including the fact that an application has been filed with EPA. Before receiving a registrant's submission, each member of the Committee shall sign a confidentiality agreement, provided by that registrant, and confirm in writing that he or she is authorized under the laws of his or her state protect information as confidential to the extent provided by state law. To the extent permitted by law, members of the Committee may confer about an application or submission only among themselves, or with EPA and/or the registrant as provided in paragraph 7 of the MOU. Committee members shall not communicate with other ASPCRO members regarding an application or submission except as provided in paragraph 9 of this MOU, and shall not communicate with other personnel from their own states, other registrants, technical consultants, or anyone else regarding an application or submission. Communications that include information claimed confidential by registrants, including communications from the Committee and EPA and/or registrants, and all internal Committee communications, shall be treated by the Committee as confidential, the extent provided by applicable law.

6. Termite Control Product criteria— If no time period of product effectiveness is claimed by a registrant on its proposed labeling, any questions or concerns raised by the Committee shall be limited to whether the data submitted (either USDA Gulfport or other) support five years of efficacy at label rates. If the registrant claims a period of time less than five years (e.g., 3-5 years), then any questions or concerns raised by the Committee shall be limited to whether the submitted data support that claim. In raising questions or concerns regarding different registrants' submissions, the Committee shall use its best efforts to be as consistent as possible. For termite control products, an efficacy guideline adopted by the USEPA should be used or, if no such guideline exists, then the recommendation of the ASPCRO Termiticide Standards Committee should be used by the Termite Label .

7. Communications with EPA and Registrants– The Committee will provide their written comments to EPA within 90 days of receiving the registrant’s submission or in time to meet EPA’s review deadline for product labeling and efficacy data. The sole purpose of these comments will be to raise any questions or concerns about the proposed labeling Directions for Use or supporting efficacy data. After consulting with EPA the Committee shall send a copy of any such written communication to the registrant, and shall promptly provide the registrant with a copy of any follow-up correspondence to or from EPA.

8. EPA Action– EPA shall consider the questions or concerns raised by the Committee, and any response provided by the registrant, in deciding what action to take with respect to a registrant’s application.

9. Report to ASPCRO– Within 30 days after EPA notifies the Committee that it has approved a registration or amendment, the Committee shall report to the members of ASPCRO the fact that the Committee reviewed the proposed labeling and efficacy data. The committee shall not provide any information claimed as confidential to the members of ASPCRO except with the consent of the registrant or where permitted by applicable law.

10. Approval of MOU – This MOU becomes effective after all individuals indicated below sign it. The signature of the President of ASPCRO signifies that this MOU has been formally approved by ASPCRO’s Board of directors, and that ASPCRO and the Committee understand and agree to abide by each of its provisions. The signature of each member of the Committee signifies that he has read the MOU, and understands and agrees to abide by each of its provisions. Future members of the Committee must read and sign a copy of the MOU before becoming a member of the Committee. The signature of the Director, Registration Division, Office of the Pesticide Programs signifies that EPA acknowledges the provisions of the MOU that are applicable to ASPCRO and the Committee members, and understands and agrees to abide by the provisions applicable to EPA. A copy of this MOU, containing all signatures indicated below, shall be provided to any termiticide registrant which requests a copy. Except as provided in paragraph 11 below, this MOU shall not be modified in any manner unless the affected parties are provided with a reasonable advance opportunity to comment to EPA and ASPCRO on any proposed changes.

11. Termination – The ASPCRO and the EPA reserve the right to terminate this MOU at any time by mutual consent or unilaterally.

Lois Rossi 12.9.04  
Date  
Lois Rossi  
Director, EPA Registration Division

George Saxton 12.28.04  
Date  
George Saxton  
President ASCPCRO

Carl Falco 1/5/05  
Date  
Carl Falco  
Chair ASCPCRO Termiticide Label Review Committee

Jim Wright 1/14/05  
Date  
Jim Wright  
Vice Chair ASCPCRO Termiticide Label Review Committee

Ray Siegel 1/24/05  
Date  
Ray Siegel  
ASPCRO Termiticide Label Review Committee

Dave Scott 12-28-04  
Date  
Dave Scott  
ASPCRO Termiticide Label Review Committee

Brian T. Forschler 1-27-05  
Date  
Dr. Brian Forschler  
ASPCRO Termiticide Label Review Committee

Dr. Brad Kard 12 FEB 2005  
Date  
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ASPCRO Termiticide Label Review Committee

Bettie McGuire AD-ADM 3 4 05  
Date  
Dr. Terry Wagner USDA Forest Service, Southern Research Station Representative  
ASPCRO Termiticide Label Review Committee  
Bettie McGuire, Assistant Director for Administration  
Authorized Representative