



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

February 10, 1992

OFFICE OF
PESTICIDES AND TOXIC
SUBSTANCES

PR NOTICE 92-2

NOTICE TO MANUFACTURERS, FORMULATORS, PRODUCERS
AND REGISTRANTS OF PESTICIDE PRODUCTS

ATTENTION: Persons Responsible for Registration of Pesticides

SUBJECT: Permissible Label Claims Regarding Ozone Depleting
Substances

This Notice describes EPA's revised policy permitting certain chlorofluorocarbon (CFC) related labeling claims on pesticide aerosol products. Under the new policy, true claims that a product does not contain CFCs or other ozone depleting substances are permitted on pesticide labels. This policy is effective immediately.

If the labeling claim is limited to the exact wording provided in Section II of this notice, labeling may be revised by notification to EPA in accordance with 40 CFR 156.46(a)(1). Alternative labeling statements must be approved by submission of an application for amended registration.

I. BACKGROUND AND RATIONALE

EPA has generally regarded "Contains No CFCs" and other claims concerning the absence of ozone-depleting substances to be forms of safety claims prohibited by EPA's labeling regulations in 40 CFR 156.10(a)(5). In 1977, however, when EPA proposed to ban CFC use in aerosol products under the Toxic Substances Control Act, EPA permitted an advisory statement "Does not contain CFCs" on pesticide labels until the ban became effective (PR Notice 77-1; January 31, 1977). EPA acknowledged the value of this statement during the phaseout period in enabling consumers to distinguish CFC-containing products from non-CFC-containing products in their purchase choices. When the ban became fully effective on December 15, 1978, and CFC-containing aerosol products were no longer permitted to be distributed or sold, EPA rescinded its permission to use the statement because it was unnecessary (PR Notice 78-3; May 15, 1978).

EPA has reevaluated its policy and has determined, for reasons explained below, that a CFC and ozone layer related claim is acceptable on pesticide product labeling under certain conditions. An acceptable claim is set forth in Section II of this notice.

EPA's concern with safety claims is the overall effect such claims have on consumers of pesticides. If a claim leads users to believe that a product is safe for humans and the environment to the extent that the label directions and precautions may be disregarded, then EPA considers the claim to be misleading. Examples of such claims are "safe," "non-injurious," "harmless," etc. Similarly, claims such as "ozone friendly," "safe for the ozone layer" and "environmentally friendly" may give users the misleading impression that a product is totally safe for the environment when it is not.

Although CFC-related claims are safety-related claims, EPA believes that these claims can be narrowly stated so that their potential to mislead or confuse the public is limited. The claim "Contains no CFCs or substances known to deplete the ozone layer" neither broadly implies complete safety for the product nor should it lead users to ignore labeling precautions.

Further, EPA believes that the minimal potential for such claims to mislead consumers is outweighed by the benefit to consumers and the regulated community in making EPA's policy consistent with the policies of other regulatory agencies. The Federal Trade Commission and State Consumer Protection Agencies currently permit non-pesticidal products (e.g., room deodorants, air fresheners, household cleaners) that compete with aerosol pesticides to carry such claims (provided the claims are not false or misleading). Consumers may believe that the omission of such claims on pesticide product labels indicates that pesticides contain ozone depleting substances when in fact they may not. EPA believes that, where possible, its labeling policies should coincide with those of other agencies that regulate labeling and advertising of non-pesticide products. If the Federal Trade Commission or State Consumer Protection Agencies choose to alter their policies regarding the regulation of such claims, EPA may revise this notice.

Additionally, this policy will allow consumers to make an informed choice between those pesticide products which still contain ozone depleting substances and those that do not. Although CFC propellants have been banned in consumer aerosol products since 1978, other ozone depleting substances, including HCFCs, are still used in some consumer aerosol products. EPA regulations under the Clean Air Act Amendments will ultimately ban or phase out the production and consumption of many ozone depleting substances over the next ten years, and will require products containing or made with ozone depleting substances to carry label statements warning of the presence of these substances. Nonetheless, EPA believes that consumers may benefit from the use of ozone layer related label claims on those aerosol pesticide products which do not contain ozone depleting substances.

II. POLICY

Statements concerning the absence of ozone-depleting chemicals may be made on pesticide labeling provided that the product does not contain either Class I or Class II ozone-depleting chemicals and that the statement does not broadly imply that the product is safe for humans or the environment. Further, any registrant wishing to make specifically a CFC-related claim for its product must add an additional label statement that federal regulations prohibit CFC propellants in aerosols. Such a statement is necessary so that consumers are not misled to believe that pesticide products still contain CFC propellants.

The following statement, if used exactly, may be added to the labeling of aerosol pesticide products by notification to the Agency in accordance with 40 CFR 152.46(a)(1) and PR Notice 88-6. Alternative statements concerning protection of the ozone layer must be approved by the Agency through the normal amendment process.

"Contains no CFCs or other ozone depleting substances. Federal regulations prohibit CFC propellants in aerosols."

III. EFFECTIVE DATE

This policy is effective immediately.

IV. FURTHER INFORMATION

If you have questions regarding this policy you may contact Jeff Kempter, Registration Division (202-305-5448).


Douglas D. Campt, Director
Office of Pesticide Programs