

**ENVIRONMENTAL PROTECTION AGENCY**

[OPP-00730; FRL-6792-4]

**Pesticides; Draft Guidance for Pesticide Registrants on New Labeling Statements for Spray and Dust Drift Mitigation****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice.

**SUMMARY:** The Agency is announcing the availability of, and seeking public comment on, a draft Pesticide Registration Notice (PR-Notice) titled "Spray and Dust Drift Label Statements for Pesticide Products." PR-Notices are issued by the Office of Pesticide Programs (OPP) to inform pesticide registrants and other interested persons about important policies, procedures and registration related decisions, and serve to provide guidance to pesticide registrants and OPP personnel. This particular draft PR-Notice provides guidance on drift label statements for pesticide products. The purpose of this new labeling is to provide pesticide registrants and applicators and other individuals responsible for pesticide applications with improved and more consistent product label statements for controlling pesticide drift from spray and dust applications in order to be protective of human health and the environment. The Agency invites comments on any aspect of the draft PR-Notice as well as the specific issues addressed below in the background section.

**DATES:** Comments, identified by docket control number OPP-00730, must be received on or before November 20, 2001.

**ADDRESSES:** Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the

**SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP-00730 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** Jay Ellenberger, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305-7099; fax number: (703) 305-6244; e-mail address: ellenberger.jay@epa.gov.

**SUPPLEMENTARY INFORMATION:****I. General Information***A. Does this Action Apply to Me?*

This action is directed to the public in general. This action may be of particular interest, however, to those persons who hold pesticide registrations, apply pesticides, or regulate the use of pesticides for states, territories, or tribes. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

*B. How Can I Get Additional Information, Including Copies of this Document?*

1. *Electronically.* You may obtain electronic copies of this document and the PR-Notice from the Office of Pesticide Programs Home Page at <http://www.epa.gov/pesticides/>. You can also go directly to the listings from the EPA Internet Home Page at <http://www.epa.gov/>. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "Federal Register—Environmental Documents." You can also go directly to the **Federal Register** listings at <http://www.epa.gov/fedrgrstr/>.

2. *Fax-on-demand.* You may request a faxed copy of the draft PR-Notice titled "Spray Drift Statements for Pesticide Product Labels" by using a faxphone to call (202) 401-0527 and selecting item 6142. You may also follow the automated menu.

3. *In person.* The Agency has established an official record for this action under docket control number OPP-00730. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway,

Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.

*C. How and to Whom Do I Submit Comments?*

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP-00730 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: "opp-docket@epa.gov," or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP-00730. Electronic comments may also be filed online at many Federal Depository Libraries.

*D. How Should I Handle CBI That I Want to Submit to the Agency?*

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record.

Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

*E. What Should I Consider as I Prepare My Comments for EPA?*

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice.
7. Make sure to submit your comments by the deadline in this notice.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

## II. Background

*A. What Guidance Does the PR-Notice on Labeling Provide?*

In the PR-Notice, EPA provides registrants with guidance for new labeling statements for controlling pesticide spray and dust drift. These statements are intended for agricultural, industrial, home, lawn, garden, and certain other outdoor use pesticide products applied by aerial, ground rig, orchard airblast, chemigation, and handheld equipment. These proposed statements are based on EPA's policy on drift, which is articulated in the PR-Notice, studies submitted by registrants, other studies in the open scientific literature, and communications with applicators, registrants, academicians, and other Federal, state, and tribal government agencies. The Agency generally considers the label statements to be generic statements and representative of drift mitigation measures that are practical and effective to reduce drift under most application situations.

The Agency acknowledges, however, that this labeling guidance may not be

appropriate for all products and that for certain products there may be appropriate alternatives to the wording of these statements. EPA will consider other wording proposed by registrants for their products. This notice is not binding on either EPA or pesticide registrants, and EPA may depart from the guidance where circumstances warrant and without prior notice. Likewise, pesticide registrants may always assert that the guidance is not appropriate generally or not applicable to a specific pesticide or situation. The intention of these new statements is to provide registrants and applicators with improved and more consistent directions for controlling drift from application sites and assuring protection to human health and the environment. This notice also provides the Agency's position on drift, definitions of the terms "spray (or dust) drift" and "no-spray zone," rationale for the label statements, and a plan for what registrants should do.

*B. What Issues/Questions Should you Consider?*

Those who wish to comment are free to raise any issue, but the following questions are of particular interest to the Agency, and comments on them are invited.

1. The Agency requests comments on the proposed labeling statements, specifically in four areas described in this and the following three paragraphs. In the proposed guidance for labeling statements, the first sentence of the proposed labeling is a prohibition against allowing drift from the application site to contact people and the specified sensitive areas. The Agency is interested in comments about whether this labeling statement provides a definitive and enforceable requirement or expectation to applicators for protecting human health and the environment from drift.

2. The Agency is interested in comments regarding the inclusion of specific application conditions in the labeling statements, the selection of the specific application conditions as key measures to control drift, and their enforceability and practicality to be followed under many different application scenarios. The proposed labeling statements include specific limitations for application conditions, including maximum wind speed, application height, and nozzle placement, which are key variables in affecting the quantity and distance or deposition of drift. The proposed specific limits are based on the available studies on drift, particularly those dealing with cause and effect. Placing a

limitation on these variables is a means to control drift and reduce pesticide exposures and associated risks to human health and the environment.

3. The Agency asks for comment on the content of the proposed labeling statement for home and garden products. According to information on drift incidents provided by States, use of these products result in a significant portion of the total number of all reported drift incidents. The Agency is mindful that any wording for these products would need to be simpler than for other types of products, such as agricultural products, which are likely to be applied by trained applicators.

4. Because higher risk pesticides may lead to the need for no-spray zones for additional risk reduction, the Agency is proposing a no-spray zone labeling statement that generally would be used for those pesticide products. The Agency is interested in comments on its proposal for no-spray zones and the proposed labeling statement for no-spray zones.

*C. Summary of the Agency's Position on Drift*

The Agency has the responsibility to ensure that the use of pesticides will not cause unreasonable adverse effects to human health and the environment. Those involved in pesticide application decisions have an important responsibility to protect people, domestic animals, wildlife, and the environment from pesticide exposures and potential harm from drift. States, tribes, and EPA have responsibilities to carry out enforcement to ensure compliance with pesticide use requirements.

EPA's position on pesticide drift is that applicators must not allow spray or dust drift to contact people, animals, and certain sensitive sites, including structures people occupy at any time, and the associated property, parks and recreation areas, nontarget crops, aquatic, wetland areas, woodlands, pastures, and rangelands. The Agency believes this is prudent public policy. It sets high but appropriate standards for applicators to protect people and the environment. Applicators must consider and use necessary application practices and measures required by states or tribes in addition to mandatory drift control measures that are stated on product labels.

EPA realizes this position sets high but appropriate standards for applicators to protect people and the environment. However, the Agency believes that this policy will not have an undue impact on agriculture or other uses of pesticides. Rather, this policy

and new labeling will clarify expectations of applicators and set definitive standards for application practices. The Agency also believes that in addition to improved labeling a very important component for controlling drift is training and education of applicators and others involved in pesticide application decisions about the causes and consequences of drift, control methods, and legal requirements.

#### *D. Other Options EPA Considered for Labeling*

EPA considered a variety of other options for label statements for spray drift mitigation, some of which were offered by stakeholders. These other labeling options and the Agency's reactions are discussed below. The Agency welcomes comment on these other options.

#### *Label Statement Option—"Do not Allow Spray Drift"*

This option, which EPA has required on some product labels, oversimplifies and conflicts with the Agency's conclusions of the supporting scientific data that some *de minimus* degree of drift will occur as part of nearly all pesticide applications. Nevertheless, recognizing the inadequacies of this statement and its appearance on numerous product labels for many years, we believe that it has been effectively and practically enforced by EPA, states, and tribes. Enforcement authorities have used their discretion to pursue violations based on their evaluation of those cases where there may have existed the potential for an effect or concern for exposures and risks to off-target people, animals, plants, and the environment.

#### *Label Statement Option—"Do not Allow Drift to Cause Adverse Effects"*

EPA believes this statement is problematic from an enforcement perspective because the burden of proof must be shifted from the simple fact of drift to the "effect" of drift, which is less compatible with the nature of evidence gathered in field investigations. This would require the determination of the definition of "adverse effects" under numerous circumstances on a case-by-case basis.

An additional problem with this label statement is it suggests to applicators that drift is acceptable unless someone recognizes and reports effects and appropriate authorities rule the effects are "adverse."

#### *Label Statement Option—"Minimize Drift to Sensitive Areas. If Drift Occurs and Causes Environmental and Economic Effects, Enforcement Action May be Taken"*

"Minimize drift" suggests the Agency finds certain levels of off-target drift acceptable, contrary to EPA's policy as discussed above. Further, Agency enforcement authorities believe this statement compromises their responsibilities by jeopardizing their ability to take enforcement action when necessary. The second proposed statement also causes concern. Under this label statement EPA, states, and tribes would have to prove drift as well as both environmental and economic effects before taking further action.

Since there is no label minimization standard, this statement essentially provides tacit permission to allow drift to occur at certain levels, presumably at levels up to those that do not cause "environmental and economic effects." If certain levels of drift are permissible, a statement that off-target drift may result in enforcement action is nonsensical.

#### **List of Subjects**

Environmental protection, Pesticides.

Dated: August 9, 2001.

**Marcia E. Mulkey,**

*Director, Office of Pesticide Programs.*

[FR Doc. 01-20798 Filed 8-21-01; 8:45 am]

**BILLING CODE 6560-50-S**

#### **FEDERAL COMMUNICATIONS COMMISSION**

#### **Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested**

August 14, 2001.

**SUMMARY:** The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper

performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

**DATES:** Written comments should be submitted on or before October 22, 2001. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

**ADDRESSES:** Direct all comments to Les Smith, Federal Communications Commission, 445 12th Street, SW., Room 1-A804, Washington, DC 20554 or via the Internet to [lesmith@fcc.gov](mailto:lesmith@fcc.gov).

**FOR FURTHER INFORMATION CONTACT:** For additional information or copies of the information collections contact Les Smith at (202) 418-0217 or via the Internet at [lesmith@fcc.gov](mailto:lesmith@fcc.gov).

#### **SUPPLEMENTARY INFORMATION:**

*OMB Control No.:* 3060-0802.

*Title:* Administration of the North American Numbering Plan, Carrier Identification Codes (CICs), CC Docket 92-237, CICs Order on Reconsideration, FCC 97-386 (Message Intercept Requirement).

*Form No.:* N/A.

*Type of Review:* Extension.

*Respondents:* Business or Other for Profit.

*Number of Respondents:* 1400.

*Estimated Time Per Response:* 9 hours per response (avg).

*Total Annual Burden:* 12,600 hours.

*Estimated Annual Reporting and Recordkeeping Cost Burden:* \$0.

*Frequency of Response:* Third Party Disclosure.

*Needs and Uses:* In the CICs Order on Reconsideration (FCC 97-386), the Commission requires local exchange carriers (LECs) to offer a standard intercept message on or before June 30, 1998, and to coordinate with interexchange carriers (IXCs) in developing it. This requirement is needed to educate end users about their need to use seven-digit carrier access codes (CACs) to reach carriers instead of the previous five-digit access codes.

Federal Communications Commission.

**Magalie Roman Salas,**

*Secretary.*

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**BILLING CODE 6712-01-P**