

US EPA ARCHIVE DOCUMENT

Environmental Marketing Claims

Several stakeholders have approached the Agency requesting that consideration be given to establishing criteria under which “safer chemical” label and marketing claims could be made. When FIFRA was originally enacted, it included consumer protection elements to prevent false and misleading label claims. Historically “safer” label or marketing claims have not been permitted. This policy was partly out of concern that such claims would lead to a “disrespect” for products that exhibit toxicity resulting in unsafe use and dismissal of label precautions, particularly in the homeowner community.

The Pesticides Program has also functioned with a goal of high production. Resources required to make distinctions between claims would have been diverted from the evaluation of new and old chemicals, which ensures that the pesticides on the market do not pose unreasonable risks.

The Pesticides Program is now considering whether labeling and marketing claims could be used as a non-regulatory market-based approach to environmental protection. We are seeking the PPDC’s advice on whether consideration of a Claims Program is worth pursuing.

Examples of Environmental Label and Marketing Claims

- “This product is safe for bees.”
- “This product poses low human health toxicity.”
- “This product is a reduced risk chemical for use on corn.”
- “This product biodegrades in 48 hours.”

Pros for Environmental Label and Marketing Claims

- Promotes safer chemicals and technologies to replace old, more toxic products.
- Provides opportunities for chemical companies to make legitimate statements regarding their products’ reduced toxicity.
- To the extent that safer pesticide products are available, allows homeowner/consumers, farmers, and property managers to make safer market selections, supporting education of the pesticide purchaser.
- The barrier to marketing chemicals as “safer” may in some cases, inhibit introduction of safer substances, or adversely affect expansion into new markets.

Cons for Environmental Label and Marketing Claims

- Encourages/promotes misleading claims.
- Reduces consumers' likelihood of reading the label.
- "Don't worry about it" message undercuts other label precautions.
- Gives the appearance that OPP is endorsing certain products.
- Assumes that marketing is consistent with the goal of consumer education.
- Raises concerns of dueling safety claims for pesticide products.
- Labeling system is not responsive to efficiently making changes if claims are no longer valid.
- Agency has battled illegal safety claims through enforcement and this would open the door to bigger problems.
- OPP resources to oversee a Claims Program would be diverted from the registration process.

ISSUES TO CONSIDER IN DEVELOPMENT OF A PROGRAM

Expansion of Existing Reduced Risk Program: Should the Agency consider using the current Reduced Risk Program for expedited registration with an expansion to include the approval of label and marketing claims of the chemical's reduced risk status? Concerns have been raised that the relative findings of reduced risk could be misused and would not communicate the actual risks of a chemical (e.g., reduced risk chemical X replaces a more toxic chemical for use on corn, but it still has numerous toxic endpoints for humans).

Establishment of a Low Toxicity Chemical Program: Rather than using a reduced risk approach, should the Agency consider establishment of criteria to define chemicals of low toxicity? Toxicity criteria would be of a black or white, in-or-out nature----not a relative finding. Multiple sets of criteria could be established to demonstrate broad categories such as low human health toxicity, low environmental toxicity, low domestic animal toxicity, and other categories, as appropriate. Only pesticides meeting the low toxicity criteria could make label and marketing claims and the claims would be limited to category of toxicity (e.g., environmental claims or human health claims, or both if appropriate). A major barrier to implementation is the lack of accepted criteria. One option would be to use a 3rd party (such as ANSI, ASTM, or the PPDC) to develop and recommend criteria to the Agency.

Different Programs for Consumer/Residential and Agricultural/Professional Applicators:

Would one type of claim program be appropriate for all pesticide users? Should consideration be given to developing different standards for claims dependent on the use pattern of the pesticide?

Inerts: In establishing a program, should the inerts' toxicity also be included in the evaluation? While an active ingredient may be of low toxicity or meet the reduced risk standard when it is formulated into a specific product, the inert ingredient(s) may make the product more toxic than the active ingredient.

Sunsetting: Should the Agency build a sunseting clause into the registration for label and marketing claims since the pesticide market changes over time?

Standardized Label and Marketing Language: Should standardized label and marketing language be developed? How will harmonization issues be handled?

“Endorsement” Issues: The Agency “endorses” products under several programs—the Environmentally Preferable Program, the Energy Star Program, the Green Lights Program, and the Design for the Environment Program. Is the perception of endorsement an issue for a claims program?

REQUEST TO PPDC

- Should the Agency further explore development of a Claims Program?
- Does PPDC see a role for itself in exploring the issues and making recommendations to the Agency?
- Are there other approaches and other stakeholders?