Are There Changes in the Estimates From the Last Approval?

There is anticipated to be no change in the hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB.

What Is the Next Step in the Process for This ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT.**

Dated: September 24, 2008.

Granta Y. Nakayama,

Assistant Administrator, Office of Enforcement and Compliance Assurance.

[FR Doc. E8–22943 Filed 9–29–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2007–1008; FRL–8385–3]

Pesticides; Notice of Intent To Withdraw the Draft PR Notice on Label Statements Regarding Third-Party Endorsements and Cause Marketing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is withdrawing its draft Pesticide Registration Notice (PR Notice) entitled ''Label Statements Regarding Third-Party Endorsements & Cause Marketing.'' The draft PR Notice, issued for public comment in October 2007, contained a description of the Agency's proposed framework for evaluating proposed statements and graphic material to appear on pesticide labeling regarding third-party endorsements or a relationship between the pesticide registrant and a charity (''cause marketing claims'') and the kinds of information EPA would expect to receive in applications to add such claims to pesticide labeling. Public comments on the draft raised serious issues, leading the Agency to conclude that considerably more information would likely be needed to support such claims than was described by the draft PR Notice. Rather than develop additional guidance, EPA believes it is better to allocate its resources to other initiatives which should improve pesticide labeling in ways that enhance users' understanding of and ability to use products safely and effectively. Thus, the Agency will continue to evaluate applications proposing to add labeling containing third-party endorsements or cause marketing claims on a case-by-case basis to ensure that the applicant has provided sufficient information to allow EPA to determine whether products containing such claims meet the standards for registration.

FOR FURTHER INFORMATION CONTACT: Michelle DeVaux, Immediate Office (7501P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–5891; fax number: (703) 308–4776; e-mail address: *devaux.michelle@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This notice is directed to the public in general, although it may be of particular interest to those persons who register products under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). 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 applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2007–1008. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*.

II. Background

EPA is committed to ensuring that pesticide labeling communicates to the user information on how to use the product safely and effectively. The Agency is devoting considerable resources to improving the content and design of the labeling of currently approved pesticide products in order to meet this goal. These efforts address not only guidance about what information should appear in labeling, but also how EPA receives and reviews labeling and how labeling is communicated to users.

In the **Federal Register** of October 31, 2007 (72 FR 61638) (FRL–8152–6), EPA issued for public comment a draft Pesticide Registration Notice (PR Notice) entitled ''Label Statements Regarding Third-Party Endorsements & Cause Marketing.'' The draft PR Notice described a proposed framework for evaluating proposed statements and graphic material to appear on pesticide labeling regarding third-party endorsements or a relationship between the pesticide registrant and a charity (''cause marketing claims''). The draft PR Notice also discussed the kinds of information EPA would expect to receive in an application in order to determine that such claims are consistent with FIFRA. The Agency received 108 comments opposing the draft PR Notice, along with 11 comments in support of some or all of the draft.

This Notice discusses EPA's decision, after reviewing public comments, to withdraw its draft PR Notice, and to continue to support initiatives that simplify and clarify labeling in order to better communicate critical information to users. Unit III. of this Notice describes the legal framework used by EPA to evaluate proposed labeling of pesticide products. Unit IV. discusses the importance of pesticide labeling and initiatives the Agency is taking to improve pesticide labeling. Unit V. discusses the draft PR Notice and public comments received, and Unit VI. explains EPA's position on the kinds of cause marketing claims and third-party endorsements as described in the PR Notice and the basis for this position.

In sum, consistent with its mandate, EPA will accept and review all applications for new or amended pesticide labeling, including those proposing to add third-party endorsements or cause marketing claims. After review of public comments, however, the Agency has decided that such claims are unlikely to

enhance users' ability to use a pesticide safely and effectively. Because it does not wish to encourage such claims, EPA has decided it is not appropriate to issue guidance on what information is needed to support such applications. If EPA receives such an application, the Agency expects to decide on a case-by-case basis both what information would be sufficient to support the application and whether a product containing such a claim would meet the applicable statutory standard for approval.

III. Legal Framework

EPA regulates the sale, distribution, and use of pesticide products under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). With certain minor exceptions, every pesticide product must be ''registered'' by EPA before it may lawfully be sold or distributed in the United States. FIFRA sections 3(a) and 12(a)(1)(A). FIFRA section 3(c)(1) requires an applicant for registration to file with EPA, among other things, ''a statement which includes— . . . (C) a complete copy of the labeling, a statement of all claims to be made for [the pesticide] . . . .'' Under FIFRA section 3(c)(5), EPA may register a pesticide, i.e., approve a license authorizing the sale and distribution of the pesticide product, if EPA determines that:

(A) [the pesticide's] composition is such as to warrant the proposed claims made for it;

(B) its labeling and other material required to be submitted comply with the requirements of [FIFRA];

(C) it will perform its intended function without unreasonable adverse effects on the environment; and

(D) when used in accordance with widespread and commonly recognized practice it will not generally cause unreasonable adverse effects on the environment.

The labeling of a pesticide plays a critical role in assuring the safe use of pesticide products. FIFRA section 2(p)(1) defines the ''label'' of a pesticide as ''the written, printed, or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers.'' FIFRA section 2(p)(2) defines ''labeling'' to mean ''all labels and all other written, printed or graphic matter (A) accompanying the pesticide or device at any time; or (B) to which reference is made on the label . . . .'' Typically, the label of a pesticide contains the product name, brand, or trademark; an ingredients statement; a statement of net weight or contents; directions for use; and hazard and precautionary statements. See EPA regulations at 40 CFR part 156.

Two other sections of FIFRA relating to the labeling of pesticide products contain important provisions that establish the link between registration decisions and pesticide use. Under FIFRA section 12(a)(2)(G), it is unlawful for any person ''to use any registered pesticide in a manner inconsistent with its labeling.'' To reinforce this authority, FIFRA section 12(a)(2)(A) also declares it unlawful for any person to ''detach, alter, deface or destroy, in whole or in part, any labeling required under [FIFRA],'' i.e., the labeling approved as part of EPA's registration decision. Thus, EPA's registration decisions regarding approved labeling become the primary vehicle by which EPA establishes enforceable requirements on the use of a pesticide.

In addition, FIFRA section 12(a)(1)(E) prohibits the sale or distribution of any pesticide or device which is ''misbranded.'' FIFRA section 2(q) contains a lengthy definition explaining when a pesticide should be considered ''misbranded,'' including when:

(1)(A) its labeling bears any statement, design or graphic representation relative thereto or to its ingredients which is false or misleading in any particular; . . .

(E) any word, statement, or other information required by or under the authority of [FIFRA] to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(F) the labeling accompanying it does not contain directions for use which are necessary for effecting the purpose for which the product is intended and if complied with, . . . are adequate to protect health and the environment.

The language in FIFRA section 3(c)(5)(B), in effect, makes the misbranding definition one of the criteria for determining the acceptability of a pesticide for registration.

In summary, EPA has the authority and responsibility to register pesticides according to specific standards, to ensure that the products registered, when used according to the labeling, will not generally cause unreasonable adverse effects. The importance of labeling to convey the end results of the registration process to the user is paramount.

IV. Registration & Labeling

In order to protect human health and the environment from unreasonable adverse effects that might be caused by pesticides, the Agency has developed and operates a rigorous and demanding process for registering pesticides. The formal process begins when a manufacturer submits an application to register a pesticide. The application must contain required test data, including information on the pesticide's chemistry, environmental fate, toxicity to humans and wildlife, and its potential for human exposure. The Agency also requires a copy of the proposed labeling, including directions for use, and appropriate warnings. Since users are required to comply with the directions for use and restrictions on a product's labeling, EPA uses the labeling to define how the pesticide would be used and thus how people and the environment would be exposed to the pesticide.

As required by FIFRA section 3(c)(4), the Agency announces the receipt of applications for products that contain a new active ingredient or change a use pattern and invites public comment through a **Federal Register** Notice. Once an application is received, EPA processes it and conducts an evaluation, which includes a detailed review of scientific data to determine the potential impact on human health and the environment. The assessment may undergo peer review by a panel of scientific experts. The Agency considers the risk assessments and results of any peer review, reviews risk mitigation measures, and makes risk management and regulatory decisions.

In the decision-making process, EPA evaluates the application to determine whether the proposed use(s) meets the Agency's standards for human health, worker and environmental protection. If the application does not contain enough evidence to prove that the pesticide meets all of these standards, EPA communicates to the applicant the need for more or better refined data, labeling modifications, or additional use restrictions. Once the applicant has demonstrated that a proposed product meets the statutory standards, EPA establishes a tolerance if the product is intended to be used on food and approves the registration with any risk mitigation necessary, and publishes the decision in the **Federal Register** Notice. EPA devotes significant resources to the regulation of pesticides to ensure the highest levels of protection of the public and the environment.

Product labeling is the primary mechanism used by EPA to communicate critical information to the pesticide user. The labeling contains use directions, health and safety information, and instructions for proper storage and disposal. Users are obligated to follow the use instructions on the label and labeling for registered products. Different program

stakeholders, including states, the Pesticide Program Dialogue Committee, members of the Consumer Labeling Initiative, and the public, however, have raised concerns with the current state of pesticide labels. External stakeholder feedback has suggested that labels need to be simpler, especially for products at the consumer level, in order for users to fully understand them. To better communicate the required information and to avoid distractions to the consumer, stakeholders have suggested that EPA reduce unnecessary label content and provide clear, concise and easy-to-read information.

In addition to stakeholder feedback on label formatting, EPA has received input from states on the enforceability of label language. States, as co-regulators with EPA, are responsible for enforcing many pesticide-related laws. There are several standing venues through which states can raise concerns to EPA; while many types of issues are covered in these formal venues, states often raise questions on label language on a case-by-case basis as well. When developing enforcement cases, states often request interpretations of unclear or vague labeling language. As a consequence of these comments, EPA is becoming increasingly concerned about the effectiveness of labeling on currently registered pesticides. EPA recognizes the critical role that states play in enforcing pesticide label language and is pursuing efforts to reduce the burden on states to continuously seek interpretations of vague language.

EPA agrees with stakeholders that product labeling is a crucial communications tool between EPA and the user. In recognition of the issues raised, the Agency has supported a number of efforts to improve labeling. These include issuing guidance on environmental hazard general labeling statements on outdoor use products (73 FR 29503, May 21, 2008) (FRL–8362–3), labeling statements on products used for adult mosquito control (70 FR 12881, March 16, 2005) (FRL–7695–8), labeling of pesticide products under the National Organic Program (68 FR 10477, March 5, 2003) (FRL–7281–6), and proposed guidance on the use of antimicrobial pesticide products in heating, ventilation, air conditioning and refrigeration systems (71 FR 78433, December 29, 2006) (FRL–8108–9). Given the importance of labeling in communicating critical safety and use information to the user, EPA will continue to pursue improvements. Through internal reviews, EPA identified label organization as an issue to be addressed. The Agency is working towards using resources efficiently to effect wholesale improvements in labeling language, content, and enforceability. The goal of these initiatives is to simplify labels, reducing the amount of unnecessary information, and to clarify labeling text, in order to better communicate critical information to the user.

V. Consideration of Cause Marketing and Third-Party Claims

A. Clorox's Proposed Claims

In January 2006, The Clorox Company (Clorox) submitted an application to EPA to add cause marketing language to the labels of some of their registered pesticide products. The proposed language described a philanthropic relationship between Clorox and the American Red Cross (Red Cross). In a meeting between EPA and Clorox in March 2006, Clorox described the partnership agreement into which they had entered with the Red Cross, discussed what cause marketing language they were currently using on non-pesticide products, and presented a label mock-up for an antimicrobial bleach product. In this meeting, EPA expressed concern that consumers might interpret the Red Cross symbol on the label as an implied safety claim. Clorox provided an additional presentation in July 2006, which included a toxicological profile of bleach; a National Capital Area Poison Control Center presentation regarding incidents involving bleach; and information from a consumer survey indicating that the labeling would not alter consumer behavior in ways that could lead to misuse.

After review of the information described above, EPA approved Red Cross cause marketing claim language on the label of certain Clorox products. The decision particularly relied on EPA's expectation, which was based on the consumer survey research, that consumers would not interpret the Red Cross symbol on labels to mean that the product was safe. The decision also relied on an assessment of the likely health consequences were the products to be misused as a result of the presence of the cause marketing labeling and consideration of whether such labeling would alter consumer behavior in ways that could lead to misuse. EPA concluded that this information was sufficient to support a conclusion that the product bearing the cause marketing language would not be ''misbranded'' under FIFRA.

B. Post-Approval Activity

After EPA's decision to approve Clorox's application to add the cause marketing claim became widely known, a number of organizations expressed their opposition to the specific decision and to any general policy that would allow cause marketing claims on the labeling of pesticide products. The groups opposing the Red Cross claim on Clorox labels included the Association of American Pesticide Control Officials, Beyond Pesticides, Pesticide Action Network North America, Center for Environmental Health, American Bird Conservancy, Pesticide Education Project, Strategic Counsel on Corporate Responsibility, Environmental Health Fund, the Endocrine Disruption Exchange, and Northwest Coalition for Alternatives to Pesticides, as well as Attorneys General in six states. In April 2007, the Minnesota Department of Agriculture refused to accept Clorox products with the Red Cross charity labels for distribution in Minnesota.

This topic was discussed by the Pesticide Program Dialogue Committee (PPDC) in May 2007, and in meetings with various other stakeholder groups. The PPDC, established under the Federal Advisory Committee Act, consists of a diverse group of stakeholders and provides an opportunity for feedback to the Agency's pesticide program on various pesticide regulatory, policy, and program implementation issues. Comments from the PPDC members were divided; some spoke in support of EPA's decision, but others expressed strong objections. See *http://www.epa.gov/pesticides/ppdc/2007/may2007/may2007.htm.*

C. Proposed Pesticide Registration (PR) Notice

The Agency developed a proposed framework and guidelines for evaluating requests to add cause marketing claims and third-party endorsements to pesticide labeling. EPA proposed that, at a minimum, the labeling of a registered product must be effective in providing both use instructions and necessary safety information. The Agency issued a draft PR Notice for comment on October 31, 2007 (72 FR 61638). The draft PR Notice defined what the Agency considered cause marketing claims (''a statement describing a relationship (usually philanthropic) between the registrant of the pesticide product and another entity, usually a charity'') and third-party endorsements (''an expression of approval or a recommendation to use a product made by an entity other than the applicant/registrant'').

The legal framework of the PR Notice rested primarily on the requirement that EPA determine that proposed pesticide

labeling would not be misbranded under FIFRA. Recommendations for data to be submitted for consideration included mock labels, documentation of the relationship between the registrant and charity or third-party endorser, discussion of potential consumer impacts, consumer market research, disclaimer language to minimize misunderstanding by consumers, and other supporting information. The intent of the PR notice was to set a high bar for consideration of claims that may have a higher likelihood to be considered false or misleading, or as detracting from use directions or other important information on the label or labeling. The proposed guidance outlined how applicants or registrants could demonstrate that the proposed language and logos did not distract from safe use instructions or violate the misbranding standard.

D. Public Comments on the PR Notice

EPA received a total of 119 comments on the draft PR Notice. Along with other background information, the comments appear in the public docket for this action: EPA–HQ–OPP–2007–1008. Of those, 108 opposed the draft PR Notice and 11 supported some or all of the components of the draft PR Notice. The following is a summary of the comments received.

1. *Opposition*. Those opposed to the PR Notice argued that labels should be used only to convey use instructions and safety information, not unnecessary endorsements or logos. They also noted that the labels of many (if not most) products are already crowded, and additional information would take space away or distract from elements required by statute and regulation. These claims would be designed to draw consumers' attention, potentially distracting them from the important health and safety information and undermining the protections implemented through label requirements. Commenters also asserted that EPA should not become involved in corporate marketing, which falls outside the Agency's mission of protecting human health and the environment and providing information on labeling to assist with the safe use of pesticide products. Since space on labels is limited, these comments urged EPA to refuse to allow extraneous information that is not needed for product identification, directions for use, or other text that minimizes risk and maximizes efficacy.

Some commenters also opposed the PR Notice because they believe that logos and claims are inherently misleading, i.e., that they imply safety claims or greater efficacy for a product. Commenters cited the FIFRA definition of misbranding (section 2(q)(1)(A)), claiming that, under this provision, cause marketing statements or third-party endorsements are inherently misleading. In addition, they cited 40 CFR 156.10(a)(5)(iii) which states that false and misleading statements include ones ''about the value of the product other than as a pesticide or device,'' which could be implied by a cause marketing claim or third-party endorsement. Commenters argued that consumers may interpret the logo of an organization they trust or from a celebrity as an implied endorsement. In addition, they argued that vulnerable populations such as elderly people, those with low literacy, and children may rely on the logo as the primary selection criteria, regardless of the intended use of the product.

As discussed above, EPA devotes significant resources to evaluation of labels and labeling and registration of products. Commenters argued that the additional level of review necessary to evaluate a cause marketing claim or third-party endorsement would divert Agency resources from evaluations of more important elements of the label and labeling required by the statute and regulation. The comments made a similar argument with respect to the allocation of resources in enforcement programs. Commenters argued that the resources of the Agency's pesticide program should not be diverted from the fundamental mission of protecting public health and the environment to evaluate claims that are designed as marketing or fundraising campaigns.

Commenters also asserted that the draft PR Notice conflicted with EPA's Label Review Manual (*http://www.epa.gov/oppfead1/labeling/lrm/*), a policy document on label and labeling content that uses the Red Cross logo as an example of a symbol that implies safety or non-toxicity, and could be considered false or misleading. They requested that the existing policy be followed. At the least, before accepting claims that could be viewed as inconsistent with the Label Review Manual and that could potentially endanger public health, commenters requested more demonstration of the expected public benefit and an explanation of why a change would be necessary.

Some commenters in opposition argued that the information EPA proposed to require would contain insufficient detail to allow the Agency to evaluate an application with a cause marketing claim or third-party endorsement. These commenters recommended that EPA provide more specific guidance, or implement requirements, for applicants to ensure that the information provided would prove the absence of any implied endorsement and false or misleading claims. They also suggested that information should be required to prove that the proposed cause marketing claim or third-party endorsement would not detract or distract from the required labeling elements.

Lastly, some commenters opposed the proposal because EPA decisions to allow cause marketing claims and third-party endorsements could conflict with states' decisions. They believed that there was insufficient meaningful consultation with the states through the State FIFRA Issues Research and Evaluation Group. Allowing these types of claims could make the Federal standard more lenient than some state regulations, and could prevent states from denying registration of these products if they find a risk concern.

2. *Support*. Comments in support of the draft PR Notice fell into two categories. One group recommended that EPA limit the scope of the draft PR Notice only to cause marketing claims and that EPA should issue a final PR Notice with only modest changes to the draft. As for third-party endorsements, these comments recommended that EPA establish a public engagement process for further consideration of the issues raised by such labeling. The other group supported changing the emphasis of the PR Notice to focus on third-party endorsements from established organizations and environmentally preferable or ''green'' certification programs.

Those who supported approving the PR Notice for cause marketing claims argued that this type of claim should be held to the same standards as any other non-FIFRA text added to the label. They asserted that no additional information (beyond the current requirements) should be necessary unless there is a concern that the cause marketing claim could have an implied safety message. In a similar vein, they stated that additional publicengagement—beyond what FIFRA mandates—would be unnecessary and improper, because the public and states are not currently involved in registration decisions and it would be improper to engage outside stakeholders in the case of cause marketing claims.

Another group of comments expressed support for the draft PR Notice because it would make the inclusion of third-party endorsements in pesticide labeling more likely. These comments argued that there is an Agency precedent for allowing certain

logos or endorsements on labels. Specifically, endorsements by the Organic Material Review Institute and the Soil and Mulch Council were cited. They also proposed that approving standards established by third-party certification programs such as Design for the Environment and Green Seal would alleviate burden on EPA during the application review process while providing information to consumers to assist them in differentiating between products based on environmental, efficacy-based and other quantitative characteristics.

VI. Agency Action

The Agency has decided to withdraw the PR Notice describing framework for evaluating cause marketing claims or third-party endorsements. After reviewing public comments, the Agency agrees that cause marketing claims and third-party endorsements as outlined in the draft PR Notice generally would not contribute meaningfully to improving protection of human health and the environment. The addition of such statements is not likely to enhance users' ability to understand the labeling required to inform the user about how to use the product safely and effectively. In fact, the addition of such statements could interfere with that goal. In addition, EPA recognizes that its resources are limited and should be targeted towards activities that will enhance the level of protection of human health and the environment from pesticides. Thus, although EPA will review any future application it receives, it generally discourages the submission of applications to add cause marketing claims or third-party endorsements.

In reviewing the legal framework on which the PR Notice was based, the Agency concluded that FIFRA and its implementing regulations do not explicitly prohibit the inclusion of cause marketing claims or third-party endorsements in labeling, nor do they differentiate between the two types of claims. Therefore, EPA will continue to review and make decisions on applications to for new or amended pesticide labeling using the standards in FIFRA section 3(c)(5)(A)–(D). Consistent with existing policy, EPA will not approve a statement in the labeling of a pesticide product unless the applicant can demonstrate that the statement is not false or misleading and that the presence of the statement detracts from other information required on the labeling.

If EPA receives applications to add such labeling to product labeling, EPA will decide on a case-by-case basis what types of information would be necessary to allow the Agency to evaluate such an application. In recognition of concerns about such claims' potential impact on public health and their potential burden on EPA resources, the Agency will expect applicants to supply a complete justification to support the proposed additions. While it is difficult for the Agency to identify the exact types of information it will need in every circumstance, applicants should understand that they must submit sufficient information to allow the Agency to determine that the desired statements will not mislead pesticide users, especially vulnerable subpopulations, and will not detract from other important language on the label. Ultimately, the applicant has the responsibility to provide the Agency with sufficient information to allow the Agency to make the necessary findings. See 40 CFR part 158. If, upon initial review, the Agency finds that the applicant has not met its burden, EPA may request additional information from the applicant to facilitate further consideration of the proposal. 40 CFR 158.75. Failure to provide requested information could lead EPA to deny the application.

The Agency will also review and decide on a case-by-case basis whether to approve such applications. As indicated above, the legal standards for such reviews appear in FIFRA section 3(c)(5), as informed by the definition of ''misbranding'' in FIFRA section 2(q). Also, as discussed above, product labeling plays a critical role in the effective regulation of pesticides, and the Agency thinks clear, simple, and enforceable labeling is essential to ensuring pesticides do not cause unreasonable adverse effects on the environment. Since most cause marketing claims or third-party endorsements ordinarily do not provide information that contributes to the safe and effective use of a pesticide, EPA will approve applications to add cause marketing claims or third-party endorsements only if the applicant provides information to show that the inclusion of such text will neither create a misleading impression in any significant subgroup of the population of people who might use or otherwise come into contact with the product nor interfere with the ability of people who use the product to understand how to use the product properly. The decision about whether to approve the proposed addition of such labeling text would likely depend on the proposed content and placement of the text, the nature of the existing labeling, and the potential risks associated with the use of the pesticide, among other characteristics. EPA expects that, in general, it would be difficult to convince EPA to approve applications to add most types of cause-marketing claims or third-party endorsements.

Based on the experience with the cause marketing claim proposed by Clorox, EPA expects that there would be a high level of public concern about future requests for consideration of such claims. Given the controversial and complicated nature of these types of claims, EPA believes it would benefit from consultation with states and a public comment period. Although it has not been historical practice, if EPA receives applications to add cause marketing claims or third-party endorsements that have enough information to support the approval of such a claim, it would likely offer its state partners, as well as the public, an opportunity to comment. Any public engagement would be conducted in a manner consistent with FIFRA requirements to protect Confidential Business Information (CBI).

In light of the significant interest in improving users' understanding of and ability to use products safely and effectively, EPA agrees with public comments that comparative safety statements, or ''green labeling,'' on pesticide labels should be further considered as a tool. Companies have found that consumers are interested in having labeling on products indicating that the products meet a specific set of criteria, for example that they are safer or environmentally preferable according to a specific standard. Programs to set standards for such green labeling include: Energy Star, Design for the Environment, and Green Seal. Experience also suggests that some consumers will alter their behavior to use products bearing such green labeling.

As a first step, the Office of Pesticide Programs will engage a work group under the Pesticide Program Dialogue Committee on comparative safety statements or logos for pesticide product labeling. This work group will address interest being expressed by the public for possible development of Agency or third-party standards regarding comparative product safety. The work group will make recommendations to the full Pesticide Program Dialogue Committee as to whether the government should pursue revision of the current regulations at 40 CFR 156.10(a)(5) in order to develop or allow these types of statements or logos.

EPA anticipates that these types of comparative safety statements would be

used by consumers as tools, to assist them in differentiating between similar types of products based on distinct, verifiable criteria. For example, a logo from the National Organic Standards Board could assist a grower seeking to obtain or maintain organic certification for his/her farm. Labels could provide information about the comparative safety of the product as well as about its potential environmental impact, allowing consumers to choose among products based on their preferences. Along with the recommendations from the PPDC work group, EPA will consider the potential risks associated with including these types of statements on pesticide labeling and the proper role of government in this type of program before deciding whether or not to revise the current regulations.

In summary, the Agency is committed to ensuring that pesticide labeling is utilized as a tool to communicate critical information to the user how to use the product safely and effectively. In order to ensure that protection of public health and the environment remain the top priorities for EPA, we are not encouraging submissions of any label claims that detract or distract from the use and safety instructions or that could be considered false or misleading. We remain committed to programs and initiatives designed to improve the content, organization and enforceability of pesticide labeling.

List of Subjects

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: September 24, 2008.

Debra Edwards,

Director, Office of Pesticide Programs.

[FR Doc. E8–22938 Filed 9–29–08; 8:45 am]

BILLING CODE 6560–50–S

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Regular Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the regular meeting of the Farm Credit Administration Board (Board).

DATES AND TIME: The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on October 9, 2008, from 9 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Roland E. Smith, Secretary to the Farm Credit Administration Board, (703) 883–4009, TTY (703) 883–4056.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts will be closed to the public. In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance. The matters to be considered at the meeting are:

Open Session

A. Approval of Minutes

- September 11, 2008.

B. New Business—Regulation

- Disclosure and Accounting Requirements—Proposed Rule—12 CFR Parts 619, 620, and 621.

C. Reports

- OE Quarterly Report and Funding the Farm Credit System (FCS):
  - Financial Condition of FCS.
  - Funding the FCS.

Closed Session *

- Supervisory and Oversight Activities of FCS Institutions.

Dated: September 26, 2008.

Roland E. Smith,

Secretary, Farm Credit Administration Board.

[FR Doc. E8–23077 Filed 9–26–08; 4:15 pm]

BILLING CODE 6705–01–P

FEDERAL MARITIME COMMISSION

[Docket No. 08–05]

City of Los Angeles, CA, Harbor Department of the City of Los Angeles, Board of Harbor Commissioners of the City of Los Angeles, City of Long Beach, California, Harbor Department of the City of Long Beach, and the Board of Harbor Commissioners of the City of Long Beach—Possible Violations of Sections 10(B)(10), 10(D)(1) and 10(D)(4) of the Shipping Act of 1984; Order of Investigation and Hearing

On November 20, 2006, the governing boards of the Ports of Los Angeles and Long Beach voted to approve the San Pedro Bay Ports Clean Air Action Plan (''CAAP''). The CAAP is a broad effort aimed at significantly reducing the health risks posed by air pollution from port-related ships, trains, drayage trucks, terminal equipment and harbor craft by at least 45 percent in five years. To that end, each port has adopted a Clean Truck Program (''CTP'') as a component of the CAAP to address air pollution caused by the short haul truckers that transport containers to and from the ports, *i.e.*, the harbor truck drayage system. Each port's CTP becomes effective on October 1, 2008.

The Federal Maritime Commission (''Commission'') is responsible for enforcing the requirements of the Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998 (''Shipping Act''). 46 U.S.C. 40101 *et seq.* As the ports of Los Angeles and Long Beach operate as marine terminal operators (''MTOs'') under the Shipping Act, their actions, to the extent they impact international transportation, are subject to the Commission's jurisdiction and, in particular, to the requirements of section 10 of the Shipping Act.[1]

While the Commission appreciates the significant environmental and public health benefits of the San Pedro Ports CAAP, it is concerned that certain aspects of the ports' CTPs may violate the Shipping Act. Accordingly, the Commission has determined to initiate an Investigation and Hearing of the Ports' Clean Truck Programs under section 11 of the Shipping Act with respect to possible violations under section 10 of the Shipping Act.

San Pedro Bay Ports

The Port of Los Angeles (''POLA''), referred to as the Los Angeles Harbor Department, is a self-supporting department of the City of Los Angeles, California. POLA is under the control of a five-member Board of Harbor Commissioners appointed by the mayor of Los Angeles and approved by the City Council, and is administered by an executive director.[2] POLA is the largest container port in the United States. POLA's annual loaded container volume for 2007 was 5.7 million twenty-foot equivalent units (''TEUs'').

The Port of Long Beach (''POLB'') has an administrative structure similar to

* Session Closed-Exempt pursuant to 5 U.S.C. 552b(c)(8) and (9).

[1] Section 10(d)(1) requires MTOs to establish, observe, and enforce just and reasonable regulations and practices relating to or connected with receiving, handling, storing, or delivering property. 46 U.S.C. 41102(c). Section 10(d)(4) provides that an MTO may not give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice or disadvantage with respect to any person. 46 U.S.C. 41106(2). An MTO may not unreasonably refuse to deal or negotiate. 46 U.S.C. 41106(3).

[2] For the purposes of this order, the City of Los Angeles, the Harbor Department of the City of Los Angeles and the Board of Harbor Commissioners of the City of Los Angeles will be referred to as the Port of Los Angeles or POLA.