

Clarification of Pesticide Registration Notices 2001-1 and 2001-6

Some registrants have requested clarification of existing stocks policy relative to Pesticide Registration Notices (PR Notice) 2001-1 and 2001-6. They are concerned that the PR notices may be interpreted as requiring all products, even those existing stocks on store shelves or in distribution centers, as requiring the new labeling by October 1, 2003. That was not and is not our intent.

The operative language in the two PR Notices is as follows. In PR Notice 2001-1 (“First Aid Statements on Pesticide Product Labels”), the Agency states that:

“as of October 1, 2003, EPA will begin evaluating products being sold or distributed to determine that they remain in compliance with FIFRA... Once the first aid statements are approved by the Agency, the registrants will generally have up to eighteen (18) months from the date of the approved label to distribute or sell existing stocks of products bearing old labels/labeling. Persons other than the registrant may continue to distribute or sell such products until their supplies are exhausted.”

In PR Notice 2001-6 (“Disposal Instructions for Non-Antimicrobial Residential/Household Use Pesticide Product Labels”), the Agency states that:

“to give sufficient time for pesticide products in the channels of trade to be distributed or sold to users or otherwise disposed of, the Agency is providing a period of time for companies to make changes to their labeling, if necessary. Therefore, pesticide products released for shipment prior to October 1, 2003 will be considered existing stocks in the channels of trade which may be sold, used or otherwise disposed of until exhausted.”

The Office of Pesticide Programs has discussed the issues raised with the Office of General Counsel, with the Office of Enforcement and Compliance Assurance, and with the State FIFRA Issues Research & Evaluation Group (SFIREG). We agree that the guidance in the PR Notices are open to interpretation. At this point, after October 1, 2003, EPA expects to begin to monitor products for labeling as appropriate pursuant to the PR Notices and to evaluate whether individual products are in compliance with FIFRA. The Agency anticipates that there will be products on shelves or otherwise in channels of trade as of October 1, 2003 that will not have the new language. Under 40 CFR part 152.130(c), normally, the registrant may distribute or sell under the previously approved labeling for a period of 18 months after approval of the revision, unless an order subsequently issued by the Agency under FIFRA sec. 6 or 13 provides otherwise. For example, if an amended label were to be approved on September 30, 2003, the registrant would generally have 18 months (until March 31, 2005) to use up old packaging and labels with previously approved language in manufacturing products, and to sell or distribute their products with the previously approved labeling. Since registrants may use “notification” to respond to PR Notice 2001-6, the 18 month period would date from the Agency’s receipt of the notification.