

**EPN Comments on EPA’s Draft Pesticide Registration Notice:
Establishment of a Plan to Track the Adoption of Bilingual Labeling
on End Use Pesticide Product Labels**

Docket No.: EPA-HQ-OPP-2024-0438

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The [Environmental Protection Network](https://www.epn.org/) (EPN) harnesses the expertise of more than 650 former Environmental Protection Agency (EPA) career staff and confirmation-level appointees from Democratic and Republican administrations to provide the unique perspective of former regulators and scientists with decades of historical knowledge and subject matter expertise.

On December 27, 2024, EPA released a proposed plan to track the adoption of bilingual labels on pesticide products and invited the public to comment on its proposal. The agency subsequently published a notice in the Federal Register on January 2, 2025, announcing the comment opportunity¹. This proposed plan is designed to fulfill the statutory requirement in Sec. 3(f)(5)(E) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), which directs the EPA Administrator to “develop and implement, and make publicly available, a plan for tracking the adoption of the bilingual labeling required under [section 3(f)(5)]” by December 29, 2024. The notice states that the agency will issue a Pesticide Registration (PR) Notice instructing each registrant to indicate if the registrant’s product(s) have complied with the bilingual labeling requirement on the form that must be submitted annually along the statutorily required maintenance fee (the “maintenance fee payment form”). (These comments refer to this EPA approach as the “Reporting Plan.”)

The requirement for a Reporting Plan is part of a larger set of provisions added to FIFRA by the Pesticide Registration Improvement Act of 2022 (PRIA 5) that are intended to ensure that certain portions of the labeling of all pesticide products will, over time, become available to end-users in both English and Spanish. The requirements of the PRIA 5 bilingual labeling amendment are codified at FIFRA sec. 3(f)(5). Another provision of this amendment requires that the parts of pesticide products’ labeling covered by EPA’s Spanish Translation Guide must appear in both languages. In addition, the amendment established a schedule by which products must come into compliance. The deadlines for compliance depend on certain characteristics of a product – its use classification (restricted use or general use), its toxicity category (Category I, II, or other), and/or its use pattern (agricultural use, antimicrobial use, or non-agricultural use). Here is a summary of the deadlines:

- All Restricted Use Pesticides (RUPs) – December 29, 2025
- Agricultural Products (Non RUPs)
 - Acute Toxicity Category I – December 29, 2025
 - Acute Toxicity Category II – December 29, 2027
- Antimicrobial & Non-Agricultural Products (Non-RUPs)
 - Acute Toxicity Category I – December 29, 2026
 - Acute Toxicity Category II – December 29, 2028
- All Other Pesticide Products – December 29, 2030

¹90 Fed. Reg. 99.

Finally, the amendment provides that, if and when EPA updates its Spanish Translation Guide, registrants must revise their products' labels and labeling to conform to the updates.

EPN regards the bilingual labeling amendment as a major step toward improving the safe use of pesticide products. Many people who use pesticides or who are exposed to pesticides, particularly in agriculture, are not fully fluent in English; however, many of them readily read and understand Spanish. Consequently, it is vital that critical safety information on pesticide labeling be available in both languages. It is also important for EPA to have registrants report whether they are adding Spanish text or links to their products' labels. Such information will help EPA ensure timely, universal compliance.

Therefore, EPN generally supports the agency's efforts to develop a Reporting Plan to comply with Sec. 3(f)(5)(E). However, EPN believes that EPA should consider modifying its proposal to make enforcement even easier and to allow the public to better understand whether registrants are making timely changes to their products' labeling to comply with the bilingual labeling provisions of sec. 3(f)(5). In addition, EPN recommends that EPA issue guidance clarifying aspects of registrants' obligations under FIFRA sec. 3(f)(5).

1. A Sensible Way to Capture Information About Compliance with Bilingual Labeling Requirements

Given that FIFRA sec. 3(f)(5) allows registrants to modify their products' labels in compliance with the new bilingual labeling requirements using the non-notification process, EPA needs a way to capture information from registrants about which products' labels have been changed. The annual maintenance fee payment form is an efficient way for EPA to obtain that information while imposing only a small, additional burden on registrants. Since the deadlines for compliance with the bilingual labeling requirements are spaced a full year apart, a new group of products will become subject to the requirements every year, but not more often. Registrants must submit a maintenance fee payment form every year for every product. Thus, there is a natural alignment between the reporting schedule for the two programs.

EPN notes that FIFRA sec. 3(f)(5)(E) required EPA to "implement" the Reporting Plan by December 29, 2024, but to date EPA has only announced its proposed Reporting Plan. However, in EPN's view, the failure to implement the Reporting Plan by the statutory deadline does not matter since no deadline for changing labels has been reached. EPN expects the agency can put its Reporting Plan into operation well before the agency needs to capture information about registrants' compliance with the first deadline for bilingual text, December 29, 2025.

In sum, EPN feels that EPA's proposed Reporting Plan is timely and sets forth a sound approach for gathering necessary information.

2. Determining Compliance with Statutory Deadlines

In EPN's view, the major shortcoming of EPA's proposed Reporting Plan is its failure to address whether (and if so, how) the Agency will determine whether registrants have made timely revisions of their products' labels to include required bilingual text. For example, FIFRA sec. 3(f)(5)(B)(i) sets December 29, 2025, as the deadline for products that are classified for restricted use and that are released for shipment after that date, to comply with the bilingual labeling requirements. By itself, EPA's Reporting Plan will not capture information that allows the agency to check whether all restricted use pesticide products have complied; it

will only lead to the creation of a record that the registrant has claimed to have complied for a particular product. To determine whether all restricted use pesticides reported making the required changes, EPA would also need some way to check whether a particular product is classified for restricted use and, thus, was required to incorporate bilingual labeling text. The maintenance fee payment form will not contain that information. Without such information on the form, EPA will have to review other records systems – systems which may not readily yield the necessary information – to determine which products were subject to the different deadlines imposed by FIFRA sec. 3(f)(5). This extra work will become even more challenging and resource-intensive when the applicable deadlines depend on a product’s use pattern and acute Toxicity Category.

However, there is an easy way for EPA to overcome this problem. **The agency should require registrants to identify on the annual maintenance fee payment form for each product the characteristics that determine the deadline for the product’s compliance,** i.e., whether the product is classified for restricted use; whether it is an “agricultural” product, an “antimicrobial” product, or a “non-agricultural” product; and whether, based on its acute toxicity, it is classified in Toxicity Category I or Toxicity Category II. If a registrant is required to provide this information about each product on the maintenance fee payment form, it would be possible for EPA (and the registrant) to determine quickly and easily the deadline by which a product was required to have bilingual text.

3. Implementation Guidance Should State That the Required Text (or link) Must Appear on the Container Label

FIFRA sec. 2(p) makes a distinction between the terms, “label” and “labeling.” According to sec. 2(p)(1), the “label” is “the written, printed, or graphic matter on, or attached to, the pesticide...or any of its container or wrappers.” The term “labeling” includes all “labels and all other written, printed, or graphic matter – (A) accompanying the pesticide...or (B) to which reference is made...” Id. at 2(p)(2). For purposes of these comments, EPN refers to labeling as materials accompanying the pesticide but not attached to the container. It is quite common for the registrants of many agricultural use pesticides and for some other types of pesticides to print booklets or pamphlets containing extensive use directions and other information that is too voluminous to appear on the container label.

EPN is concerned that registrants may not correctly understand where they are required to put bilingual text and links – on the container label. Most of the statutory text in FIFRA sec. 3(f)(5) refers to “bilingual labeling².” Therefore, registrants might mistakenly conclude that the statute allows bilingual text to appear either on the “label” or in booklets or pamphlets accompanying the pesticide, i.e., the labeling. FIFRA sec. 3(f)(5)(C)(iii), however, expressly directs that the bilingual text appear on the label. This clause states “The labeling requirements of this paragraph shall apply to end use product labels.” (Emphasis added.) Thus, to comply with provisions in sec. 3(f)(5) that establish “labeling requirements,” a registrant must include the bilingual text (or a link) on the container label. This reading of the statute is further confirmed by the text in subparagraph (A) of sec. 3(f)(5). This subparagraph, entitled “Requirement,” gives registrants a choice about how to comply. Under clause (A)(i)(I), the registrant may place the required bilingual text “on the product container,” i.e., on the label. Alternatively, clause (A)(i)(II) permits the registrant to put “a link” to the bilingual text “on the product label.” Both provisions are clear: the required bilingual text or link must be part of the label.

² See, e.g. FIFRA secs. 3(f)(5)(A)(i)(I), (B), (D), (E), and (F).

There is a compelling public policy reason for the bilingual text (or link) to appear on the label, and not in ancillary materials accompanying but not attached to the container. Under FIFRA sec. 12(a)(2)(A), it is unlawful “to detach, alter, deface, or destroy, in whole or in part, any labeling.” However, EPN volunteers have heard anecdotally that in many cases users will separate parts of labeling – instruction booklets and pamphlets – from the pesticide container. To the extent that important bilingual text or a link appears in labeling and the labeling becomes separated from the container, some people could lose access to Spanish translations of the product’s warnings, personal protective equipment requirements, first aid treatment, and other important information.

Therefore, EPN strongly recommends that EPA instruct registrants about where to place required bilingual text or a link – on the label attached to the pesticide container.

4. Guidance Should Explain How to Define Pesticide Product Type.

FIFRA sec. 3(f)(5) establishes different deadlines for compliance with the bilingual labeling requirements depending on whether a pesticide is an “agricultural” product, an “antimicrobial” or “non-agricultural” product³. But the statute does not define an “agricultural” pesticide⁴. EPA guidance also fails to offer a definition of “agricultural” pesticides⁵. Given the importance of the information that must appear on labels in both English and Spanish and the benefits of adding the text to product labels sooner rather than later, EPN recommends that the agency should interpret the term “agricultural pesticide” very expansively. **At a minimum the scope of the term “agricultural pesticide” should, conceptually, be at least as broad as the scope of the Worker Protection Standard regulations⁶.** Since many Spanish-speaking people work in the lawn care industry, **EPN recommends that the term be extended also to capture commercial lawn and garden use pesticide products.**

5. Registrants Should Submit Bilingual-Labeled Products’ Labeling to be Posted in the Pesticide Product Label System (PPLS)

EPN believes it is very important that essential information in bilingual text be added to the labels of pesticide products, but we are concerned that there may not be full compliance. Because the process is proceeding through the “non-notification” process, it is clear that EPA staff will not routinely check products’ labels to confirm that registrants are making the required changes in a timely manner (at least until the agency adopts a comprehensive structured digital labeling system). EPN also recognizes that the agency and most state lead agencies lack the enforcement resources to inspect more than a few individual pesticide products’ labels for compliance with the bilingual labeling requirements. EPN thinks that the new bilingual labeling requirements are sufficiently complex that some registrants may make mistakes when trying to comply. Other registrants may simply ignore their responsibilities.

Many advocacy organizations are concerned about registrants’ implementation of the bilingual labeling requirements, and they could play a valuable role in ensuring compliance, if EPA were to take steps to make that practical. **EPN recommends that the agency require each registrant to submit a version of each**

³ See sec.3(f)(5)(B)(ii).

⁴ FIFRA sec. 2(mm) defines “antimicrobial pesticide.”

⁵ See <https://www.epa.gov/pesticide-labels/bilingual-labeling-questions-answers>.

⁶ See generally, 40 CFR part 170.

product's labeling once it has been revised to include required bilingual text or a link. Then, EPA should post the new version of the labeling in the publicly available PPLS. Advocacy organizations could then check PPLS to confirm the proper location of the bilingual text, the use of accurate translations for all required labeling elements, and, where appropriate, confirm that the link on the product label connects to compliant electronic versions of the labeling.

6. The Reporting Plan Should Address How EPA will Track Registrants' Compliance

In addition to the initial deadlines to add links or Spanish translations to labels, the PRIA 5 requires registrants to revise their labels after EPA updates its Spanish Label Translation Guide⁷. The proposed Reporting Plan seems well-designed to capture information about registrants' initial changes to their products' labels. However, EPN questions whether the proposed form will also be designed to work for obtaining information about registrants' compliance with the PRIA 5 requirements to modify labels whenever EPA updates its Spanish Label Translation Guide. If not, **EPN recommends that the maintenance fee payment form for 2026-2030 clearly indicates that it is capturing information relating to the initial adoption of bilingual labeling. EPN further recommends that EPA consider how to modify its approach to capture information about registrants' compliance with requirements to revise labels in response to updates to the agency's Spanish Label Translation Guide.** EPN believes that such an approach may require only some slight changes or additions to future Maintenance Fee forms.

Conclusion

EPN believes EPA's proposed Reporting Plan is timely and provides a sound approach for gathering necessary information, but suggests that the agency require registrants to identify on the annual maintenance fee payment form for each product the characteristics that determine the product's compliance deadline. The agency should also consider how to modify its approach for registrants' compliance with the agency's Spanish Label Translation Guide. Additionally, EPN strongly recommends that EPA instruct registrants about where to place required bilingual text or a link and believes that EPA should require each registrant to submit a version of each product's labeling once it has been revised.

⁷ See FIFRA sec. 3(f)(5)(C)(iv).