

April 10, 2007

Sent via e-mail attachment and
U.S. mail

Mireille Tahir
Clorox
7200 Johnson Drive
P.O. Box 493
Pleasanton, CA 94566-0803

Subject: MDA Rejection of Submitted Pesticide Product Labeling

Dear Ms. Tahir:

Thank you for your recent submission of amended labels for Disinfecting Wipes, EPA Reg. No. 5813-58, Clean-Up Cleaner with Bleach, EPA Reg. No. 5813-21, Disinfecting Bathroom Cleaner, EPA Reg. No. 5813-40, Regular Bleach, EPA Reg. No. 5813-50, and Disinfecting Spray, EPA Reg. No. 5813-67. You have advised the Minnesota Department of Agriculture (MDA) that labels of the above mentioned products have been amended to include statements about Clorox's efforts to raise money for the American Red Cross and which include as part of the labeling the red cross symbol of the American Red Cross.

The Minnesota Pesticide Law, Minnesota Statutes (MS) Chapter 18B.26 [2006] requires registration of all pesticides used or distributed in the state. MS Chapter 18B.13 states that a person may not distribute a pesticide that is misbranded including a pesticide that "does not comply with the labeling requirements under this chapter or FIFRA." The Code of Federal Regulations (CFR) title 40, part 156.10(a)(5) states that pursuant to sec. 2(q)(1)(A) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) a pesticide "is misbranded if its labeling is false or misleading in any particular including both pesticidal and non-pesticidal claims. Examples of statements or representations in the labeling which constitute misbranding include: (ix) Claims as to the safety of the pesticide or its ingredients..."

The American Red Cross as an organization and the red cross as its symbol are well understood to mean (at least) safety, and it is the MDA's opinion and position that inclusion of such a symbol and organization name on a pesticide label would constitute misbranding. Additionally, we note the U.S. Environmental Protection Agency's (EPA) pesticide Label Review Manual, Chapter 16, Section III.A.9, found at <http://www.epa.gov/oppfead1/labeling/lrm/chap-16.htm> states clearly that if a label includes false and misleading statements in violation of FIFRA, the EPA label reviewer "must advise the registrant to remove these from the label." Some examples have included "Symbols implying safety or nontoxicity, such as a **Red Cross** or a medical seal of approval (caduceus)." [Bolding added]

Label language is an important component of EPA's risk mitigation strategy. The statements about the Red Cross charity and the use of the red cross symbol is confusing and actually or potentially communicates false values regarding these products which could lead to mis-use.

The MDA has determined that Clorox product labels which include the American Red Cross charity language and the red cross symbol are inconsistent with the provisions of the Minnesota Pesticide Law and FIFRA. Accordingly, such Clorox Red Cross charity labels will not be accepted in Minnesota and their use on products intended for distribution in Minnesota is prohibited.

Our intent in this instance is to fairly and reasonably interpret and enforce the law, and the department regrets if our decision has or will cause you any hardship. If you have any questions regarding this determination please feel free to contact John Sierk at 651-201-6292.

Sincerely,

A handwritten signature in black ink, appearing to read 'Gregg Regimbal', with a long horizontal flourish extending to the right.

Gregg Regimbal, Supervisor
Pesticide Management Unit
Pesticide and Fertilizer Management Division

cc: John Sierk, Pesticide Registration Coordinator
Paul Liemandt, Assistant Director
Pesticide and Fertilizer Management Division