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Determining If a Cleaning Product Is a Pesticide Under FIFRA

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Introduction

Questions have been raised to the Environmental Protection Agency (EPA) concerning certain labeling claims for cleaning products. Specifically, what types of claims would require that a cleaning product be registered as a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)?

This fact sheet describes the Agency's longstanding interpretation of the statutory and regulatory language applicable to products marketed as cleaning products that claim, state or imply (by labeling or other means) that they mitigate a pest. The fact sheet includes examples of cleaning product claims that are considered to be pesticidal, are considered not to be pesticidal, and that may or may not be pesticidal depending on the context in which they are presented.

In articulating existing law and policy, this document does not establish new policy or guidance, nor does it expand the scope of coverage under applicable law or regulations.

Regulatory Background and Policy

FIFRA defines a “pesticide” as “any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.” FIFRA § 2(u), 7 U.S.C. § 136(u). Unless otherwise exempted from registration under 40 CFR §§ 152.20, 152.25 or 152.30, pesticide products that are intended for a pesticidal purpose must be registered.

A product is considered to be intended for a pesticidal purpose if, among other things, the person who distributes or sells it claims, states, or implies that the product prevents, destroys, repels or mitigates a pest. Therefore, once a product label (or other statement made in connection with the sale or distribution of the product) includes any claim of pest mitigation, under 40 CFR § 152.15, the product is one that is intended for a pesticidal purpose and becomes subject to the registration provisions of FIFRA.

A product need not act directly on a pest in order for it to mitigate the pest and be considered a pesticide [see: 1995 [Administrative Law Judge decision for Aquarium Products, Inc](#)]. For example, claims that a product affects the habitat or food source of a pest are considered to be “mitigation” claims against that pest. Such claims are in contrast with statements about a product’s use that merely claim to remove dirt or other debris without any linkage to mitigating a pest, its food source, or its habitat. Thus, “mitigation” claims against a pest, its habitat, or its food source subject the product to the registration requirements of FIFRA.

Certain products may have effects that mitigate pests without being intended for a pesticidal purpose. 40 CFR § 152.10 sets out three groups of products (one of which includes deodorizers, bleaches and cleaning agents) that are not pesticides because they are not intended to prevent, destroy, repel or mitigate a pest. However, the regulation provides, and EPA considers, that these types of products are not pesticides only if no pesticidal claim is made on their labeling or in connection with their sale and distribution. In other words, where a claim or implication is made in connection with the sale or distribution of a cleaning product that its use will mitigate a pest, either by itself or in combination with any other substance, the product would be considered to be intended for a pesticidal purpose and would therefore be required to be registered.

For the purposes of this fact sheet, the term “cleaning product” means a substance or mixture of substances (such as chemical or biological substances) that is intended to clean away or remove inanimate material from a surface, water or air, and that makes no pesticidal claims.

This fact sheet applies to claims made on a cleaning product’s label or labeling or through other means such as web sites, advertising, promotional or sales activities and testimonial claims in connection with sale or distribution of the product. A link on a producer’s website to academic or extension research that demonstrates the pesticidal efficacy of an unregistered product would be considered a pesticidal claim.

This fact sheet is not intended to directly address claims for pesticide devices, as defined in FIFRA § 2(h), and pesticides exempted under FIFRA § 25(b). See 40 CFR §§ 152.20, 152.25 and 152.500 for more information about these types of products.

Examples of Claims on Cleaning Products

The following examples indicate where the Agency believes pesticidal claims are or are not being made. This representative list is not intended to be an all-inclusive listing of potential claims. If you are uncertain whether a product's claims are pesticidal, [contact the appropriate division of the Office of Pesticide Programs](#) to request a written opinion.

Examples of Claims That the Agency Considers to be Pesticidal

Cleaning products with claims such as those described below are considered by the Agency to be intended for a pesticidal purpose because the claims imply or express that the product mitigates a pest, directly or indirectly, either by itself or by removing the pest's food, food source or its habitat. These examples represent claims or types of claims for a cleaning product that would trigger a requirement to register the product under FIFRA.

- Cleans away, washes away or removes any pest covered by 40 CFR §152.5.
- Cleans away, washes away or removes biofilm or scum (unqualified).
- Cleans away, washes away or removes allergens (unqualified).
- Cleans away or removes allergens associated with a pest (e.g., dust mite allergens, cockroach allergens).
- Removes pests by suffocating or drowning.
- Cleans or removes pest habitats or breeding sites.
- Cleans, precipitates or removes contaminants, nutrients or matter that provide food or habitat for pests.
- Cleans, reduces or removes scum or sludge where pests breed, feed or live.
- Out-competes or displaces a pest for nutrition or habitat.
- Cleans or removes the habitat where biofilm, germs, allergens or microorganisms can hide, thrive or grow.
- Prevents, blocks, removes, neutralizes or controls bacteria or other pests that cause odors.
- Sanitizes, disinfects or sterilizes.
- Images of pests or pest habitats (e.g., nest, hive or web) that imply cleaning or removal of pest habitats, or of nutrition or sources of nutrition for pests.
- A banner, logo, design, header or any claim on a label or labeling, or through other means such as web sites, advertising, etc. that specifically links the cleaning product to pest control, Integrated Pest Management (IPM), pests or a specific kind of pest.

Examples of Claims That the Agency Considers are Not Pesticidal

Cleaning products with claims such as those described below are generally considered by the Agency to not be intended for a pesticidal purpose. These cleaning products claim to remove dirt or other debris without any linkage to mitigating a pest, its food, food source, or its habitat. Many of these examples are similar to the examples in the previous section with the explicit linkage to a pest removed.

When not used in connection with other pesticidal claims or in a context where they imply pesticidal purposes, these examples represent claims, or types of claims, for a cleaning product that would not trigger a requirement to register the product under FIFRA.

- Cleans or removes stains.

- Cleans or removes stains from algae, mold, mildew or other non-public health organisms.
- Cleans or removes dirt, soil, dust, debris, inanimate scum, inanimate nutrients, inanimate organic particulates, or inanimate contaminants.
- Cleans a site (e.g., ponds, aquariums, etc.).
- Prevents, blocks, neutralizes, reduces, eliminates, encapsulates or removes odors; deodorizes.
- Cleans, reduces or removes sludge.
- Cleans or removes inanimate scum such as “soap scum.”
- Cleans, washes or prepares the surface for application of a registered disinfectant intended to kill biofilm.
- Combines suspended inanimate particulates for easy removal by a filtration system.
- Cleans away or removes inanimate dust-mite matter, non-living matter, or allergens from non-living sources (e.g., pet dander allergens, cockroach matter allergens, dust mite matter allergens) [These examples differ from the examples in the [section on claims we consider to be pesticidal](#) in that these indicate that the allergens come from non-living matter such as “pet dander,” “cockroach matter” and “dust mite matter.”]

Examples of Claims That the Agency May or May Not Consider to be Pesticidal

Cleaning products with claims such as those described below may or may not be considered to be intended for a pesticidal purpose depending on the use and context. If the context of the claims on a product’s label, labeling or as made by other means appears to imply or express that the product mitigates a pest, directly or indirectly, either by itself or by removing the pest’s food, food source or its habitat, then the product would be considered to be subject to FIFRA. Qualifying such claims so it is clear that a product is not intended for a pesticidal purpose may also be possible. For example:

- Catalogs or websites that list both cleaning products and pesticidal products in close proximity could imply that the cleaning products are pesticidal.

However, catalogs or websites can be arranged in a way that cleaning products are presented in manner that does not imply they are pesticidal.

- Integrated Pest Management (IPM) is an effective and environmentally sensitive approach to pest management that relies on a combination of common-sense practices.

EPA is a strong advocate for the promotion and expanded use of IPM. Although the Agency encourages others to join in promoting this approach, EPA’s general policy on IPM does not extend to the unfettered use of references to IPM on a cleaning product’s label or labeling, or through other means, that would imply by association that the product may control or mitigate a pest (as mentioned in an example in Section A).

However, the Agency believes that it may be possible for a company to express its corporate support of IPM without being construed as a pesticidal claim for individual cleaning products. If a company is considering this approach, it should

consult the Agency beforehand to assure that its statements or claims related to IPM are not expressed or located in way that could be interpreted as a pesticidal claim for its cleaning products.

Additional Information

Producers of unregistered cleaning products should consider this guidance when deciding what claims to make when selling or distributing those products. There can be serious consequences for selling and distributing an unregistered pesticide. The Agency has the authority to take appropriate enforcement action where unregistered products make pesticidal claims. These could include, but not be limited to, issuing Notices of Warning; Stop Sale, Use, or Removal Orders (SSURO); and Civil Penalties.

Accordingly, if producers of unregistered cleaning products have any questions about their products' claims, they are encouraged to seek further guidance or information from an ombudsman of the following regulatory divisions in the Office of Pesticide Programs:

- For conventional chemicals: Registration Division: Sherada Hobgood (hobgood.sherada@epa.gov); 703-308-8893
- For antimicrobial chemicals: Antimicrobials Division: Ombudsman (OPP_AD_ombudsman@epa.gov)
- For biopesticides: Biopesticides and Pollution Prevention Division: Ombudsman (BPPDQuestions@epa.gov)

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