



Enforcement Alert

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Office of Regulatory Enforcement

Aquarium and Pond Chemicals May Require Federal Registration, Labeling as Pesticides

About Enforcement Alert

"Enforcement Alert" is published periodically by the Office of Regulatory Enforcement to inform and educate the public and regulated community of important environmental enforcement issues, recent trends and significant enforcement actions.

This information should help the regulated community anticipate and prevent violations of federal environmental law that could otherwise lead to enforcement action.

See Page 2 for useful EPA Websites and additional resources.

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Making Indirect Pesticidal Claims May Mislead Public

Under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), pesticide products must be registered with the Environmental Protection Agency (EPA) and bear EPA-approved labeling before they can be lawfully sold or distributed in the United States. These requirements reduce risk of misuse and screen out products that may present an unreasonable risk to public health and the environment. Products claiming to prevent, destroy, or repel pests, including bacteria and viruses, are considered pesticides.

In the past year, EPA has taken several enforcement actions involving the sale of unregistered pesticides used to control algae and bacteria in aquariums and garden ponds. Recent enforcement actions have included orders to stop the sale of certain products sold by Fish-Vet, Inc. and Aqua-Vet, Inc., Reisterstown, Md., and civil administrative complaints issued to Energy Savers Unlimited, Inc., Carson, Calif., and Zoo-med Laboratories, San Luis Obispo, Calif., proposing substantial monetary penalties. These manufacturers have the option of removing pesticidal claims for control of bacteria and algae from their product labeling and advertising or registering their products as pesticides.

Registration involves the submission of toxicity, chemistry and other data to ensure that the product when used as

directed will not cause any unreasonable adverse effects.

To assist pesticide manufacturers in complying with the law and to protect the public and environment from potential risks, the following questions and answers about pesticides and their registration are provided:

What are pesticides and why are they regulated?

Regardless of its toxicity or effectiveness, a pesticide is any chemical or biological substance intended to control or kill living organisms (pests). For more than 50 years, pesticide products have been required to be registered with the federal government before they can be sold or distributed in the United States. Once a product is determined to be a pesticide, potential exposure to the product and its toxicity are key factors in EPA's determination of whether the pesticide can be registered and under what safeguards.

Pesticides generally are toxic to pests and, if misused, may harm people and the environment. In addition to registration, the law requires that pesticide labels bear, among other things, ingredient statements so that users and others know exactly what is in a product (as in case of accidental contact or ingestion of the concentrate), adequate precautions to advise people of potential hazards, and directions for use to ensure the safe handling, application, and disposal of the product. Some pesticides for use around the home are

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United States
Environmental Protection Agency
Office of Regulatory Enforcement
2201A
Washington, D.C. 20460

Bulk Rate
Postage and Fees Paid
EPA
Permit No. G-35

Official Business
Penalty for Private Use \$300



Recycled/Recyclable
Printed with Soy/Canola Ink on paper that
contains at least 50% recycled fiber

also required to be in child-resistant packaging.

What identifies a pond or aquarium product as a pesticide?

Products that make claims for the prevention, removal, control, or elimination of algae or bacteria are considered pesticides. Indirect claims such as: “Eliminates green water,” “Producing conditions that prevent algae or bacteria,” “Removes nutrients that promote the growth of algae and bacteria,” or “Precipitates phosphate, a nutrient for algae,” also are considered to be pesticidal claims. The fact that the product works indirectly by removing the pest’s food source or habitat rather than through a more direct toxic action does not affect its status as a pesticide. EPA interprets the terms “scum” and “pond scum” to mean algae, and claims to reduce this organism are also considered pesticidal

Useful Resources

Office of Pesticide Programs
(registering a pesticide):
<http://www.epa.gov/pesticides/chemreg.htm>

Toxics and Pesticides Enforcement
Division:
<http://www.epa.gov/oeca/ore/tped/>

Small Business Gateway:
<http://www.epa.gov/smallbusiness>

claims. Regardless of claims, naming a known pesticide as an ingredient may also identify a product as a pesticide.

When are pond or aquarium products *not* considered pesticides?

Products that do not make direct or indirect claims for preventing, removing, controlling or eliminating living organisms such as bacteria or algae are not pesticides. As long as there are no other claims for bacteria or algae control, the following types of claims would *not* identify a product as a pesticide:

- “Combining suspended particulate matter for easier removal by a filtration system.”
- “Reducing sludge or unpleasant odors.”
- “Cleaning ponds or aquariums.”

Examples of claims that are not pesticidal in and of themselves include:

- “Clarifies tank by precipitating organic particles and reducing sludge.”
- “Reduces cloudy water by precipitating organic and inorganic particles.”

Claims regarding the reduction of nutrients and organic matter would not identify a product as a pesticide unless the claim also states or implies that there will also be a reduction in pest populations such as bacteria, algae, or weeds.

Pesticide registration and its pre-market product and label clearance process form the foundation of the pesticide regulatory program. Compliance with this process is critical to protecting the public and environment from possible harm. The pesticide regulatory program is designed to prevent the sale and distribution of unregistered pesticides in the United States and to ensure, among other things, consumer awareness of the relative hazards of pesticides. As a result of the stringent pesticide registration and labeling requirements, consumers can make an informed choice whether or not to use a pesticide and what pesticide is registered for use for their particular needs. Pesticide labels also provide important information concerning product ingredients, first aid measures in case of an accident, and safe disposal methods.

For more information, contact Mary E. McDonnell, Office of Regulatory Enforcement, Toxics & Pesticides Enforcement Division, (202) 564-4173.

Applications for pesticide registration are available from EPA’s Web site at <http://www.epa.gov/pesticides/registrationkit> or by calling Clara Miller at (703) 305-6549. For information on chemicals used for aquarium and pond pests, contact Donald Stubbs at (703) 305-6287; antimicrobial product information, contact Yvette Hopkins at (703) 308-6214; microbial product information, contact Phil Hutton at (703) 308-8260; and biochemical product information, contact Roy Sjoblad at (703) 308-8269.