



Department of Pesticide Regulation



Mary-Ann Warmerdam
Director

Arnold Schwarzenegger
Governor

January 30, 2008

Mr. Jim Colston, Chair
Tri-TAC
Orange County Sanitation District
P.O. Box 8127
Fountain Valley, California 92728

Dear Mr. Colston,

Thank you for your recent letter requesting that the Department of Pesticide Regulation (DPR) register products that release silver ions into wastewater. You specifically requested whether Ecoquest's Laundry Pure System and Component Hardware Group's product Saniguard require registration in California.

DPR has adequate legislative and regulatory authority to require the registration of any product that makes pesticidal claims or implies intended use as a pesticide. Food and Agricultural Code Section 12993 makes it unlawful for any person to manufacture, deliver, or sell any pesticide or any substance or mixture of substances that is represented to be a pesticide, which is not registered with DPR. Title 3 California Code of Regulations, section 6145 provides DPR the regulatory authority to regulate any substance that is "intended to be used" as a pesticide. This regulation is not limited to products with explicit claims (as noted in your letter), and extends to any person who distributes or sells such products if he/she has actual or constructive knowledge that the substance will be used, or implies intended use as a pesticide. DPR registered its first ionic silver product in 2004 and will continue to require registration of all products, regardless of active ingredient, that are intended to be used as pesticides. DPR has previously taken enforcement action against companies that failed to register ionic silver products in California and will continue to look for unregistered pesticide products as part of our normal inspection activities.

We consulted with our legal staff, reviewed the literature/websites, and concluded that the products identified in your letter qualify as pesticides requiring registration. The intent of both products is to control bacteria by releasing silver ions. U.S. EPA clarified their position with regard to ion-generating equipment in the September 21, 2007 Federal Register Notice (Vol. 72, Number 183) and determined that such equipment requires registration under the Federal Insecticide, Fungicide, Rodenticide Act (FIFRA). We have contacted EPA regarding the registration status of both products and are awaiting their response. Both products have been forwarded to our legal staff for potential enforcement action and are pending review.



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We appreciate your bringing this matter to our attention and look forward to working with you in the future.

Sincerely,

Original signed by

Tobi Jones, Ph.D.
Assistant Director
Pesticide Programs Division
(916) 445-3984

cc: Mr. Mark S. Rentz, Deputy Director of Policy Coordination
Mr. Nan Singhasemanon, Staff Environmental Scientist
Ms. Polly Frenkel, DPR Chief Counsel