



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, DC 20460

OFFICE OF CHEMICAL SAFETY
AND POLLUTION PREVENTION

Pat Quinn
The Accord Group
1455 Pennsylvania Avenue, NW
Suite 452
Washington DC 20004

MAR 24 2016

Dear Mr. Quinn:

In a January 2, 2006 letter from the Director of the Office of Pesticide Programs Jim Jones, the EPA responded to a letter from the Consumer Specialty Products Association regarding the use of the word “safe” for claims about recommended surfaces on which antimicrobial products can be used. The agency concluded that it would not allow the use of the word “safe” for such claims at that time.

The EPA came to this conclusion because 40 CFR 156.10(a)(5)(ix) declares “label claims as to the safety of the pesticide or its ingredients” to be false or misleading. The EPA cannot approve pesticide labeling that contains false or misleading statements, as such statements would make the pesticide misbranded in accordance with FIFRA sec. 2(q)(1)(A), and FIFRA sec. 12(a)(1)(E) makes it a violation to sell or distribute a misbranded pesticide.¹ In making its decision, the EPA also considered previous agency guidance and the policies of other federal agencies that regulate claims on consumer products. For example, guidance from the Consumer Product Safety Commission indicates that overuse of safety messages can undermine important information and warnings about the safe use of a product.

In July, 2013, the Comparative Safety Statements workgroup of the Pesticide Program Dialogue Committee asked the EPA to reconsider its position on this issue. To aid in the EPA’s reconsideration, several interested stakeholders conducted a consumer research study to help learn how consumers understand claims that a product is safe for a particular surface. The results of that research were presented to the agency in July 2015.

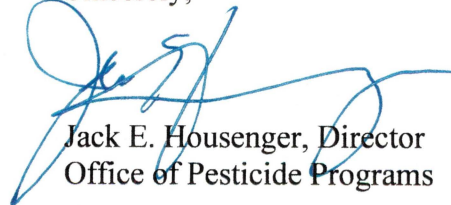
The research showed that the vast majority of the consumers who took part in the study do not conflate claims about a product being safe for certain surfaces with a sense that the pesticide or its ingredients are safe. In addition, the research showed that consumers would not use a product that bore a claim to be safe on a surface in a less cautious manner from one that did not. Furthermore, the research showed that consumers find “safe on surface” claims to provide useful information to them, more so than alternative phrases such as “suitable for.”

¹ In addition, section 3(c)(9) of FIFRA reiterates that for antimicrobial pesticides additional labeling statements that don’t pertain to pesticidal claims or activity cannot be false or misleading.

Whereas the 2006 EPA response noted generally that “agency regulations do not allow statements that contain the word safe or variations thereof to appear in pesticide labeling,”² The EPA now believes based on the research provided that a more nuanced interpretation of 40 CFR 156.10(a)(5)(ix) specifically is supportable. Given the results of this research, the EPA has determined that “safe for surface” claims do not need to be considered “claims as to the safety of the pesticide or its ingredients,” as described in 40 CFR 156.10(a)(5)(ix). Therefore, the EPA now concludes that such claims may be allowable so long as they are true, not misleading, and are not presented in such a manner that they distract from other information that is required to be present on pesticide labels.

If you have questions, please contact Jennifer McLain at 703-308-0293 or via email at mclain.jennifer@epa.gov.

Sincerely,



Jack E. Housenger, Director
Office of Pesticide Programs

² 2006 EPA response to CSPA, p. 5.