



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

CHEMICAL SAFETY AND
POLLUTION PREVENTION

May 5, 2010

Mr. Todd Schaeffer
Activeion Cleaning Solutions
21308 John Milless Drive
Rogers, MN 55374

Re: Questions related to Activeion Product

Dear Mr. Schaeffer:

The Agency has received your email of April 26, 2010 concerning a list of questions for which you've requested Agency response. These questions are related to both pesticide devices in general as well as specific questions concerning your Activeion device. Here are the responses to your questions:

Question 1: How are the Activeion technology and the pesticide claims being made by Activeion regulated by the EPA under FIFRA?

Response: The Activeion technology has been determined to be a pesticide device. Pesticide devices are regulated under 40 CFR Part 152.500. Pesticide devices are permitted to make pesticide claims so long as the claims are not false or misleading. A pesticide device must adhere to all the provisions of this regulation which also includes general labeling requirements, identifying the pesticide establishment where the pesticide device was produced, and provisions related to books, records, and annual production reporting. Pesticide devices are in fact regulated under FIFRA, but are not required to be registered under FIFRA.

Question 2: Under FIFRA, does the EPA consider the Activeion technology a chemical or a device?

Response: The Agency has determined the Activeion technology to be a pesticide device.

Question 3: Assuming the Activeion technology is viewed as a device (not a chemical) does that mean Activeion can somehow avoid EPA oversight for pesticide claims and not follow the FIFRA Labeling Regulations?

Response: No, neither Activeion nor any other pesticide device may make claims and not follow FIFRA labeling requirements.

Question 4: Has Activeion been disclosing technical data (GLP microbiology and toxicology) and marketing claims with EPA staff?

Response: While the Agency has not reviewed all of the marketing claims for Activeion, the company has been willing to submit claims and data upon Agency request.

Question 5: Activeion has test data for H1N1 and HIV - are these tests conducted to the EPA section 3 registration standard?

Response: Pesticide devices are not required to submit data to the Agency on their products and may have different methods by which their device is tested. Activeion has voluntarily submitted data to the Agency according to the AOAC test methods that are used for a FIFRA Section 3 registration.

If you need further clarification about this decision, please contact me at 703-308-6432 or via email at hardy.michael@epa.gov.

Sincerely,



Michael Hardy
Special Assistant to the Deputy Director
Office of Pesticide Programs
US EPA