



MEMORANDUM

Via E-Mail

DATE: August 10, 2006

TO: Firm Clients and Friends

FROM: Bergeson & Campbell, P.C.

RE: EPA Publishes Pest Control Device Information

On August 8, 2006, the U.S. Environmental Protection Agency (EPA) announced the availability of pest control device information on its website. According to EPA, the information is intended to help manufacturers better understand the difference between a pest control device and a pesticide product. EPA states that the new web page “better elaborates on the distinctions between the two types of products to aid manufacturers in determining whether or not a certain product requires EPA registration.” EPA cautions that the page provides only general clarification and suggests that manufacturers or applicants still consult EPA for a determination regarding the regulatory requirements for any product. The new page is available at <http://www.epa.gov/pesticides/about/devices.htm>.

EPA’s web page provides the following examples illustrating the key differences between pest control devices, pesticide products, and certain combinations:

- A product is a *pesticide* if it incorporates a substance or mixture of substances designed to prevent, attract, repel, destroy, or mitigate a pest. A product is a *pest control device* if it uses only physical or mechanical means to trap, destroy, repel, or mitigate any pest and does not include any pesticidal substance or mixture of substances. For example, an ant trap would not be considered a pest control device because it contains a pesticide chemical substance intended to work in concert with the physical container. It is therefore subject to regulation under pesticide law.
- Pesticide application equipment that is sold separately from the pesticide itself is not considered to be a device or a pesticide. For example, a sprayer for a lawn herbicide that is sold separately from the herbicide is



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application equipment (it is neither a device nor a pesticide) and is not regulated by EPA.

- If a device and a pesticide product are packaged together, that combined product is a pesticide product subject to registration requirements. For example, 1-Octen-3-ol (octenol) is registered as a pesticide product intended to attract certain species of mosquitoes and biting flies. If octenol is distributed or sold in or packaged with a trap for that purpose, the combination product is a pesticide product that must be registered separately. If the trap is sold without the octenol, it is a device regulated by EPA.

The web page notes that while a device is not required to be registered with EPA, other requirements do apply. EPA provides additional examples and links that highlight different ways devices are regulated, not regulated, and associated information.

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We hope this information is helpful. As always, please call if you have any questions.