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MEMORANDUM

Via E-Mail

DATE: November 29, 2006

TO: Firm Clients and Friends

FROM: Bergeson & Campbell, P.C.

RE: EPA Issues Clarification Regarding Ion Generating Washing Machines

As you may have noticed in various news articles and trade press publications, the U.S. Environmental Protection Agency (EPA) recently announced that it has reversed its earlier determination and now has concluded that a silver ion generating washing machine is subject to registration requirements under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and does not qualify as a “device” which would not need to be registered. Many articles have confused the issue and mischaracterized the EPA determination as heralding an EPA determination to regulate differently a “nanopesticide” under FIFRA; this is not accurate.

EPA released recently the appended update regarding silver ion generating washing machines. According to the update, EPA “has determined that the Samsung silver ion generating washing machine is subject to registration requirements under [FIFRA].” EPA previously advised Samsung that the silver ion generating washing machine was a device and thus not required to be registered under FIFRA. After reevaluating the issue, EPA determined that “the silver electrode in the Samsung washing machine is a pesticide because it is a substance (silver ion) released into the laundry for the purpose of killing microbial pests.”

EPA will outline and clarify its position on the classification of silver ion generating washing machines in a forthcoming *Federal Register* notice. It is not clear when this notice will be issued, but we understand EPA is working on it. EPA reportedly will provide companies time to comply fully with the clarifying notice, and will work with the companies to identify data and other information needed for an application for registration.

The update notes that recent press articles have referred to the Samsung washing machine “as a product of nanotechnology.” EPA says that, since it has not yet received an application for registration from Samsung, it “has not yet come to any conclusions about whether a washing machine that releases silver ions or any other similar product involves nanomaterial.”



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EPA states: “Whether the silver ions are considered to be nanomaterial or not, a pesticide product must be registered under the pesticide laws based on scientific data to show that it can be used [safely] and it will be required to meet the same safety standards as any other antimicrobial or conventional pesticide product.”

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

[Attachment](#)