

EPA Issues Stop Sale, Use, or Removal Orders to Amazon and eBay for Unregistered and Misbranded Pesticides and Devices, Including Products with Claims Related to COVID-19

Article By:

Lisa M. Campbell

Lisa R. Burchi

Kelly N. Garson

On June 11, 2020, the U.S. Environmental Protection Agency (EPA) announced in a [press release](#) that it issued stop sale, use, or removal orders (SSURO) to [Amazon.com Services LLC](#) (Amazon) and [eBay, Inc.](#) (eBay) for selling certain pesticide products that EPA claims are unregistered, misbranded, or restricted-use pesticides, and pesticide devices that EPA asserts make false or misleading claims. The SSUROs address over 30 products sold on Amazon and over 40 products sold on eBay, and include several products marketed with what EPA believes are false or misleading claims of efficacy against the novel coronavirus, SARS-CoV-2, the cause of COVID-19.

EPA notes that Amazon and eBay are two of the largest e-commerce marketplaces and that they oversee millions of product listings. EPA further notes that it has held discussions with the companies, and other e-marketplaces, to stop sales of products that falsely claim to be effective against COVID-19, as discussed on our [blog](#). Prior SSUROs issued to Amazon are discussed on our [blog](#).

Registration of pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) is required prior to selling or distributing pesticides in the United States and it is a violation of FIFRA Section 12(a)(1)(A) to sell or distribute an unregistered pesticide. The EPA-approved label for a FIFRA registered pesticide product contains directions for use, precautionary statements, and other provisions that reflect EPA's evaluation of data to and determination of acceptable risk for the product at issue when used as directed on the label. Pesticide products and devices are considered "misbranded" and in violation of FIFRA if, among other potential facts, they contain false or misleading claims and/or if their labels are missing certain required information (e.g., ingredients, precautionary statements, and directions for use).

EPA included a list of the products and devices at issue in attachments to the SSUROs. In the Amazon SSURO, EPA states that none of the listed products is registered with EPA, and that the products were misbranded because EPA believes they contain one or more false or misleading

statements on their labels. In the eBay SSURO, EPA provides three attachments listing products eBay offered for sale that EPA claims are unregistered, misbranded, or classified as restricted use in violation of FIFRA.

The SSUROs prohibit Amazon and eBay from distributing, selling, or offering these products for sale. EPA requires that Amazon submit a written accounting of all the violative products listed in the attachment to the SSURO, including providing the location, quantity, and container size for these products, every 30 days for the next 150 days following Amazon's receipt of the SSURO, or until Amazon no longer has the violative products in its ownership, custody, or control. Amazon must obtain written approval from EPA before it moves or removes any of the products from its facilities. EPA requires eBay to notify EPA of the corrective actions eBay will take regarding the violative products in writing within ten days of receiving the SSURO.

EPA notes in its press release the following examples of what it believes are pesticidal claims made for the products at issue that would require their registration prior to sale or distribution:

- "Kills COVID-19"
- "Complete sterilization including the current pandemic virus"
- "Coronavirus disinfectant"
- "2020 Coronavirus Protection Coronavirus Protection Clearance Sale"
- "A Powerful, Green, Non-Toxic Solution Proven to Inactivate our current viral strain"
- "Epidemic Prevention"
- "Efficient disinfection to prevent the spread of disease"
- "Help keep your family and those you care for healthy"
- "Nontoxic causes no permanent injuries"
- "Ingredients are biodegradable and have no harmful impact on the environment"
- "There is no damage to the environment"
- "You can easily purify the living environment"
- "Safe for all people using"
- "Gentle to Child & Pets"
- "Chemical Free"

EPA claims as additional violations that the products it believes are pesticide devices sold by Amazon also lack required EPA establishment numbers (*i.e.*, site-specific information for the facility where the pesticide or device was produced) that is a required element on all pesticide and device

labels.

The eBay SSURO also addresses claims that eBay sold restricted-use pesticides without limiting those sales to certified applicators as required by FIFRA Section 12(a)(2)(F). EPA states that EPA representatives purchased and received restricted-use products listed in Attachment C, Table 2 of the SSURO, but were not certified applicators at the time of the purchase, and were not required to submit proof that they were certified applicators prior to or during the sale. Restricted-use pesticides may only be distributed or sold to certified applicators or persons under their direct supervision. Certified applicators and persons they directly supervise are the only persons authorized to use restricted-use pesticides.

EPA's press release highlights the following products:

- Described as a “particularly egregious” case are products found on Amazon containing Chlorine Dioxide sold with “unprovable claims of sanitizing and disinfecting hospitals, offices, and homes.” In addition, several versions of the product listed on the site have very little to no English-language instructions.
- Product listings on eBay.com include 55-gallon drums of Methylene Chloride marketed for use against SARS-CoV-2 as a disinfectant and paint stripper. Methylene Chloride is not approved for use against SARS-CoV-2. EPA notes also that EPA banned the retail sale of Methylene Chloride to consumers for paint removal purposes under the Toxic Substances Control Act “due to acute fatalities that resulted from exposure to the chemical.”
- Product listed on eBay called Virus Shut Out claiming to be a spatial disinfection card that would provide protection against SARS-CoV-2 to the wearer. Virus Shut Out was subject to previous EPA enforcement action,
- Product listed on eBay called Xtreme-Bio stating that it was exempt from EPA regulation and made entirely with “clean, green, safe, environmentally friendly ingredients” and that made claims to deactivate SARS-CoV-2.

Commentary

EPA has been vigilant in reviewing and acting quickly to address products making claims against coronavirus, SARS-CoV-2, and COVID-19. The actions against Amazon and eBay are significant, as other actions have been largely targeted toward producers. The responses to the SSUROs will be of interest and should be monitored.

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