



Oregon Registration Guidance: “Readily Distinguishable” Products

Introduction

In Oregon, every pesticide product that is readily distinguishable from any other pesticide product requires a separate registration. Oregon Administrative Rule (OAR) 603-057-0001 defines “readily distinguishable” as follows:

(6) For the purpose of pesticide registration as specified in ORS 634.016, “pesticide product” means a pesticide readily distinguishable from any other pesticide by its content, registration number assigned by the United States Environmental Protection Agency, brand name, trade name, manufacturer, registrant, use as specified in labeling, or other distinction, but not including size or quantity of package.

Products composed of discrete units (e.g. wipes, granules, tablets) are considered “distinguishably different” if the dimensions of those units differ (see examples below). They are not considered “distinguishably different” if the variation in size is reflected solely in the amount/quantity of product (e.g. 500 large wipes versus 100 large wipes).

Clarifications

1) Products with the following characteristics **are considered** “readily distinguishable”:

- The Directions for Use are different (e.g., different application rates, use sites), even when the product names (and formulation, EPA Reg. No., etc.) are identical.
- The market labeling includes images that advertise or imply a different use pattern than another product that is otherwise identical.
- The name of the product, a marketing claim, or description of the product on the label is different.

Examples:

- Product Name: “Flea-B-Gon for Dogs 12 to 25 Pounds” versus “Flea-B-Gon for Dogs 12 Pounds and Under”.
 - Product Name: “GermX-Cloth Extra Large Wipe” versus “GermX-Cloth Large Wipe”
 - Same product name, different product description: “1-inch chlorinating tablets” versus “3-inch chlorinating tablets”
 - Same product name, different description: “Large Granules” versus “Small Granules”
 - The market labeling reflects a different scent (e.g. “Fresh Scent” versus “Unscented”) of otherwise identical products.
 - Versions of a pesticide (e.g., antifouling paints, bathroom paints) come in different colors, and the color is reflected on the label.
- Individually registered products are packaged together and wrapped with a partial or complete label that contains unique information.



Examples:

- Bait station packaged and sold with gel bait
- Lice shampoo packaged and sold with a space spray
- Multiple containers of the same registered product that are packaged together and wrapped with a partial or complete label that contains unique information.

Example:

- There are two labeled product containers inside a box. The box itself bears labeling similar to the labels on the containers inside, but the box label also contains unique marketing claims that are not on the enclosed product container labels. See exception below regarding bonus or value packs.
- Products packaged with dispensing or application equipment (e.g., hand trigger sprayer vs. battery-powered wand) and associated use directions specific to the application equipment, versus stand-alone refills of the same product.
- The company name/logo listed on the label is different, even when the company is owned by a parent company that currently has the same product registered.

2) Products with the following characteristics are NOT considered “readily distinguishable”:

- Label claims identify different total areas or other units that can be treated, and this is based **solely** upon the container size or quantity of packaging.

Example:

- “This bag covers 5,000 square feet of turf”, vs. a bag that states “This bag covers 10,000 square feet of turf.”

- The Directions for Use section includes mixing directions and total areas or other units that can be treated that differ, based **solely** upon the container size or quantity of packaging.

Example:

- “This product is conveniently packaged in a single dose 13 fl. oz. container. Pour the entire contents of the 13 fl. oz. container into 115 fl. oz. of water to product exactly 1 finished gallon to treat 1000 sq. ft.”

versus

“This product is packaged in a 130 fl. oz. container to product exactly 10 finished gallons (10 doses/treatments). Pour 13 fl. oz. of the 130 fl. oz. container into 115 fl. oz. of water to product exactly 1 finished gallon to treat 1000 sq. ft.”

- The Storage and Disposal sections on market labels differ, **solely** related to the size and/or quantity of packaging.

Example:

- The storage and disposal section of a 1-gallon package instructs the user to “Fill the container ¼ full with water and recap. Shake for 10 seconds”. In contrast, a 50-gallon version of the same product instructs the user to “Fill the container ¼ full with water. Recap and tighten closures. Tip container on its side and roll it back and forth [etc.]”.

- The Environmental Hazards statements differ, **solely** related to the size of the container.

- Two or more individually registered products are shrink- or plastic-wrapped together so that you can view and read the labels on the individual products.
- Multiple containers of the same registered product are packaged together and wrapped with a partial or complete label that contains unique information that is solely related to the size or quantity of packaging.

Example:

- There are two labeled product containers inside a box. The box itself bears labeling that is **identical** to the labels on the containers inside, except for inclusion of size/quantity-related terms such as a “2-pack”, “bonus” or “value” pack.