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California Products Registration Update

USEPA registration of the antimicrobial active is required for textiles sold in California if the treated product is to avoid being registered with CA DPR.

California Notice 2015-13 was updated in July of 2017. This update states that any product using an antimicrobial must register the product with the California DPR. Subsequent to the Notice Update there has been some confusion in the industry regarding how the Notice relates to the USEPA treated articles exemption. According to the brief, those products that qualify under the FIFRA treated articles exemption do not require registration with the CA DPR. Products qualify under the treated articles exemption if they use an antimicrobial registered with the USEPA and CA DPR and if they comply with the use instructions for that antimicrobial. Products are disqualified as treated articles under FIFRA and the CA notice 2015-13 if any health claims are made for the treated article or if they use an antimicrobial active that is not USEPA registered, CA DPR registered or is not properly registered for the product on which it is applied.



USEPA Exempt Antimicrobials

The USEPA maintains a list of antimicrobial actives that can be used without being registered as a pesticide with the USEPA. These antimicrobials are primarily pesticides used in agricultural applications but some companies are attempting to adapt these active ingredients to textiles. While the use of exempt antimicrobials in textiles is worth investigating, the IAC recognizes that there are important technical and regulatory hurdles that need to be overcome before an EPA exempt active can be used in treated articles. In order for most exempt antimicrobial actives to provide durable reduction of microbial activity on the treated article, the actives usually require synthetic additives that could potentially jeopardize the exempt status of the antimicrobial.

It's also important to understand that while the actives on the USEPA exempt pesticides list do not require USEPA registration for use to control pests - the fact that the active is not USEPA registered makes a treated article that uses the unregistered antimicrobial ineligible to make claims using the treated articles exemption. EPA PR Notice 2000-1 states: *This notice clarifies current EPA policy with respect to the scope of the "treated articles exemption" in 40 CFR 152.25(a)..... This notice also explains the requirement that the pesticide in a treated article be "registered for such use."*

Note the last sentence "the pesticide in a treated article be "registered for such use." The USEPA placed the words "registered for such use" in parenthesis which makes it clear that this is an important aspect of the Treated Articles Exemption. Additionally, the EPA warns that although these active ingredients are FIFRA exempt, state regulations may require their EPA registration for use within a given state. The IAC is in contact with the USEPA on this item and will keep our membership up to date on any movement within USEPA on this issue.