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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.



EPA Exempt Antimicrobials Require USEPA Registration for Treated Articles Exemption

The USEPA maintains a list of antimicrobial actives that can be used without being registered with the USEPA and that appears to have led to some confusion regarding FIFRA exempt antimicrobials and the treated articles exemption. After conversations with the USEPA the IAC would like to clear up some of this confusion.

According to legal counsel for the USEPA, FIFRA exempt antimicrobials, like peppermint oil, still require USEPA registration to be used in treated articles. The USEPA is very clear, 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".* (Italics and underline added for clarity). It is important to understand that while the actives on the USEPA exempt pesticides list do not require USEPA registration for use to control agricultural pests - the fact that the active is not USEPA registered makes a treated product (ie: treated fabric) ineligible to use the treated articles exemption that exempts the treated product from USEPA registration. If claims are made for a treated product using an unregistered antimicrobial (or unregistered FIFRA exempt antimicrobial) then the treated product would not be covered by the treated articles exemption and the treated product would need to obtain USEPA registration to make such claims.

Additionally, the USEPA warns that while these active ingredients may be FIFRA exempt, state regulations may require their USEPA registration for use within a given state. It is important for antimicrobial users to understand that products treated with FIFRA exempt antimicrobials that are not registered with the USEPA may require the treated product to be registered in these states. For more information please contact director@amcouncil.org.