

telephone at (202) 564-6853. In general, each individual making an oral presentation will be limited to a total of three minutes.

FOR FURTHER INFORMATION CONTACT: Shirley R. Hamilton, Designated Federal Officer, U.S. Environmental Protection Agency, Office of Research and Development, NCERQA (MC 8701R), 401 M Street, S.W., Washington, DC 20460, (202) 564-6853.

Dated: February 7, 2000.

Peter W. Preuss,

Director, National Center for Environmental Research and Quality Assurance.

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ENVIRONMENTAL PROTECTION AGENCY

[OPP-00530B; FRL-6489-7]

Pesticides; Clarification of Treated Articles Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: EPA is announcing the availability of PR Notice 2000-1 clarifying the Agency's policy with respect to the applicability of the "treated articles exemption" in 40 CFR 152.25(a) to antimicrobial pesticides. The notice discusses EPA's past and present guidance on how treated articles and substances qualify for the exemption, as well as the distinction between public health and non-public health antimicrobial claims, by providing specific examples of claims and related terms which the Agency believes are or are not consistent with 40 CFR 152.25(a). This notice also explains the requirement that the pesticide in a treated article be "registered for such use."

FOR FURTHER INFORMATION CONTACT: Debbie Edwards, Senior Advisor, Antimicrobial Division, Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308-7891; fax: (703) 308-6467; e-mail: edwards.debbie@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to manufacturers, distributors, and any other person selling or distributing pesticide treated

articles and substances, and to manufacturers, distributors, and any other person selling or distributing pesticides used as preservatives to protect treated articles from microbial deterioration. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the "FOR FURTHER INFORMATION CONTACT" section.

B. How Can I Get Additional Information, Including Copies of this Document, and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents, from the Internet EPA Home page at <http://www.epa.gov/>. To access this document, on the Home Page select "Laws and Regulations" and then look up the entry for this document under the "Federal Register--Environmental Documents." You can also go directly to the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>.

2. *Fax-on-demand.* You may request a faxed copy of the Pesticide Registration (PR) Notice 2000-1 titled "Applicability of the Treated Articles Exemption to Antimicrobial Pesticides" by using a faxphone to call (202) 401-0527 and selecting item 6110. You may also follow the automated menu.

II. Background

The "treated articles exemption" in 40 CFR 152.25(a) was promulgated in 1988. As provided by 40 CFR 152.25(a), in order to qualify for the "treated articles exemption," (1) a product must be treated with a pesticide registered under FIFRA for incorporation into a specific treated article or substance, and (2) the claims allowed for such treatment must be limited to protection of the treated article only. If these two conditions are met, the product would qualify for the "treated articles exemption" and would be exempt from all FIFRA requirements. Since that time, enforcement actions have been taken by EPA where it deemed necessary. The products involved in these actions were dealt with so as to resolve individual issues arising in each matter. In recent years, however, a large variety of non-exempt antimicrobial treated products and substances with diverse claims have appeared in the marketplace. To address this case-by-case approach and to avoid marketplace confusion, the Agency decided to provide comprehensive guidance as set forth in a PR Notice to

clarify EPA policy with respect to the applicability of the "treated articles exemption" and to provide examples of acceptable and unacceptable claims for use on labels and advertisements which the Agency believes are consistent with 40 CFR 152.25(a).

In the **Federal Register** of April 17, 1998 (63 FR 19256) (FRL-5780-7), EPA published a notice of availability of a draft PR Notice soliciting comments on proposed guidance clarifying the criteria considered by EPA for determining whether antimicrobial pesticides are eligible for the "treated articles exemption," as well as to make it clear that the Agency continues to consider any public health claim as not being consistent with the provisions of 40 CFR 152.25(a). Comments were to be received by May 18, 1998. In the **Federal Register** of May 18, 1998 (63 FR 27280) (FRL-00530A), EPA extended the comment period until June 30, 1998. In response, the Agency received 107 comments to the draft PR Notice from a wide spectrum of the antimicrobial community. This **Federal Register** notice announces the availability of PR Notice 2000-1 titled "Applicability of the Treated Articles Exemption to Antimicrobial Pesticides."

III. Comments to the Draft Notice

In developing PR Notice 2000-1, the Agency evaluated 107 comments received in response to the April 17, 1998 draft notice. At the same time, treated article issues were discussed in two antimicrobial workshops and in numerous meetings with individuals and representatives of the antimicrobial pesticide community. Among the principal concerns raised during these dialogs were the Agency's position regarding aesthetic claims and the 60-day time frame for compliance with any new elements of the final notice. In evaluating these concerns, EPA has come to the conclusion that properly worded aesthetic claims continue to fall within the scope of the "treated articles exemption" because mitigation of non-public health related organisms which are responsible for mildew and odors can contribute to the protection of the appearance and maintenance of the intended shelf life of the treated article or substance. EPA has also been made aware of the complexities associated with the manufacture and distribution of treated paint and textile products and believes that February 11, 2001, would be an appropriate time frame for implementing any new elements of the final notice.

Other concerns were raised about the Agency's position regarding the use of terms such as "antibacterial,"

“germicidal,” “antimicrobial,” and “mildew-resistant” and the need for certain types of qualifying and prominent language displayed in association with these terms. EPA continues to believe that the terms “antibacterial,” “germicidal” and similar language imply a public health benefit regardless of the context in which they are used on the labeling and are thus, inappropriate for products intended merely for the non-public health protection of treated articles and substances. On the other hand, the Agency believes that while terms such as “antimicrobial” and “mildew-resistant” have the same potential for misinterpretation, if such terms are properly qualified and are not prominently displayed on the labeling, these terms would be acceptable for articles and substances claiming the exemption.

Throughout its deliberations, EPA has strived to develop clear guidance, consistent with past and present Agency practice, to create a “level playing field” for all affected entities. Furthermore, EPA believes that the provisions of PR Notice 2000-1 will have a minimum impact on small business entities, and the Agency is committed to continue to work closely with the antimicrobial community and other affected parties in cases where compliance with the requirements of this notice might present difficulties which are presently unknown.

IV. Contents of PR Notice 2000-1

PR Notice 2000-1 clarifies the conditions under which the “treated articles exemption” will apply and provides examples of acceptable and unacceptable claims for use on labels and advertisements which the Agency believes are consistent with 40 CFR 152.25(a). PR Notice 2000-1 also discusses the requirement that the pesticide in a treated article be “registered for such use.”

V. Effective Date and Procedures

In order to remain in compliance with FIFRA and avoid regulatory or enforcement consequences as described, it is the Agency’s position that producers, distributors, and any other person selling or distributing pesticide treated articles and substances not in compliance with the Agency’s interpretation of 40 CFR 152.25(a), as clarified by this notice, need to bring their products, labeling and packaging, any collateral literature, advertisements or statements made or distributed in association with the marketing of the treated article or substance into full compliance with the regulation as

clarified by this notice as soon as possible.

Because some of the elements of this interpretation may not have been well understood by the regulated community, the Agency expects that some companies may need up to a year in order to comply with those elements that have been clarified by this notice. Therefore, for the present, the Agency is following the approach set forth in the April 17, 1998 **Federal Register**. Although non-public health claims for microbial odor control and mold and mildew claims associated with deterioration, discoloration, and staining were not specifically mentioned in the April 17, 1998 **Federal Register**, such claims are also consistent with the enforcement approach set forth in that notice, as well as with this guidance, provided that they are properly, and very clearly, qualified as to their non-public health use. The Agency will begin to rely on the guidance provided in this notice on February 11, 2001. Products in commerce after that date would risk being considered out of compliance with 40 CFR 152.25(a). The Agency also wants to make it clear that inclusion of this date does not authorize marketing of treated articles which do not comply with EPA’s interpretation of the “treated articles exemption” in 40 CFR 152.25(a). The Agency has consistently interpreted and applied this rule to prohibit implied or explicit public health claims for unregistered products and continues to regard any public health claims as not being consistent with the provisions of 40 CFR 152.25(a).

List of Subjects

Environmental protection.

Dated: February 4, 2000.

Susan B. Hazen,

Acting Director, Office of Pesticide Programs.

[FR Doc. 00-3219 Filed 2-10-00; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[PF-915; FRL-6487-9]

Notice of Filing a Pesticide Petition to Establish a Tolerance for Certain Pesticide Chemicals in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of certain

pesticide chemicals in or on various food commodities.

DATES: Comments, identified by docket control number PF-915, must be received on or before March 13, 2000.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the “SUPPLEMENTARY INFORMATION.” To ensure proper receipt by EPA, it is imperative that you identify docket control number PF-915 in the subject line on the first page of your response. **FOR FURTHER INFORMATION CONTACT:** By mail: Peg Perreault, Registration Support Branch, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305-5417; e-mail address: perreault.peg@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

| Cat-egories | NAICS codes | Examples of potentially affected entities |
|-------------|----------------------------|---------------------------------------------------------------------------------------|
| Industry | 111 112 311 32532 | Crop production Animal production Food manufacturing Pesticide manufacturing |

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under “FOR FURTHER INFORMATION CONTACT.”

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that