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Director

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Governor

California Notice 2015-13

TO: Pesticide Product Registrants and Stakeholders

SUBJECT: REGISTRATION REQUIREMENTS FOR PRODUCTS MADE FROM PESTICIDE IMPREGNATED MATERIALS AND BEARING PESTICIDE CLAIMS

Effective November 1, 2016, the California Department of Pesticide Regulation (DPR) will require each person/company with products made from pesticide impregnated material that are sold into or within California under their own company name to register their product(s) as a pesticide. Products made from pesticide impregnated material may include apparel (e.g., jackets, shirts, hats, socks, pants, shorts) or non-apparel (e.g., bedding, tents, seat covers, chopping blocks, shower curtains, mouse pads) which bear pesticidal claims. DPR will require each company to obtain at least one registration for each use category of product sold. If impregnated with different pesticides or different percentages of the same pesticide, separate registrations will be required.

Background

California Food and Agricultural Code (FAC) section 12753 defines a pesticide as, “any substance, or mixture of substances which is intended to be used for defoliating plants, regulating plant growth, or for preventing, destroying, repelling, or mitigating any pest, as defined in FAC section 12754.5, which may infest or be detrimental to vegetation, man, animals, or households, or be present in any agricultural or nonagricultural environment whatsoever.” Products with pesticidal claims that are made from pesticide impregnated materials meet the definition of a pesticide.

DPR currently registers a number of pesticide impregnated textiles bearing pesticidal claims. Historically, these products have been registered either by the manufacturer of the pesticide impregnated material or by the company impregnating the bolts of fabric or clothing. Individual companies selling items made from pesticide impregnated textiles were only required to obtain a pesticide broker’s license from DPR. Obtaining a broker’s license will no longer be sufficient for companies selling products under their own company label. This change will facilitate tracking the use of these products in California and aid in the understanding of potential impacts on water quality and human health. This is also consistent with DPR’s treatment of other types of registered pesticide impregnated products (e.g., pet collars, product packaging, water filters, and disinfecting wipes).



Registering Pesticide Impregnated Products

Individual companies intending to sell or distribute in California pesticide impregnated products making pesticidal claims, under their own company label, will need to obtain an apparel or non-apparel categorical registration based on use from DPR. As long as the products contain the same type and percentage of active ingredient, one registration can be used to cover various types of pesticide impregnated apparel (e.g., jackets, shirts, hats, socks, pants, shorts) or pesticide impregnated non-apparel product use categories (e.g., tents, bedding, seat covers, chopping blocks, shower curtains, mouse pads). If different types of fabrics or materials are used in the products, they must be listed on the confidential statement of formula and may be evaluated separately. Different categories of products may require separate registrations depending on use and the products will be evaluated on a submission-by-submission basis.

A separate DPR registration will be required for pesticide impregnated products containing different pesticide active ingredients, different percentages of active ingredients, or for products treated with pesticides bearing different U.S. Environmental Protection Agency (EPA) registration numbers. If, for example, a person/company sells apparel impregnated with 0.52% of the active ingredient permethrin and other apparel impregnated with 0.48% of the active ingredient permethrin, two separate apparel registrations will be required because they contain different percentages of active ingredient. The same holds true for a category of non-apparel products.

Applicants for the registration of pesticide impregnated products must meet all DPR requirements for pesticide registration, including submission of an application form, six copies of the proposed product label, an application fee per product, and supporting scientific data or a reference to supporting scientific studies already on file with DPR or substantially similar products registered at DPR. The application process and pertinent information needed for pesticide product registration can be found on DPR's Web site at <http://www.cdpr.ca.gov/docs/registration/instructions.htm>.

NOTE: This notice does not change DPR's policy regarding "treated articles or substances." Products meeting the definition of Title 40, Code of Federal Regulations section 152.25(a) are exempt from registration in California. In order to be exempt, one of the requirements is the pesticide must be added to the article/substance solely to protect the article/substance itself (e.g., an antimicrobial added to a can of paint to stop bacteria or mold from attacking the paint while in the can). For additional information regarding treated articles/substances, please see U.S. EPA's Pesticide Registration (PR) Notice 2000-1 located online at <http://www2.epa.gov/sites/production/files/2014-04/documents/pr2000-1.pdf>.

Paying California Mill Assessment

FAC section 12841 requires the payment of a mill assessment on each dollar of sales of all pesticide products sold for use in California. All registrants of pesticide impregnated products must report the total dollar sales of each finished product (e.g., of the actual price of the jacket, tent, etc.) as it appears on the seller's invoice for the first sale/distribution of the product into or within California. If the first sale is not made by the registrant, but by a Pesticide Broker or Pesticide Dealer, the Broker/Dealer must report and pay the mill assessment as it appears on their seller's invoice.

Questions

If you have questions regarding the registration of pesticide impregnated products, please contact the Pesticide Registration Branch Ombudsman, Ms. Jolynn Mahmoudi-Haeri, at 916-324-3545 or by e-mail at <Registration.Ombudsman@cdpr.ca.gov>.

If you have questions regarding the reporting and payment of mill assessment on registered pesticide impregnated products, please contact Mr. Phil Wilson at 916-445-3531 or by e-mail at <Phil.Wilson@cdpr.ca.gov>.

Original signed by

December 10, 2015

Ann M. Prichard, Chief
Pesticide Registration Branch
916-324-3931

Date

Original Signed by

December 9, 2015

Susan McCarthy, Chief
Product Compliance Branch
916-445-3984

Date

cc: Ms. Jolynn Mahmoudi-Haeri, DPR Senior Environmental Scientist (Specialist)
Dr. Jill Townzen, DPR Senior Environmental Scientist (Specialist)
Mr. Phil Wilson, DPR Auditor I