

Environmental Protection Agency

401 M Street, S.W.

Washington, D.C. 20460

ATTN: **Walter Francis**

Dear Mr. Francis:

under the EPA's registration rules pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA").⁽¹⁾ The Notice is intended to provide guidance to pesticide product manufacturers and others about the extent to which treated articles -- items that are treated with a pesticide to protect the product from bacteria, fungus or insect infestations -- provide protection against bacteria or germs. We support EPA's judgment that, in many instances, claims concerning the

antimicrobial or antibacterial properties of such products imply a public health benefit, i.e., that the control or elimination of germs and bacteria helps protect users against disease, rather than simply preserving the product itself against rot, deterioration, mold, or mildew. This implication is likely to be particularly strong for products and in circumstances where consumers are not concerned about microbial damage to the product itself, but instead have generalized concerns about the spread of disease-causing germs. Thus, for example, a claim that a children's toy or a toothbrush has been treated with an antibacterial agent is very likely to convey that the toy or toothbrush can reduce the risk of spreading disease-related germs. The Federal Trade Commission Act requires that material claims be truthful and substantiated.⁽³⁾ The Commission has challenged a number of companies making antibacterial or other germ killing claims that were not adequately substantiated.⁽⁴⁾

The staff also believes that terms such as "antibacterial" and "antimicrobial," when used in conjunction with consumer products, are likely to convey that the bacteria, germs or microbes that are killed have some relation to human health.⁽⁵⁾ In many circumstances, adding a qualifying phrase that limits the protection provided by the "antibacterial" treatment for the product only may not be effective. Even if consumers notice and understand the qualifying disclosure, it may be overwhelmed by a stronger message of efficacy for human health, or it may appear to contradict that message and simply confuse consumers.⁽⁶⁾

The Commission staff appreciates your consideration of these views.

Very truly yours,

C. Lee Peeler, Associate Director