

Subpart B—Exemptions

SOURCE: 53 FR 15977, May 4, 1988, unless otherwise noted.

§ 152.20 Exemptions for pesticides regulated by another Federal agency.

The pesticides or classes of pesticide listed in this section are exempt from all requirements of FIFRA. The Agency has determined, in accordance with FIFRA sec. 25(b)(1), that they are adequately regulated by another Federal agency.

(a) *Certain biological control agents.* (1) Except as provided by paragraph (a)(3) of this section, all biological control agents are exempt from FIFRA requirements.

(2) If the Agency determines that an individual biological control agent or class of biological control agents is no longer adequately regulated by another Federal agency, and that it should not otherwise be exempted from the requirements of FIFRA, the Agency will revoke this exemption by amending paragraph (a)(3) of this section.

(3) The following biological control agents are not exempt from FIFRA requirements:

- (i) Eucaryotic microorganisms, including protozoa, algae and fungi;
- (ii) Procaryotic microorganisms, including bacteria; and
- (iii) Viruses.

(b) *Certain human drugs.* A pesticide product that is offered solely for human use and also is a new drug within the meaning of FFDCA sec. 201(p) or is an article that has been determined by the Secretary of Health and Human Services not to be a new drug by a regulation establishing conditions of use for the article, is exempt from the requirements of FIFRA. Such products are subject to regulation in accordance with the Federal Food, Drug, and Cosmetic Act and implementing regulations.

§ 152.25 Exemptions for pesticides of a character not requiring FIFRA regulation.

The pesticides or classes of pesticides listed in this section have been determined to be of a character not requiring regulation under FIFRA, and are therefore exempt from all provisions of

FIFRA when intended for use, and used, only in the manner specified.

(a) *Treated articles or substances.* An article or substance treated with, or containing, a pesticide to protect the article or substance itself (for example, paint treated with a pesticide to protect the paint coating, or wood products treated to protect the wood against insect or fungus infestation), if the pesticide is registered for such use.

(b) *Pheromones and pheromone traps.* Pheromones and identical or substantially similar compounds labeled for use only in pheromone traps (or labeled for use in a manner which the Administrator determines poses no greater risk of adverse effects on the environment than use in pheromone traps), and pheromone traps in which those compounds are the sole active ingredient(s).

(1) For the purposes of this paragraph, a pheromone is a compound produced by an arthropod which, alone or in combination with other such compounds, modifies the behavior of other individuals of the same species.

(2) For the purposes of this paragraph, a synthetically produced compound is identical to a pheromone only when their molecular structures are identical, or when the only differences between the molecular structures are between the stereochemical isomer ratios of the two compounds, except that a synthetic compound found to have toxicological properties significantly different from a pheromone is not identical.

(3) When a compound possesses many characteristics of a pheromone but does not meet the criteria in paragraph (a)(2) of this section, it may, after review by the Agency, be deemed a substantially similar compound.

(4) For the purposes of this paragraph, a pheromone trap is a device containing a pheromone or an identical or substantially similar compound used for the sole purpose of attracting, and trapping or killing, target arthropods. Pheromone traps are intended to achieve pest control by removal of target organisms from their natural environment and do not result in increased levels of pheromones or identical or substantially similar compounds over a significant fraction of the treated area.