

**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.

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(c) *Preservatives for biological specimens.* (1) Embalming fluids.

(2) Products used to preserve animal or animal organ specimens, in mortuaries, laboratories, hospitals, museums and institutions of learning.

(3) Products used to preserve the integrity of milk, urine, blood, or other body fluids for laboratory analysis.

(d) *Vitamin hormone products.* Vitamin hormone horticultural products consisting of mixtures of plant hormones, plant nutrients, inoculants, or soil amendments, which meet the following criteria:

(1) The product, in the undiluted package concentration at which it is distributed or sold, meets the criteria of § 156.10(h)(1) of this chapter for Toxicity Category III or IV; and

(2) The product is not intended for use on food crop sites, and is labeled accordingly.

(e) *Foods.* Products consisting of foods and containing no active ingredients, which are used to attract pests.

(f) *Natural cedar.* (1) Natural cedar blocks, chips, shavings, balls, chests, drawer liners, paneling, and needles that meet all of the following criteria:

(i) The product consists totally of cedarwood or natural cedar.

(ii) The product is not treated, combined, or impregnated with any additional substance(s).

(iii) The product bears claims or directions for use solely to repel arthropods other than ticks or to retard mildew, and no additional claims are made in sale or distribution. The labeling must be limited to specific arthropods, or must exclude ticks if any general term such as "arthropods," "insects," "bugs," or any other broad inclusive term, is used. The exemption does not apply to natural cedar products claimed to repel ticks.

(2) The exemption does not apply to cedar oil, or formulated products which contain cedar oil, other cedar extracts, or ground cedar wood as part of a mixture.

(g) *Minimum risk pesticides*—(1) *Exempted products.* Products containing the following active ingredients are exempt from the requirements of FIFRA, alone or in combination with other substances listed in this paragraph,

provided that all of the criteria of this section are met.

Castor oil (U.S.P. or equivalent)  
Cedar oil  
Cinnamon and cinnamon oil  
Citric acid  
Citronella and citronella oil  
Cloves and clove oil  
Corn gluten meal  
Corn oil  
Cottonseed oil  
Dried blood  
Eugenol  
Garlic and garlic oil  
Geraniol  
Geranium oil  
Lauryl sulfate  
Lemongrass oil  
Linseed oil  
Malic acid  
Mint and mint oil  
Peppermint and peppermint oil  
2-Phenethyl propionate (2-phenylethyl propionate)  
Potassium sorbate  
Putrescent whole egg solids  
Rosemary and rosemary oil  
Sesame (includes ground sesame plant) and sesame oil  
Sodium chloride (common salt)  
Sodium lauryl sulfate  
Soybean oil  
Thyme and thyme oil  
White pepper  
Zinc metal strips (consisting solely of zinc metal and impurities)

(2) *Permitted inerts.* A pesticide product exempt under paragraph (g)(1) of this section may only include inert ingredients listed in the most current List 4A. This list is updated periodically and is published in the FEDERAL REGISTER. The most current list may be obtained by writing to Registration Support Branch (4A Inerts List) Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington DC 20460.

(3) *Other conditions of exemption.* All of the following conditions must be met for products to be exempted under this section:

(i) Each product containing the substance must bear a label identifying the name and percentage (by weight) of each active ingredient and the name of each inert ingredient.

(ii) The product must not bear claims either to control or mitigate microorganisms that pose a threat to human health, including but not limited to

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disease transmitting bacteria or viruses, or claims to control insects or rodents carrying specific diseases, including, but not limited to ticks that carry Lyme disease.

(iii) The product must not include any false and misleading labeling statements, including those listed in 40 CFR 156.10(a)(5)(i) through (viii).

[53 FR 15977, May 4, 1988, as amended at 59 FR 2751, Jan. 19, 1994; 61 FR 8878, Mar. 6, 1996]

### § 152.30 Pesticides that may be transferred, sold, or distributed without registration.

An unregistered pesticide, or a pesticide whose registration has been cancelled or suspended, may be distributed or sold, or otherwise transferred, to the extent described by this section.

(a) *A pesticide transferred between registered establishments operated by the same producer.* An unregistered pesticide may be transferred between registered establishments operated by the same producer. The pesticide as transferred must be labeled in accordance with part 156 of this chapter.

(b) *A pesticide transferred between registered establishments not operated by the same producer.* An unregistered pesticide may be transferred between registered establishments not operated by the same producer if:

(1) The transfer is solely for the purpose of further formulation, packaging, or labeling into a product that is registered;

(2) Each active ingredient in the pesticide, at the time of transfer, is present as a result of incorporation into the pesticide of either:

(i) A registered product; or

(ii) A pesticide that is produced by the registrant of the final product; and

(3) The product as transferred is labeled in accordance with part 156 of this chapter.

(c) *A pesticide distributed or sold under an experimental use permit.* (1) An unregistered pesticide may be distributed or sold in accordance with the terms of an experimental use permit issued under FIFRA sec. 5, if the product is labeled in accordance with §172.6 of this chapter.

(2) An unregistered pesticide may be distributed or sold in accordance with

the provisions of §172.3 of this chapter, pertaining to use of a pesticide for which an experimental use permit is not required, provided the product is labeled in accordance with part 156 of this chapter.

(d) *A pesticide transferred solely for export.* An unregistered pesticide may be transferred within the United States solely for export if it meets the following conditions:

(1) The product is prepared and packaged according to the specifications of the foreign purchaser; and

(2) The product is labeled in accordance with part 156 of this chapter.

(e) *A pesticide distributed or sold under an emergency exemption.* An unregistered pesticide may be distributed or sold in accordance with the terms of an emergency exemption under FIFRA sec. 18, if the product is labeled in accordance with part 156 of this chapter.

(f) *A pesticide transferred for purposes of disposal.* An unregistered, suspended, or cancelled pesticide may be transferred solely for disposal in accordance with FIFRA sec. 19 or an applicable Administrator's order. The product must be labeled in accordance with part 156 of this chapter.

(g) *Existing stocks of a formerly registered product.* A cancelled or suspended pesticide may be distributed or sold to the extent and in the manner specified in an order issued by the Administrator concerning existing stocks of the pesticide.

## Subpart C—Registration Procedures

SOURCE: 53 FR 15978, May 4, 1988, unless otherwise noted.

### § 152.40 Who may apply.

Any person may apply for new registration of a pesticide product. Any registrant may apply for amendment of the registration of his product.

### § 152.42 Application for new registration.

Any person seeking to obtain a registration for a new pesticide product must submit an application for registration, containing the information specified in §152.50. An application for new registration must be approved by