



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

EPH export policy

OFFICE OF
PESTICIDES AND TOXIC SUBSTANCES

Feb 10 1984

MEMORANDUM

SUBJECT: Policy and Criteria Notice 2105.1

TO: See Below

Attached is a policy notice which has been approved for use throughout the Division. This Division policy should be inserted into your Policy and Criteria Notebook in the proper place.

Questions, problems or suggestions for improvement on this notice should be directed to Jack E. Housenger, Registration Support and Emergency Response Branch, Room 716, 557-1192.

Robert M. Brown for

Douglas D. Campt, Director
Registration Division

Attachment

Addressees

Director/OPP (Carrie)
Division Directors/OPP
Branch Chiefs/RD
Section Heads/RD
Regional Branch Chiefs
Ed Gray/OGC
Director/PTSCMS
Program Coordination Staff
Policy and Special Projects Office
Douglas Sutherland/BUD
Recipients of PR Notices
Office of International Activities (OIA)
- OIA
- State Dept (Jack Blanchard)
- AID
State Regulation Officials

POLICY AND CRITERIA NOTICE

Number: 2105.1

Date

FEB 28 1984

Guidelines for Processing Pesticide Registrations
Involving Treatment of Raw Agricultural Commodities
Intended for Export Only

PURPOSE: To establish Registration Division policy regarding registration of uses for treatment of raw agricultural commodities intended solely for export.

SCOPE: This policy applies to the processing of all registration actions under section 3 of FIFRA and for reviewing all state registration actions under section 24(c) of FIFRA.

BACKGROUND: Use of a pesticide on food/feed commodities intended for export only (for which an appropriate tolerance or other clearance does not exist) have, in the past, been permitted only under the section 18 program. Registration under section 3 or 24(c) was not permitted due to the lack of a tolerance or other clearance.

According to section 402 of the Federal Food, Drug and Cosmetic Act (FFDCA) a food (defined in section 201(f) as including, among other things, articles used for food or drink for man or other animals) is considered to be adulterated if it contains a pesticide chemical for which a tolerance or exemption from the requirement of a tolerance, in accordance with sections 408 and 409, does not exist.

Section 801(d)(1) of the FFDCA prescribes conditions under which a food, normally considered to be adulterated under section 402, would not be so considered. This section states that a food intended for export shall not be deemed adulterated if it "...

- (A) accords to the specifications of the foreign purchaser, ←
- (B) is not in conflict with the laws of the country to which it is intended for export, ←
- (C) is labeled on the outside of the shipping package that it is intended for export, and
- (D) is not sold or offered for sale in domestic commerce."

Therefore, if the above requirements are satisfied, the food in question would not be considered adulterated and a tolerance or exemption from the requirement of a tolerance would be unnecessary.

POLICY: It shall be the policy that use of a pesticide on a food/feed commodity intended solely for export for which an appropriate tolerance or other clearance does not exist be allowed to be registered under section 3 or section 24(c). However, prior to registration under section 3 and within the 90-day review period for section 24(c) registrations for any pesticide use of food intended only to be exported, the following must be insured:

(1) The use is in accord with the requirements of the foreign purchaser (written confirmation from the purchaser with English translation if confirmation is in a language other than English),

(2) the importing country has no laws which would preclude the importation of this commodity (written confirmation from the importing country's government with English translation if confirmation is in a language other than English), and

(3) that following treatment of the commodity, the shipping package is labeled that it is intended for export only and is not to be sold for domestic use (a pesticide registration labeling requirement).

Provided that the above requirements are met, there will be no need for a tolerance or other clearance under sections 408 and 409 of the FFDCA.

Registration Division will be required to keep accurate records of these uses which achieve registration to ensure that they do not inadvertently become registered for any use other than for treatment of commodities intended solely for export purposes.

IMPLEMENTATION: This policy is effective immediately. This policy does not preempt any other requirements of FIFRA or FFDCA.