

Environmental Protection Agency

§ 157.24

not limited to areas such as non-agricultural outbuildings, non-commercial greenhouses, pleasure boats and recreational vehicles; or

(3) In or around any preschool or day care facility.

(f) *Technically feasible*, when applied to child-resistant packaging, means that the technology exists to produce the child-resistant packaging for a particular pesticide.

(g) *Unit packaging* means a package that is labeled with directions to use the entire contents of the package in a single application.

§ 157.22 When required.

Unless exempted under § 157.24, a pesticide product must be distributed and sold in child-resistant packaging complying with § 157.32 if it meets both of the following criteria:

(a) *Toxicity criterion*. Based upon testing with an appropriate test species, the product meets any of the following toxicity criteria:

(1) The pesticide has an acute oral LD₅₀ of 1.5 g/kg or less;

(2) The pesticide has an acute dermal LD₅₀ of 2000 mg/kg or less;

(3) The pesticide has an acute inhalation LC₅₀ of 2 mg/liter or less;

(4) The pesticide is corrosive to the eye (causes irreversible destruction of ocular tissue) or causes corneal involvement or irritation persisting for 21 days or more;

(5) The pesticide is corrosive to the skin (causes tissue destruction into the dermis and/or scarring) or causes severe skin irritation (severe erythema or edema) at 72 hours; or

(6) The pesticide or device has such characteristics that, based upon human toxicological data, use history, accident data or such other evidence as is available, the Agency determines there is serious hazard of accidental injury or illness which child-resistant packaging could reduce; and

(b) *Use criterion*. The product's labeling either directly recommends residential use or reasonably can be interpreted to permit residential use.

§ 157.24 Exemptions.

(a) *General exemptions*. The Agency hereby exempts from the requirement

for child-resistant packaging the following classes of products:

(1) *Products classified for restricted use*.

(i) A product restricted to use by or under the supervision of a certified applicator is not required to be distributed and sold in child-resistant packaging.

(ii) Notwithstanding the exemption in paragraph (a)(1)(i) of this section, the Agency may require the use of child-resistant packaging for a product classified for restricted use by or under the direct supervision of a certified applicator if the Agency determines that the product poses a risk of serious accidental injury or illness which child-resistant packaging could reduce. If the Agency makes such a determination, it will notify the registrant in writing and provide a short statement of the basis of its determination. The registrant will then have 30 days to request a hearing on the Agency's determination. Thereafter the Agency will decide whether to require the product to be distributed only in child-resistant packaging and will notify the registrant of its decision.

(2) *Products packaged in large sizes*. (i) Except as provided by paragraph (a)(2)(ii) of this section, a product is not required to be in child-resistant packaging if distributed and sold in the following sizes:

(A) If the product is a solid product, regardless of pesticide type, a size of 50 pounds or greater;

(B) If the product is a liquid product intended for use in swimming pools, a size greater than 7.5 gallons by volume;

(C) If the product is a liquid product intended for any other pesticide use, a size of 5 gallons or greater by volume;

(D) If the product is packaged as an aerosol (measured by weight), regardless of pesticide type, a weight of 2 pounds or greater.

(ii) The Agency may require that a product packaged in a size exceeding that listed in paragraphs (a)(2)(i) (A) through (D) of this section be distributed and sold only in child-resistant packaging if the Agency determines that the product is, or is intended to be, distributed or sold to homeowners or other members of the general public. If the Agency makes such a determination, it will notify the registrant in