



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

JUN 24 2010

OFFICE OF CHEMICAL SAFETY
AND POLLUTION PREVENTION

Dear Pesticide Companies/Potential Exporters:

The purpose of this letter is to remind all U.S. pesticide companies that export, or may export, unregistered pesticide products of the applicable requirements of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Section 17(a) and the pesticide tolerance requirements of the Federal Food, Drug, and Cosmetic Act (FFDCA). FIFRA Section 17(a) requires that the U.S. exporter of an unregistered pesticide obtain a statement from the foreign purchaser acknowledging that the product is not registered for use in the U.S. (known as the Foreign Purchaser Acknowledgement Statement, or FPAS). The exporter then certifies to EPA that shipment did not occur prior to the exporter's receipt of the FPAS, and sends both statements to EPA. An excerpt of this section of the law is enclosed. EPA is considering options for streamlining the procedures for submission of these statements to the Agency, and will be providing you with those details in the next few months.

FIFRA Section 17(a) also establishes requirements related to labeling and misbranding, registration of production establishments and prohibitions on imitation pesticide products. By the end of the year, EPA will be issuing clarifications of the labeling requirements for unregistered pesticide products produced for export. No changes to the other regulatory requirements are planned. For more information on compliance with Section 17, please see:

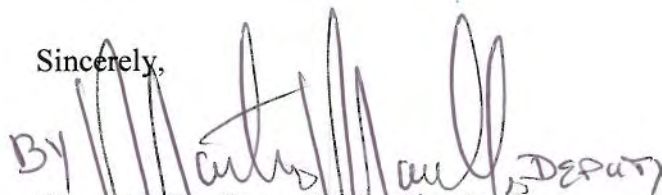
<http://www.epa.gov/compliance/monitoring/programs/fifra/importexport.html>

In addition to the requirements for FPASs, if the product you are selling and exporting is intended for use on food or feed commodities, you should be aware that Section 408 of the FFDCA requires all food that is either domestically produced or imported must meet the requirement for a pesticide tolerance or exemption. Since pesticide products exported from the U.S. may be used on foods produced in other countries that are then exported to the U.S., U.S. companies should remind the buyers of their products about the tolerance requirements for imported foods (i.e., any food containing a pesticide residue that is not covered by an applicable U.S. tolerance or exemption for that food, or that exceeds the established tolerance, may not be legally sold or distributed in the U.S.). An excerpt from FFDCA is enclosed; information on specific tolerances may be found at:

<http://www.epa.gov/pesticides/food/viewtols.htm>

Should you have any questions, please contact Michelle Allen at allen.michelle@epa.gov or 703-347-0259.

Sincerely,

BY  Deputy
Steven P. Bradbury, Ph.D., Director
Office of Pesticide Programs

Enclosure

Enclosure

Excerpt from the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA):

“Section 17. Imports and Exports

(a) Pesticides and devices intended for export

Notwithstanding any other provision of this subchapter, no pesticide or device or active ingredient used in producing a pesticide intended solely for export to any foreign country shall be deemed in violation of this subchapter—

(1) when prepared or packed according to the specifications or directions of the foreign purchaser, except that producers of such pesticides and devices and active ingredients used in producing pesticides shall be subject to sections 136 (p), 136 (q)(1)(A), (C), (D), (E), (G), and (H), 136 (q)(2)(A), (B), (C)(i) and (iii), and (D), 136e, and 136f of this title; and

(2) in the case of any pesticide other than a pesticide registered under section 136a or sold under section 136d (a)(1) of this title, if, prior to export, the foreign purchaser has signed a statement acknowledging that the purchaser understands that such pesticide is not registered for use in the United States and cannot be sold in the United States under this subchapter.

A copy of that statement shall be transmitted to an appropriate official of the government of the importing country.”

Excerpt from the Federal Food, Drug and Cosmetic Act (FFDCA):

“Section 408 (a) Requirement for tolerance or exemption

(1) **General rule** Except as provided in paragraph (2) or (3), any pesticide chemical residue in or on a food shall be deemed unsafe for the purpose of section 342 (a)(2)(B) of this title unless—

(A) a tolerance for such pesticide chemical residue in or on such food is in effect under this section and the quantity of the residue is within the limits of the tolerance; or

(B) an exemption from the requirement of a tolerance is in effect under this section for the pesticide chemical residue.

For the purposes of this section, the term “food”, when used as a noun without modification, shall mean a raw agricultural commodity or processed food.

(2) **Processed food** Notwithstanding paragraph (1)—

(A) if a tolerance is in effect under this section for a pesticide chemical residue in or on a raw agricultural commodity, a pesticide chemical residue that is present in or on a processed food because the food is made from that raw agricultural commodity shall not be considered unsafe within the meaning of section 342 (a)(2)(B) of this title despite the lack of a tolerance for the pesticide chemical residue in or on the processed food if the pesticide chemical has been used in or on the raw agricultural commodity in conformity with a tolerance under this section, such residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice, and the concentration of the pesticide chemical residue in the processed food is not greater than the tolerance prescribed for the pesticide chemical residue in the raw agricultural commodity; or

(B) if an exemption for the requirement for a tolerance is in effect under this section for a pesticide chemical residue in or on a raw agricultural commodity, a pesticide chemical residue that is present in or on a processed food because the food is made from that raw agricultural commodity shall not be considered unsafe within the meaning of section 342 (a)(2)(B) of this title.”