

§ 152.160

all right, title, and interest in the EPA registration(s) listed in the document;

(5) A statement that the transferred registration(s) shall not serve as collateral or otherwise secure any loan or other payment arrangement or executory promise, and that the registration(s) shall not revert to the transferor unless a new transfer agreement is submitted to and approved by the Agency;

(6) A description of the general nature of the underlying transaction, e.g., merger, spinoff, bankruptcy transfer (no financial information need be disclosed);

(7) A statement that the transferor and transferee understand that any false statement may be punishable under 18 U.S.C. 1001; and

(8) An acknowledgment by the transferee that his rights and duties concerning the registration under FIFRA and this chapter will be deemed by EPA to be the same as those of the transferor at the time the transfer is approved.

(c) In addition, the transferor must submit to the Agency a notarized statement affirming that:

(1) The person signing the transfer agreement is authorized by the registrant to bind the transferor;

(2) No court order prohibits the transfer, and that any required court approvals have been obtained; and

(3) The transfer is authorized under all relevant Federal, State and local laws and all relevant corporate charters, bylaws, partnerships, or other agreements.

(d) If the required documents are submitted, and no information available to the Agency indicates that the information is incorrect, the Agency will approve the transfer without requiring that the transferee obtain a new registration. The Agency will notify the transferor and transferee of its approval.

(e) The transfer will be effective on the date of Agency approval. Thereafter the transferee will be regarded as the registrant for all purposes under FIFRA.

(f) Rights to exclusive use of data or compensation under FIFRA section 3(c)(1)(F) are separate from the registration itself and may be retained by

40 CFR Ch. I (7-1-20 Edition)

the transferor, or may be transferred independently in accordance with the provisions of §152.98. If the registrant as the original data submitter wishes to transfer data rights at the same time as he transfers the registration, he may submit a single transfer document containing the information required by this section for both the registration and the data.

[53 FR 15983, May 4, 1988, as amended at 58 FR 34203, June 23, 1993; 73 FR 75595, Dec. 12, 2008]

Subpart H [Reserved]

Subpart I—Classification of Pesticides

SOURCE: 53 FR 15986, May 4, 1988, unless otherwise noted.

§ 152.160 Scope.

(a) *Types of classification.* A pesticide product may be unclassified, or it may be classified for restricted use or for general use. The Agency does not normally classify products for general use; products that are not restricted remain unclassified.

(b) *Kinds of restrictions.* The Agency may restrict a product or its uses to use by a certified applicator, or by or under the direct supervision of a certified applicator, as described in FIFRA sec. 3(d)(1)(C). The Agency may also, by regulation, prescribe restrictions relating to the product's composition, labeling, packaging, uses, or distribution and sale, or to the status or qualifications of the user.

§ 152.161 Definitions.

In addition to the definitions in §152.3, the following terms are defined for the purposes of this subpart:

(a) *Dietary LC₅₀* means a statistically derived estimate of the concentration of a test substance in the diet that would cause 50 percent mortality to the test population under specified conditions.

(b) *Outdoor use* means any pesticide application that occurs outside enclosed manmade structures or the consequences of which extend beyond enclosed manmade structures, including, but not limited to, pulp and paper mill

water treatments and industrial cooling water treatments.

§ 152.164 Classification procedures.

(a) *Grouping of products for classification purposes.* In its discretion, the Agency may identify a group of products having common characteristics or uses and may classify for restricted use same or all of the products or uses included in that group. Such a group may be comprised of, but is not limited to, products that:

- (1) Contain the same active ingredients.
- (2) Contain the same active ingredients in a particular concentration range, formulation type, or combination of concentration range and formulation type.
- (3) Have uses in common.
- (4) Have other characteristics, such as toxicity, flammability, or physical properties, in common.

(b) *Classification reviews.* The Agency may conduct classification reviews and classify products at any time, if it determines that a restriction on the use of a pesticide product is necessary to avoid unreasonable adverse effects on the environment. However, classification reviews normally will be conducted and products classified only in the following circumstances:

- (1) As part of the review of an application for new registration of a product containing an active ingredient not contained in any currently registered product.
- (2) As part of the review of an application for a new use of a product, if existing uses of that product previously have been classified for restricted use. Review of a restricted use product at this time is for the purpose of determining whether the new use should also be classified for restricted use. Normally the Agency will not conduct initial classification reviews for existing uses of individual products in conjunction with an application for amended registration.
- (3) As part of the process of developing or amending a registration standard for a pesticide. The Agency normally will conduct classification reviews of all uses of a currently registered pesticide at this time.

(4) As part of any special review of a pesticide, in accordance with the procedures of 40 CFR part 154.

(c) *Classification procedures.* (1) If the Agency determines that a product or one or more of its uses should be classified for restricted use, the Agency initially may classify the product by regulation. In this case, within 60 days after the effective date of a final rule, each registrant of a product subject to the rule must submit to the Agency one of the following, as directed in the final rule:

- (i) A copy of the amended label and any supplemental labeling to be used as an interim compliance measure.
- (ii) A statement, which the Agency considers a report under the Act, that the registrant will comply with the labeling requirements prescribed by the Agency within the timeframes prescribed by the regulation.
- (iii) An application for amended registration to delete the uses which have been restricted, or to “split” the registration into two registrations, one including only restricted or all uses, and the other including only uses that have not been classified.

(2) Alternatively, EPA may notify the applicant or registrant of the classification decision and require that he submit the information required by paragraph (c)(1) of this section. The Agency may deny registration or initiate cancellation proceedings if the registrant fails to comply within the timeframes established by the Agency in its notification.

§ 152.166 Labeling of restricted use products.

(a) *Products intended for end use.* A product whose labeling bears directions for end use and that has been classified for restricted use must be labeled in accordance with the requirements of § 156.10 of this chapter or other Agency instructions. The Agency will permit the use of stickers or supplemental labeling as an interim alternative to the use of an approved amended label, in accordance with § 152.167.

(b) *Products intended only for formulation.* A product whose labeling does not bear directions for end use (a product that is intended and labeled solely for