

Packaging Standards in 16 CFR 1700.15(b) provide that CRP, when tested by the method described in 16 CFR 1700.20, shall meet certain child-resistant test, senior-adult test, and younger-adult test effectiveness specifications. In 16 CFR 1700.15(b)(2), the senior-adult test and younger-adult test effectiveness specifications are discussed with reference to the senior-adult panel test of 16 CFR 1700.20(a)(3) and the younger-adult panel test of 16 CFR 1700.20(a)(4), respectively.

EPA's CRP regulations at 40 CFR 157.24(b)(3) provide that exemptions from compliance may be granted on a case-by-case basis for specific products based on technical factors. The regulations further provide that, if granted, any such exemption decision will be published in the **Federal Register**, will be for a specified length of time, and will be applicable to any product with substantially similar composition and intended uses. When EPA's CRP regulations were published in the **Federal Register** on March 9, 1979 (44 FR 13019), the Agency explained that a decision to grant an exemption shall be applicable to any product with identical or substantially similar composition and intended uses "[t]o insure fairness . . . to any product in the identical situation. Some of the factors for consideration in determining whether or not a situation is identical may include the type of formulation and size and type of container."

#### *B. What was the Exemption Requested?*

FMC Corporation APG Specialty Products, Griffin L. L. C., and United Industries Corporation requested an exemption from the senior-adult test and younger-adult test effectiveness specifications, described in 16 CFR 1700.15(b)(2) (Ease of adult opening), for prefilled, nonrefillable termite insecticide bait stations that are not designed or intended to be opened or activated in a manner that exposes the contents to human contact.

As support for the exemption request, FMC Corporation APG Specialty Products, Griffin L. L. C., and United Industries Corporation advanced the following arguments: The purpose of adult testing is to ensure that the package is not difficult for adults to use properly. If CRP is difficult for adults to open, the concern arises that the package may be disabled or left unsecured to eliminate the difficulty of reopening it. Under such circumstances, the contents would be accessible to children. In the case of prefilled, nonrefillable termite insecticide bait stations not designed or intended to be opened, this concern does not arise.

There is no risk that an adult will disable or fail to re-secure a difficult to open package, because the packages need not be opened or activated in order to function properly. As there is no concern that an adult will disable or fail to re-secure such a package, there is also no concern that the contents of disabled or unsecured packages will be accessible to children. Instead, from a child safety standpoint, the only relevant question regarding such packages is whether they can prevent a child from gaining access to the bait.

#### *C. What Action is the Agency Taking?*

The Agency has considered the FMC Corporation APG Specialty Products, Griffin L. L. C., and United Industries Corporation exemption requests and the basis therefore and agrees that it is unnecessary to test the ability of a senior-adult or younger-adult to open and properly re-secure a package not designed or intended to be opened or activated. No benefits in terms of improved child safety would be gained by such testing. Therefore, the Agency has decided to grant an exemption from the senior-adult test and younger-adult test effectiveness specifications, described in 16 CFR 1700.15(b)(2), for prefilled, nonrefillable termite insecticide bait stations not designed or intended to be opened or activated in a manner that exposes the contents to human contact. This exemption order is effective on May 22, 2002 and expires on December 31, 2016. In addition, this exemption applies to any product with substantially similar composition and intended uses. Products that qualify for this exemption must fully comply with all other CRP effectiveness, compatibility, and durability standards, as well as all other requirements of 40 CFR part 157. CRP certification for products relying on this exemption must specify that the package does not comply with the senior and younger adult effectiveness specifications per the exemption announced in this document.

### **III. Submission to Congress and the Comptroller General**

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, does not apply because this action is not a rule, as that term is defined in 5 U.S.C. 804(3).

#### **List of Subjects**

Environmental protection, Administrative practice and procedure, Infants and children, Packaging and containers, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 9, 2002.

**Debra Edwards,**

*Acting Director, Registration Division, Office of Pesticide Programs.*

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**BILLING CODE 6560-50-S**

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 157**

**[OPP-2002-0058; FRL-7177-3]**

### **Ant or Roach Insecticide Bait Stations; Exemption From Adult Portion of Child-Resistant Testing Specifications**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Exemption order.

**SUMMARY:** This exemption order announces EPA's decision to grant an exemption until December 31, 2016, from the child-resistant packaging (CRP) senior-adult test and younger-adult test effectiveness specifications for prefilled, nonrefillable ant or roach insecticide bait stations not designed or intended to be opened or activated in a manner that exposes the contents to human contact. Products qualifying for this exemption must still fully comply with all other CRP effectiveness, compatibility, and durability standards. CRP certification for products relying on this exemption must specify that the package does not comply with the senior and younger adult effectiveness specifications per the exemption announced in this document. This exemption was requested by S.C. Johnson & Son, Inc., pursuant to EPA's CRP regulations. The basis for this exemption is that a package that does not require opening or activation to put into use should not require adult ease of opening testing.

**DATES:** This exemption order is effective on May 22, 2002 and expires on December 31, 2016.

**FOR FURTHER INFORMATION CONTACT:** Rosalind L. Gross, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308-7368; fax number: (703) 308-9382; e-mail address: gross.rosalind@epa.gov.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. General Information**

##### *A. Does this Action Apply to Me?*

You may be potentially affected by this action if you have a prefilled, nonrefillable ant or roach insecticide bait station not designed or intended to be opened or activated in a manner that

exposes the contents to human contact.  
Potentially affected categories and

entities may include, but are not limited  
to:

Categories	NAICS codes	Examples of potentially affected entities
Pesticide and Other Agricultural Chemical Manufacturing	325320	Ant poisons manufacturing, household-type insecticides manufacturing, roach poisons manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this table could also be affected. The North American Industrial Classification System (NAICS) codes are provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

*B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?*

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at <http://www.epa.gov/>. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>. A frequently updated electronic version of 40 CFR part 157 is available at [http://www.access.gpo.gov/nara/cfr/cfrhtml/00/Title\\_40/40cfr157\\_00.html](http://www.access.gpo.gov/nara/cfr/cfrhtml/00/Title_40/40cfr157_00.html), a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP-2002-0058. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is

available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.

## II. Background

### *A. What is the Agency's Authority for Taking this Action?*

Section 25(c)(3) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) authorizes EPA to establish CRP standards that are consistent with those of the Consumer Product Safety Commission (CPSC). Accordingly, EPA's CRP regulations at 40 CFR 157.32 require that CRP for pesticides meet the CPSC packaging standards (effectiveness specifications) and testing procedures set forth in 16 CFR 1700.15(b) and 1700.20. The CPSC Poison Prevention Packaging Standards in 16 CFR 1700.15(b) provide that CRP, when tested by the method described in 16 CFR 1700.20, shall meet certain child-resistant test, senior-adult test, and younger-adult test effectiveness specifications. In 16 CFR 1700.15(b)(2), the senior-adult test and younger-adult test effectiveness specifications are discussed with reference to the senior-adult panel test of 16 CFR 1700.20(a)(3) and the younger-adult panel test of 16 CFR 1700.20(a)(4), respectively.

EPA's CRP regulations at 40 CFR 157.24(b)(3) provide that exemptions from compliance may be granted on a case-by-case basis for specific products based on technical factors. The regulations further provide that, if granted, any such exemption decision will be published in the **Federal Register**, will be for a specified length of time, and will be applicable to any product with substantially similar composition and intended uses. When EPA's CRP regulations were published in the **Federal Register** on March 9, 1979 (44 FR 13019), the Agency explained that a decision to grant an exemption shall be applicable to any product with identical or substantially similar composition and intended uses "[t]o insure fairness . . . to any product in the identical situation. Some of the factors for consideration in determining

whether or not a situation is identical may include the type of formulation and size and type of container."

### *B. What was the Exemption Requested?*

S.C. Johnson & Son, Inc. requested an exemption from the senior-adult test and younger-adult test effectiveness specifications, described in 16 CFR 1700.15(b)(2) (Ease of adult opening), for prefilled, nonrefillable ant or roach insecticide bait stations that are not designed or intended to be opened or activated in a manner that exposes the contents to human contact.

As support for the exemption request, S.C. Johnson & Son, Inc. advanced the following arguments: The purpose of adult testing is to ensure that the package is not difficult for adults to use properly. If CRP is difficult for adults to open, the concern arises that the package may be disabled or left unsecured to eliminate the difficulty of reopening it. Under such circumstances, the contents would be accessible to children. In the case of prefilled, nonrefillable ant or roach insecticide bait stations not designed or intended to be opened, this concern does not arise. There is no risk that an adult will disable or fail to re-secure a difficult to open package, because the packages need not be opened or activated in order to function properly. As there is no concern that an adult will disable or fail to re-secure such a package, there is also no concern that the contents of disabled or unsecured packages will be accessible to children. Instead, from a child safety standpoint, the only relevant question regarding such packages is whether they can prevent a child from gaining access to the bait.

### *C. What Action is the Agency Taking?*

The Agency has considered the S.C. Johnson & Son, Inc. exemption request and the basis therefore and agrees that it is unnecessary to test the ability of a senior-adult or younger-adult to open and properly re-secure a package not designed or intended to be opened or activated. No benefits in terms of improved child safety would be gained by such testing. Therefore, the Agency has decided to grant an exemption from the senior-adult test and younger-adult test effectiveness specifications, described in 16 CFR 1700.15(b)(2), for

prefilled, nonrefillable ant or roach insecticide bait stations not designed or intended to be opened or activated in a manner that exposes the contents to human contact. This exemption order is effective on May 22, 2002 and expires on December 31, 2016. In addition, this exemption applies to any product with substantially similar composition and intended uses. Products that qualify for this exemption must fully comply with all other CRP effectiveness, compatibility, and durability standards, as well as all other requirements of 40 CFR part 157. CRP certification for products relying on this exemption must specify that the package does not comply with the senior and younger adult effectiveness specifications per the exemption announced in this document.

### III. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, does not apply because this action is not a rule, as that term is defined in 5 U.S.C. 804(3).

#### List of Subjects

Environmental protection, Administrative practice and procedure, Infants and children, Packaging and containers, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 9, 2002.

**Debra Edwards,**

*Acting Director, Registration Division, Office of Pesticide Programs.*

[FR Doc. 02-12711 Filed 5-21-02; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[OPP-2002-0035; FRL-6836-7]

#### Nicotine; Tolerance Revocations

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This document revokes specific tolerances for residues of nicotine-containing compounds used as insecticides and for the insecticide nicotine. The regulatory actions in this document are part of the Agency's reregistration program under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and the tolerance reassessment requirements of the Federal Food, Drug, and Cosmetic Act (FFDCA) section 408(q), as amended by the Food Quality Protection Act (FQPA)

of 1996. By law, EPA is required by August 2002 to reassess 66% of the tolerances in existence on August 2, 1996, or about 6,400 tolerances. The regulatory actions in this document pertain to the revocation of 66 tolerances which are counted among tolerance/exemption reassessments made toward the August, 2002 review deadline.

**DATES:** This regulation is effective August 20, 2002. Objections and requests for hearings, identified by docket control number OPP-2002-0035, must be received by EPA on or before July 22, 2002.

**ADDRESSES:** Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit IV. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP-2002-0035 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** By mail: Joseph Nevola, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308-8037; e-mail address: nevola.joseph@epa.gov.

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

###### A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS Codes	Examples of Potentially Affected Entities
Industry	111 112 311  32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply

to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

##### B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at <http://www.epa.gov/>. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "Federal Register—Environmental Documents." You can also go directly to the Federal Register listings at <http://www.epa.gov/fedrgstr/>. A frequently updated electronic version of 40 CFR part 180 is available at [http://www.access.gpo.gov/nara/cfr/cfrhtml/00/Title\\_40/40cfr180\\_00.html](http://www.access.gpo.gov/nara/cfr/cfrhtml/00/Title_40/40cfr180_00.html), a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP-2002-0035. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.

##### II. Background

###### A. What Action is the Agency Taking?

This final rule revokes certain FFDCA tolerances for residues of nicotine-containing compounds used as insecticides and for the insecticide nicotine in or on specified commodities listed in the regulatory text because nicotine is no longer registered under FIFRA for use on those commodities. The tolerances revoked by this final rule