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80--13-.17 - Exemptions from Chapter; Exceptions

(1) As provided under the provisions of Section 2-27-5 of the Code of Alabama (1975), bona fide public or private research institutions or agencies are exempt from the provisions of the pesticide law or this chapter. This exemption is also extended to the manufacturer, user or shipper of a pesticide for bona fide experimental use only, except that an experimental label must be affixed to the containers of the pesticide and provided that the manufacturer or shipper obtains a permit as prescribed below.

(2) The permit required under the provisions of Section 2-27-5(3) above for manufacturers and shippers of pesticides for bona fide experimental use only shall not be required when experiments require the use of less than 10 pounds of technical pesticide or less than five acres in area at one location. When the above criteria cannot be met the application for this specialized permit shall contain the following information:

- (a) Name or code number and amount of the pesticide to be used,
- (b) Name of the person or persons supervising work,
- (c) Location of experimental project,
- (d) Crops or other objects on which it will be used,
- (e) Certification that edible crops, animals or their products from the experimental use will not enter trade channels, and
- (f) Agreement to provide the Commissioner with a report of results of the experiment.

80-1-13-.18 - Penalties for Violation of Chapter

The penalty for violation, if proven, of this chapter shall be as provided under the provisions of Section 2-27-16, Code of Alabama (1975).

(b) The term "applicant" means any person who applies for an experimental use permit, pursuant to section 5 of the Act.

(c) The term "cooperator" means any person who grants permission to a permittee or a permittee's designated participant for the use of an experimental use pesticide at an application site owned or controlled by the cooperator.

(d) The term "experimental animals" means individual animals or groups of animals, regardless of species, intended for use and used solely for research purposes and does not include animals intended to be used for any food purposes.

(e) The term "participant" means any person acting as a representative of the permittee and responsible for making available for use, or supervising the use or evaluation of, an experimental use pesticide to be applied at a specific application site.

(f) The phrase "value for pesticide purposes" means that characteristic of a substance or mixture of substances which produces an efficacious action on a pest.

(g) The term "permittee" means any applicant to whom an experimental use permit has been granted.

Terms defined in the Act and not explicitly defined herein are used herein with the meaning given in the Act.

§ 172.2 General.

(a) Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (86 Stat. 983), and except as herein provided by § 172.3, any person wishing to accumulate information necessary to register under section 3 of the Act and the regulations thereunder (1) a pesticide not registered with this Agency or (2) a registered pesticide for a use not previously approved in the registration of the pesticide may apply to the Administrator at any time for an experimental use permit.

(b) Pesticides under experimental use permits may not be sold or distributed other than through participants and, if sold or distributed through participants, may be used only at an application site of a cooperator and in

accordance with the terms and conditions of the experimental use permit.

§ 172.3 Scope of requirement.

(a) A substance or mixture of substances being put through laboratory or greenhouse tests, or limited replicated field trials to confirm such tests, or other tests, in which the purpose is only to determine its value for pesticide purposes or to determine its toxicity or other properties, and from which the producer, applicator or any other person conducting the test does not expect to receive any benefit in pest control from its use, is not considered a pesticide within the meaning of the Act, and no experimental use permit will be required. This purpose will be presumed for the following types of tests.

(1) *Land use.* Tests conducted on a cumulative total of not more than 10 acres involving use of a particular substance or mixture of substances against a particular pest, provided that any food or feed crops involved in, or affected by, such tests (including but not limited to, crops subsequently grown on such land which may reasonably be expected to contain residues of such substance or mixture) shall be destroyed or consumed only by experimental animals unless a tolerance or exemption from tolerance has been established.

(2) *Aquatic use.* Tests conducted on a total of not more than one surface-acre of water involving use of a particular substance or mixture of substances against a particular pest, provided that (i) waters which are involved in, or which are affected by, such tests will not be used for irrigation purposes, drinking water supplies or body contact recreational activities and (ii) that no such tests may be conducted in any waters which contain, or which affect, any fish, shellfish or other plants or animals taken for recreation or commercial purposes and used for food or feed unless a tolerance or exemption from tolerance has been established.

(3) *Animal treatments.* Tests conducted only on experimental animals. No animals may be tested if they may be used in food or feed unless a toler-