

**§ 167.85**

to EPA, in writing on letterhead stationery or on forms supplied by the Agency, within 30 days after such change occurs.

(f) *Duration of registration.* Establishment registration will remain effective provided pesticide reports are submitted annually pursuant to the requirements of this part. Failure to submit a report may result in termination of establishment registration, civil and/or criminal penalty assessments.

[53 FR 35058, Sept. 8, 1988; 54 FR 32638, Aug. 9, 1989, as amended at 58 FR 34203, June 23, 1993]

**Subparts C–D [Reserved]**

**Subpart E—Recordkeeping and Reporting Requirements**

**§ 167.85 Reporting requirements.**

(a) *Who must report.* Each producer operating an establishment must submit the reports required by this section concerning any pesticide, active ingredient, or device produced at each establishment. Custom blenders are not required to report production to the Agency.

(b) *Information required.* The pesticide report shall include the following: (1) Name and address of the establishment; (2) amount of each pesticidal product: (i) Produced during the past year; (ii) sold or distributed during the past year; (iii) estimated to be produced during the current year. The report shall only include those pesticidal products actually produced at the reporting establishment. Reports submitted by foreign-producing establishments shall cover only those pesticidal products exported to the United States.

(c) *How to report.* The reports required by this section must be made on forms supplied by the Agency. It is the ultimate responsibility of companies to obtain, complete, and submit the form each year.

(d) *When to report.* A producer operating an establishment must submit an initial report no later than 30 days after the first registration of each establishment the producer operates. Thereafter, the producer must submit an annual report on or before March 1 of each year, even if the producer has

**40 CFR Ch. I (7–1–06 Edition)**

produced no pesticidal product for that reporting year.

[53 FR 35058, Sept. 8, 1988; 54 FR 32638, Aug. 9, 1989, as amended at 58 FR 34203, June 23, 1993]

**§ 167.90 Where to obtain and submit forms.**

(a) *Where to obtain forms.* Any person may obtain blank forms for the applications and reports required by this part from any EPA Regional Office, or from the address listed in paragraph (b) of this section.

(b) *Where to submit applications and reports.* Each producer operating an establishment, with the exception of those establishments not found at the same location as their company headquarters, must submit applications and reports required by this part to the EPA Regional Office which serves the area where the establishment is located. The list of Regional Office addresses is found in 40 CFR 1.7. Applications and reports for those establishments not found at the same location as their company headquarters to be submitted by the company headquarters to the Regional Office having jurisdiction over the State in which the company headquarters is located. A foreign producer who exports any pesticide product, device, or active ingredient to the United States must submit all applications and reports to:

U.S. Environmental Protection Agency, Office of Enforcement and Compliance Assurance, Office of Compliance, Agriculture and Ecosystems Division (2225A), Ariel Rios Building, 1200 Pennsylvania Avenue, N.W., Washington, DC 20460, ATTN: FIFRA Foreign Establishment Registration Contact.

[53 FR 35058, Sept. 8, 1988; 54 FR 32638, Aug. 9, 1989, as amended at 62 FR 49620, Sept. 23, 1997; 65 FR 4577, Jan. 31, 2000]

**PART 168—STATEMENTS OF ENFORCEMENT POLICIES AND INTERPRETATIONS**

**Subpart A—General Provisions [Reserved]**

**Subpart B—Advertising**

Sec.

168.22 Advertising of unregistered pesticides, unregistered uses of registered

## Environmental Protection Agency

## § 168.65

pesticides and FIFRA section 24(c) registrations.

### Subpart C [Reserved]

### Subpart D—Export Policy and Procedures for Exporting Unregistered Pesticides

168.65 Pesticide export label and labeling requirements.

168.75 Procedures for exporting unregistered pesticides—purchaser acknowledgement statements.

168.85 Other export requirements.

AUTHORITY: 7 U.S.C. 136-136y.

SOURCE: 54 FR 1125, Jan. 11, 1989, unless otherwise noted.

### Subpart A—General Provisions [Reserved]

### Subpart B—Advertising

#### § 168.22 Advertising of unregistered pesticides, unregistered uses of registered pesticides and FIFRA section 24(c) registrations.

(a) FIFRA sections 12(a)(1) (A) and (B) make it unlawful for any person to “offer for sale” any pesticide if it is unregistered, or if claims made for it as part of its distribution or sale differ substantially from any claim made for it as part of the statement required in connection with its registration under FIFRA section 3. EPA interprets these provisions as extending to advertisements in any advertising medium to which pesticide users or the general public have access.

(b) EPA regards it as unlawful for any person who distributes, sells, offers for sale, holds for sale, ships, delivers for shipment, or receives and (having so received) delivers or offers to deliver any pesticide, to place or sponsor advertisements which recommend or suggest the purchase or use of:

(1) Any pesticide for a use authorized under a FIFRA section 5 experimental use permit (EUP).

(2) Any pesticide for a use authorized under a FIFRA section 18 emergency exemption, except for advertisements that:

(i) Are placed in media which address primarily persons in the geographical area to which the exemption applies.

(ii) State the name and address of one or more retail dealers who stock the pesticide.

(iii) Contain a prominent notice of the limitations on use under the section 18 emergency exemption.

(3) Any pesticide for any use authorized only by a FIFRA section 24(c) special local need registration, unless the advertisement contains a prominent notice of the limitations on use under the section 24(c) registrations.

(4) Any unregistered pesticide for any use unless the advertisement is one permitted by paragraph (b) (2) or (3) of this section.

(5) A registered pesticide product for an unregistered use, unless the advertisement is one permitted by paragraph (b) (2) or (3) of this section. However, as a matter of policy, the Agency will not regard as unlawful the advertisement of uses permitted by FIFRA section 2(ee) provided the product is not an antimicrobial pesticide targeted against human pathogens (see 51 FR 19174; May 28, 1986).

(c) For purposes of paragraph (b) of this section, a “prominent notice of the limitations on use” is one which sets forth the limitations on use in a manner reasonably likely to be understood by persons to whom the advertisement is addressed. For printed advertising, this criterion will be met by a legend in 6-point or larger type.

### Subpart C [Reserved]

### Subpart D—Export Policy and Procedures for Exporting Unregistered Pesticides

SOURCE: 58 FR 9085, Feb. 18, 1993, unless otherwise noted.

#### § 168.65 Pesticide export label and labeling requirements.

(a) *General.* This section describes how EPA interprets and will enforce the requirements of FIFRA section 17(a)(1). Every exported pesticide, device, and active ingredient used in producing a pesticide (see §152.3 of this chapter for the definition of “active ingredient” and “pesticide”) must bear a label or labeling which meets the requirements of FIFRA section 17(a)(1).