

Environmental Protection Agency

§ 170.103

users must comply with all of its requirements except those that are inconsistent with product-specific instructions on the labeling. For the purposes of this part, EPA interprets the term "use" to include:

(1) Preapplication activities, including, but not limited to:

(i) Arranging for the application of the pesticide;

(ii) Mixing and loading the pesticide; and

(iii) Making necessary preparations for the application of the pesticide, including responsibilities related to worker notification, training of handlers, decontamination, use and care of personal protective equipment, emergency information, and heat stress management.

(2) Application of the pesticide.

(3) Post-application activities necessary to reduce the risks of illness and injury resulting from handlers' and workers' occupational exposures to pesticide residues during the restricted-entry interval plus 30 days. These activities include, but are not limited to, responsibilities related to worker training, notification, and decontamination.

(4) Other pesticide-related activities, including, but not limited to, providing emergency assistance, transporting or storing pesticides that have been opened, and disposing of excess pesticides, spray mix, equipment wash waters, pesticide containers, and other pesticide-containing materials.

(b) A person who has a duty under this part, as referenced on the pesticide product label, and who fails to perform that duty, violates FIFRA section 12(a)(2)(G) and is subject to a civil penalty under section 14. A person who knowingly violates section 12(a)(2)(G) is subject to section 14 criminal sanctions.

(c) FIFRA section 14(b)(4) provides that a person is liable for a penalty under FIFRA if another person employed by or acting for that person violates any provision of FIFRA. The term "acting for" includes both employment and contractual relationships.

(d) The requirements of this part, including the decontamination requirements, shall not, for the purposes of

section 653(b)(1) of title 29 of the U.S. Code, be deemed to be the exercise of statutory authority to prescribe or enforce standards or regulations affecting the general sanitary hazards addressed by the OSHA Field Sanitation Standard, 29 CFR 1928.110, or other agricultural, nonpesticide hazards.

Subpart B—Standard for Workers

§ 170.102 Applicability of this subpart.

Except as provided by §§ 170.103 and 170.104, this subpart applies when any pesticide product is used on an agricultural establishment in the production of agricultural plants.

[60 FR 21952, May 3, 1995]

§ 170.103 Exceptions.

Exceptions. This subpart does not apply when any pesticide is applied on an agricultural establishment in the following circumstances:

(a) For mosquito abatement, Mediterranean fruit fly eradication, or similar wide-area public pest control programs sponsored by governmental entities;

(b) On livestock or other animals, or in or about animal premises;

(c) On plants grown for other than commercial or research purposes, which may include plants in habitations, home fruit and vegetable gardens, and home greenhouses;

(d) On plants that are in ornamental gardens, parks, and public or private lawns and grounds that are intended only for aesthetic purposes or climatic modification;

(e) By injection directly into agricultural plants. Direct injection does not include "hack and squirt," "frill and spray," chemigation, soil-incorporation, or soil-injection;

(f) In a manner not directly related to the production of agricultural plants, including, but not limited to, structural pest control, control of vegetation along rights-of-way and in other noncrop areas, and pasture and rangeland use;

(g) For control of vertebrate pests;

(h) As attractants or repellents in traps;