

Environmental Protection Agency

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signed by the certified applicator authorizing the uncertified person to purchase the restricted use pesticide on his behalf, and a driver's license or other State, county, or Tribal identification document issued to the uncertified person to whom the restricted use pesticide is made available.

(3) A photocopy or facsimile of the certified applicator's certification document, together with a copy of a signed contract or agreement, between the uncertified person to whom the restricted use pesticide is being made available for use and the identified certified applicator, which provides for the use of the restricted use pesticide by the identified certified applicator, and a driver's license or other State, county, or Tribal identification document issued to the uncertified person to whom the restricted use pesticide is made available.

(3) *Availability of required records.* Each pesticide dealer shall, upon request of any officer or employee of EPA duly designated by the Administrator, furnish or permit such person at all reasonable times to have access to and copy all records required to be maintained under this section.

(4) *Failure to comply.* Any person who fails to comply with the provisions of this rule may be subject to civil or criminal sanctions, under section 14 of the Act, or 18 U.S.C. 1001. Violations include failure to submit or falsification of any report required under this paragraph, failure to maintain or falsification of records as required under this section, and making available for use any pesticide classified for restricted use to a person who is not a certified commercial applicator other than in accordance with these regulations and section 3(d) of the amended FIFRA or rules promulgated thereunder.

[43 FR 24837, June 8, 1978, as amended at 48 FR 29855, June 29, 1983; 48 FR 53974, Nov. 29, 1983; 49 FR 17759, Apr. 25, 1984; 58 FR 34203, June 23, 1993]

PART 172—EXPERIMENTAL USE PERMITS

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SOURCE: 40 FR 18782, Apr. 30, 1975, unless otherwise noted.

Subpart A—Federal Issuance of Experimental Use Permits

§ 172.1 Definitions.

For the purposes of this part, the following terms shall be defined as listed below:

(a) The term *Act* means the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (86 Stat. 973), and other legislation supplementary thereto and amendatory thereof.

(b) The term *applicant* means any person who applies for an experimental

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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.

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§ 172.3 Scope of requirement.

(a) An experimental use permit (EUP) is generally required for testing of any unregistered pesticide or any registered pesticide being tested for an unregistered use. However, as described in paragraph (b) of this section, certain of such tests are presumed not to involve unreasonable adverse effects and, therefore, do not require an EUP.

(b) Except as provided in subpart C of this part or as specifically determined by the Environmental Protection Agency (EPA), it may be presumed that EUPs are not required when:

(1) The experimental use of the pesticide is limited to:

(i) Laboratory or greenhouse tests,

(ii) Limited replicated field trials as described in paragraph (c) of this section to confirm such tests, or

(iii) Other tests as described in paragraph (c) of this section whose purpose is only to assess the pesticide's potential efficacy, toxicity, or other properties.

(2) The producer, applicator, or any other person conducting the test does not expect to receive any benefit in pest control from the pesticide's use.

(c) For purposes of paragraphs (b)(1)(ii) and (b)(1)(iii) of this section, the following types of experimental tests are presumed not to need an EUP:

(1) A small-scale test involving use of a particular pesticide that is conducted on a cumulative total of no more than 10 acres of land per pest, except that:

(i) When testing for more than one target pest occurs at the same time and in the same locality, the 10 acre limitation shall encompass all of the target pests.

(ii) 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 the tested pesticides) shall be destroyed or consumed only by experimental animals unless an appropriate tolerance or exemption from a tolerance has been established under the Federal Food, Drug, and Cosmetic Act (FFDCA) for residues of the pesticide.

(2) A small-scale test involving the use of a particular pesticide that is conducted on a cumulative total of no