

### § 110.3

### 7 CFR Ch. I (1-1-08 Edition)

EPA in accordance with sections 3 or 24c of the Federal Insecticide, Fungicide, and Rodenticide Act and implementing regulations, and borne on the label of the product.

*Indian governing body.* The governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.

*Licensed health care professional.* A physician, nurse, emergency medical technician, or other qualified individual, licensed or certified by a State to provide medical treatment.

*Medical emergency.* A situation that requires immediate medical treatment or first aid to treat possible symptoms of pesticide poisoning or exposure.

*Parties.* Includes the Administrator or cooperating State agencies who institute proceedings against whom such proceedings are instituted, under § 110.8 of this part.

*Person.* Any individual, corporation, company, association, firm, partnership, society, or other legal entity.

*Presiding officer.* Any individual designated in writing by the Administrator to preside at a proceeding conducted pursuant to § 110.8 of this part.

*Private applicator.* A certified applicator who uses or supervises the use of any restricted use pesticide for purposes of producing any agricultural commodity:

(1) On property owned or rented by the applicator or the employer of the applicator; or

(2) If applied without compensation, other than trading of personal services between producers of agricultural commodities, on the property of another person.

*Record.* The legible recording of all required elements under section 110.3(a) (1) through (6) for the application of a federally restricted use pesticide.<sup>1</sup>

*Recordkeeping.* The recording by the certified applicator, or the agent of the certified applicator, of the information required by § 110.3(a) and (b) concerning each restricted use pesticide applica-

tion, either electronically or manually in writing, and the maintenance of such records in a manner accessible to authorized representatives.

*Respondent.* The party proceeded against pursuant to § 110.8 of this part, restricted use pesticide. A pesticide that is federally classified for restricted use under section 3(d)(1)(c) of the Federal Insecticide, Fungicide, and Rodenticide Act.

*Secretary.* The Secretary of Agriculture, United States Department of Agriculture, or any individual to whom the Secretary delegates authority to act in his or her behalf.

*State.* A State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other territory or possession of the United States, or an Indian governing body.

*State lead agency.* The agency designated by a State to have access to the records required to be maintained under this part.

*Supervise.* To provide instruction and guidance in the application of restricted use pesticides and exercise control over an applicator of restricted use pesticides in accordance with standards prescribed by the EPA in 40 CFR part 171.

[58 FR 19022, Apr. 9, 1993, as amended at 60 FR 8123, Feb. 10, 1995]

#### § 110.3 Records, retention, and access to records.

(a) Certified applicators of restricted use pesticides shall maintain records of the application of restricted use pesticides. Except as provided in paragraph (b) of this section, these records shall include the following information for each application:

(1) The brand or product name, and the EPA registration number of the restricted use pesticide that was applied;

(2) The total amount of the restricted use pesticide applied;

(3) The location of the application, the size of area treated, and the crop, commodity, stored product, or site to which a restricted use pesticide was applied. The location of the application may be recorded using any of the following designations:

<sup>1</sup>Records can be handwritten on individual notes or forms, consist of invoices, be computerized, and or be maintained in record-keeping books.

(i) County, range, township, and section;

(ii) An identification system utilizing maps and/or written descriptions which accurately identify location;

(iii) An identification system established by a United States Department of Agriculture agency which utilizes maps and numbering system to identify field locations; or

(iv) The legal property description.

(4) The month, day, and year on which the restricted use pesticide application occurred; and

(5) The name and certification number (if applicable) of the certified applicator who applied or who supervised the application of the restricted use pesticide.

(b) Certified applicators shall maintain records of the application of restricted use pesticides made on the same day in a total area of less than one-tenth ( $\frac{1}{10}$ ) of an acre. Except for applications of restricted use pesticides in greenhouses and nurseries, to which the requirements of paragraph (a) of this section apply, these records shall include the following information for the application:

(1) The brand or product name, and the EPA registration number of the restricted use pesticide that was applied;

(2) The total amount of the restricted use pesticide applied;

(3) The location of the application, designated as "spot application," followed by a concise description of location and treatment; and

(4) The month, day, and year on which the restricted use pesticide application occurred.

(c) The information required in this section shall be recorded within 14 days following the pesticide application. However, whether or not the written record has been completed, the certified applicator shall provide the information to be recorded in accordance with § 110.5(a).

(d) The records required in this section shall be retained for a period of 2 years from the date of the restricted use pesticide application and be maintained in a manner that is accessible by authorized representatives.

(e) A commercial applicator shall, within 30 days of a restricted use pesticide application, provide a copy of

records required under this section or under State or Federal regulations (whichever is applicable) under which the commercial applicator is holding certification, to the person for whom the restricted use pesticide was applied.

(f) A certified applicator shall, upon oral request and presentation of credentials by an authorized representative, make available to the authorized representative the records required to be maintained under this section and permit the authorized representative to copy any of the records. The original of the records required to be maintained under this section shall be retained by the certified pesticide applicators.

(g) No Federal or State agency shall release information obtained under this part that would directly or indirectly reveal the identity of producers of commodities to which restricted use pesticides have been applied.

(h) Certified applicators who apply restricted use pesticides in States where they are required to maintain records on applications of restricted use pesticides, comparable to those for commercial applicators in that State, and such records are maintained in accordance with State requirements, are not subject to paragraphs (a), (b), and (c) of this section.

[58 FR 19022, Apr. 9, 1993, as amended at 60 FR 8123, Feb. 10, 1995]

**§ 110.4 Demonstration of compliance.**

The Secretary is authorized to inspect and copy any record required to be maintained by this part in order to determine whether a certified applicator is complying with this part.

**§ 110.5 Availability of records to facilitate medical treatment.**

(a) When the attending licensed health care professional, or an individual acting under the direction of the attending licensed health care professional, determines that any record of the application of any restricted use pesticide required to be maintained under § 110.3 is necessary to provide medical treatment or first aid to an individual who may have been exposed to the restricted use pesticide for which the record is or will be maintained, the