

used in producing a pesticide which is subject to this Act shall, upon request of any officer or employee of the Agency or of any State or political subdivision, duly designated by the Administrator, furnish or permit such person at all reasonable times to have access to and to copy all records required to be maintained by this part, including records in the possession of an independent testing facility or laboratory which performed tests on behalf of the producer. Such inspection will be conducted in accordance with procedures detailed in section 8(b) of the Act.

(b) Distributors, carriers, dealers, etc. Any distributor, carrier, dealer, or any other person who sells or offers for sale, delivers or offers for delivery any pesticide, device, or active ingredient used in producing a pesticide which is subject to this Act, shall, upon request of any officer or employee of the Agency or of any State or political subdivision, duly designated by the Administrator, furnish or permit such person at all reasonable times to have access to and copy all records showing the delivery or holding of such pesticide, device, or active ingredient used in producing a pesticide, including the quantity, the date of shipment and receipt, and the name and address of the consignor and consignee, and any guarantee received pursuant to section 12(b)(1) of the Act.

(c) *Confidentiality.* Any record which is subject to the regulations under this part, and which may be confidential, shall be treated in accordance with the provisions of section 10 of the Act. The availability to the public of information provided to, or otherwise obtained by, the Administrator under this part shall be governed by part 2 of this chapter.

(d) *Inability.* (1) In the event of the inability of any person to produce records containing the information required to be maintained, furnished for inspection, or given access to, all other records and information regarding the same shall be provided.

(2) Where no such inability exists and any such person fails to give access to and permit copying of such records as required, such failure shall be deemed a refusal to keep records required or a re-

fusal to allow the inspection of any such records or both.

PART 170—WORKER PROTECTION STANDARD

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AUTHORITY: 7 U.S.C. 136w.

SOURCE: 57 FR 38151, Aug. 21, 1992, unless otherwise noted.

Subpart A—General Provisions

§ 170.1 Scope and purpose.

This part contains a standard designed to reduce the risks of illness or injury resulting from workers' and

handlers' occupational exposures to pesticides used in the production of agricultural plants on farms or in nurseries, greenhouses, and forests and also from the accidental exposure of workers and other persons to such pesticides. It requires workplace practices designed to reduce or eliminate exposure to pesticides and establishes procedures for responding to exposure-related emergencies.

§ 170.3 Definitions.

Terms used in this part have the same meanings they have in the Federal Insecticide, Fungicide, and Rodenticide Act, as amended. In addition, the following terms, when used in this part, shall have the following meanings:

Agricultural employer means any person who hires or contracts for the services of workers, for any type of compensation, to perform activities related to the production of agricultural plants, or any person who is an owner of or is responsible for the management or condition of an agricultural establishment that uses such workers.

Agricultural establishment means any farm, forest, nursery, or greenhouse.

Agricultural plant means any plant grown or maintained for commercial or research purposes and includes, but is not limited to, food, feed, and fiber plants; trees; turfgrass; flowers, shrubs; ornamentals; and seedlings.

Chemigation means the application of pesticides through irrigation systems.

Commercial pesticide handling establishment means any establishment, other than an agricultural establishment, that:

(1) Employs any person, including a self-employed person, to apply on an agricultural establishment, pesticides used in the production of agricultural plants.

(2) Employs any person, including a self-employed person, to perform on an agricultural establishment, tasks as a crop advisor.

Crop advisor means any person who is assessing pest numbers or damage, pesticide distribution, or the status or requirements of agricultural plants. The term does not include any person who is performing hand labor tasks.

Early entry means entry by a worker into a treated area on the agricultural establishment after a pesticide application is complete, but before any restricted-entry interval for the pesticide has expired.

Farm means any operation, other than a nursery or forest, engaged in the outdoor production of agricultural plants.

Forest means any operation engaged in the outdoor production of any agricultural plant to produce wood fiber or timber products.

Fumigant means any pesticide product that is a vapor or gas, or forms a vapor or gas on application, and whose method of pesticidal action is through the gaseous state.

Greenhouse means any operation engaged in the production of agricultural plants inside any structure or space that is enclosed with nonporous covering and that is of sufficient size to permit worker entry. This term includes, but is not limited to, polyhouses, mushroom houses, rhubarb houses, and similar structures. It does not include such structures as malls, atriums, conservatories, arboretums, or office buildings where agricultural plants are present primarily for aesthetic or climatic modification.

Hand labor means any agricultural activity performed by hand or with hand tools that causes a worker to have substantial contact with surfaces (such as plants, plant parts, or soil) that may contain pesticide residues. These activities include, but are not limited to, harvesting, detasseling, thinning, weeding, topping, planting, sucker removal, pruning, disbudding, roguing, and packing produce into containers in the field. Hand labor does not include operating, moving, or repairing irrigation or watering equipment or performing the tasks of crop advisors.

Handler means any person, including a self-employed person:

(1) Who is employed for any type of compensation by an agricultural establishment or commercial pesticide handling establishment to which subpart C of this part applies and who is:

(i) Mixing, loading, transferring, or applying pesticides.