E. Paperwork Reduction Act

EPA has determined that there are no information collection burdens under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., associated with the requirements contained in this rule.

List of Subjects in 40 CFR Part 170

Environmental protection, Administrative practice and procedure, Occupational safety and health, Pesticides and pests.

Dated: April 26, 1995.

Carol M. Browner,

Administrator.

Therefore, 40 CFR part 170 is amended as follows:

PART 170—[AMENDED]

1. The authority citation for part 170 continues to read as follows:

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

§170.103 [Redesignated from §170.102]

2. Section 170.102 is partially designated as § 170.103 and entitled Exceptions. Paragraph (b) introductory text and paragraphs (b)(1) through (10) are redesignated as § 170.103 introductory text and paragraphs (a) through (j), respectively. The remainder of § 170.102 is revised to read as follows:

§ 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.

3. New § 170.104 is added to read as follows:

§170.104 Exemptions.

The workers listed in this section are exempt from the specified provisions of this subpart.

- (a) Owners of agricultural establishments. (1) The owner of an agricultural establishment is not required to provide to himself or members of his immediate family who are performing tasks related to the production of agricultural plants on their own agricultural establishment the protections of:
 - (i) Section 170.112(c)(5) through (9).
- (ii) Section 170.112(c)(5) through (9) as referenced in §§ 170.112(d)(2)(iii) and 170.112(e).
 - (iii) Section 170.120.
 - (iv) Section 170.122.
 - (v) Section 170.130.
 - (vi) Section 170.135.
 - (vii) Section 170.150.

- (viii) Section 170.160.
- (2) The owner of the agricultural establishment must provide the protections listed in paragraph (a)(1)(i) through (viii) of this section to other workers and other persons who are not members of his immediate family.
- (b) Crop advisors. (1) Provided that the conditions of paragraph (b)(2) of this section are met, a person who is certified or licensed as a crop advisor by a program acknowledged as appropriate in writing by EPA or a State or Tribal lead agency for pesticide enforcement, and persons performing crop advising tasks under such qualified crop advisor's direct supervision, are exempt from the provisions of:
 - (i) Section 170.150.
 - (ii) Section 170.160.

A person is under the direct supervision of a crop advisor when the crop advisor exerts the supervisory controls set out in paragraphs (b)(2)(iii) and (iv) of this section. Direct supervision does not require that the crop advisor be physically present at all times, but the crop advisor must be readily accessible to the employees at all times.

- (2) Conditions of exemption. (i) The certification or licensing program requires pesticide safety training that includes, at least, all the information in § 170.230(c)(4).
- (ii) Applies only when performing crop advising tasks in the treated area.
- (iii) The crop advisor must make specific determinations regarding the appropriate PPE, appropriate decontamination supplies, and how to conduct the tasks safely. The crop advisor must convey this information to each person under his direct supervision in a language that the person understands.
- (iv) Before entering a treated area, the certified or licensed crop advisor must inform, through an established practice of communication, each person under his direct supervision of the pesticide product and active ingredient(s) applied, method of application, time of application, the restricted entry interval, which tasks to undertake, and how to contact the crop advisor.
- (c) Grace period for persons performing crop advisor tasks who are not certified or licensed. (1) Provided that the conditions of paragraph (c)(2) of this section are met, a person who is neither certified nor licensed as a crop advisor and any person performing crop advising tasks under his direct supervision is exempt until May 1, 1996, from the requirements of:
 - (i) Section 170.130.
 - (ii) Section 170.150.
 - (iii) Section 170.160.

- (2) Conditions of exemption. (i) Applies only when the persons are performing crop advising tasks in the treated area.
- (ii) The crop advisor must make specific determinations regarding the appropriate PPE, appropriate decontamination supplies, and how to conduct the tasks safely. The crop advisor must convey this information to each person under his direct supervision in a language that the person understands.
- (iii) Before entering a treated area, the crop advisor must inform, through an established practice of communication, each person under his direct supervision of the active ingredient, method of application, time of application, the restricted entry interval, which tasks to undertake, and how to contact the crop advisor.
- 4. Section 170.130 is amended by revising paragraph (b) to read as follows:

§ 170.130 Pesticide safety training for workers.

* * * * *

- (b) *Exceptions*. The following persons need not be trained under this section:
- (1) A worker who is currently certified as an applicator of restricted-use pesticides under part 171 of this chapter.
- (2) A worker who satisfies the training requirements of part 171 of this chapter.
- (3) A worker who satisfies the handler training requirements of § 170.230(c).
- (4) A worker who is certified or licensed as a crop advisor by a program acknowledged as appropriate in writing by EPA or a State or Tribal lead agency for pesticide enforcement, provided that a requirement for such certification or licensing is pesticide safety training that includes all the information set out in § 170.230(c)(4).

§ 170.203 [Redesignated from § 170.202]

5. Section 170.202 is partially redesignated as § 170.203 entitled Exceptions. Paragraph (b) introductory text and paragraphs (b)(1) through (9) are redesignated as § 170.203 introductory text and paragraphs (a) through (i), respectively. The remainder of § 170.102 is revised to read as follows:

§ 170.202 Applicability of this subpart.

Except as provided by §§ 170.203 and 170.204, this subpart applies when any pesticide is handled for use on an agricultural establishment.

6. New § 170.204 is added to read as follows: