#### §170.204 Exemptions.

The handlers 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 handling tasks on their own agricultural establishment the protections of:
  - (i) Section 170.210(b) and (c).
  - (ii) Section 170.222.
  - (iii) Section 170.230.
  - (iv) Section 170.232.
  - (v) Section 170.234.
  - (vi) Section 170.235.
  - (vii) Section 170 240(e) through (g).
  - (viii) Section 170.250.
  - (ix) Section 170.260.
- (2) The owner of the agricultural establishment must provide the protections listed in paragraphs (a)(1)(i) through (ix) of this section to other handlers 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:
  - Section 170.232.
  - (ii) Section 170.240.
  - (iii) Section 170.250.
  - (iv) Section 170.260.

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)(iv) and (v) 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) No entry into the treated area occurs until after application ends.
- (iii) Applies only when performing crop advising tasks in the treated area.
- (iv) 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.

- (v) 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 products 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 170.230.
  - (ii) Section 170.232.
  - (iii) Section 170.240.
  - (iv) Section 170.250.
  - (v) Section 170.260.
- (2) Conditions of exemption. (i) No entry into the treated area occurs until after application ends.
- (ii) Applies only when the persons are 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 crop advisor must inform, through an established practice of communication, each person under his direct supervision of the pesticide products 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.
- 7. In § 170.230, by revising the section title and paragraph (b) to read as follows:

## § 170.230 Pesticide safety training for handlers.

- (b) Exceptions. The following persons need not be trained under this section:
- (1) A handler who is currently certified as an applicator of restricteduse pesticides under part 171 of this chapter.
- (2) A handler who satisfies the training requirements of part 171 of this chapter.
- (3) A handler 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).

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## 40 CFR Part 170

[OPP-250104; FRL-4950-9]

Technical Amendment, Addition of Table of Exception Decisions to Early-**Entry Prohibition, Worker Protection** Standard; Final Rule

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** In the Notices section of this Federal Register, EPA is providing notice for two additional administrative exceptions to the general prohibition on early entry into pesticide treated areas contained in the Worker Protection Standard (WPS) issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The exceptions allow, under specific conditions, early entry for workers to perform irrigation and limited contact tasks. Both exceptions are in response to requests the Agency received from the agricultural community. To ensure that the regulated community is aware of these and future administrative exceptions to the early-entry prohibition, EPA is amending the WPS to add a new § 170.112(e)(7) that informs the regulated community where to locate Federal Register notices that set forth the terms and conditions of the administrative exceptions. EFFECTIVE DATE: May 3, 1995. FOR FURTHER INFORMATION CONTACT: Sara Ager or Linda Strauss, Office of Pesticide Progrms (7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number and e-mail address: 1921 Jefferson Davis Highway, Rm. 1121, Crystal Mall 2, Arlington, VA 22202, Telephone: 703-305-7666, ager.sara@epamail.epa.gov or

# strauss.linda@epamail.epa.gov. SUPPLEMENTARY INFORMATION:

## I. Background and Purpose

EPA issued the WPS on August 21, 1992 (57 FR 38102) (40 CFR part 170). The WPS includes a prohibition (§ 170.112) against routine early entry into pesticide treated areas during restricted-entry interval (referred to as "early entry"). Section 170.112(e) of the