

B. Scope Criteria and Determining WPS Applicability to Individual Products

In PR Notice 93-7, registrants were to answer a series of questions to determine if their product fell within the scope of WPS. To determine whether pesticide products fall within the scope of this policy (i.e. those that do not already bear labeling containing WPS requirements in an Agricultural Use Requirements box), the following questions must be answered:

Begin here for each product:

1. Does the labeling contain directions for application to:

- Plants grown to produce food, feed, or fiber?
- Turfgrass?
- Ornamental plants, trees, or shrubs?
- Plants grown to produce seedlings or transplants?
- Plants grown to produce cut flowers or cut ferns?
- Trees grown to produce timber?
- Areas where any such plants are growing?
- Areas where such plants will soon be grown (i.e., pre-plant or at-plant application)?
- Areas from which such plants have just been harvested?

If you answered "Yes" to any of these questions, this product may be within the scope of this policy. Go on to question 2.

If you answered "No" to all of these questions, this product is *not* within the scope of this policy statement. Begin again with question 1 for your next product.

2. Does the labeling explicitly limit application *only* to plants intended for aesthetic purposes or climate modification and growing in interior landscapes, ornamental gardens or parks, or on golf courses or lawns and grounds?

If you answered "Yes" to this question, this product is *not* within the scope of this policy statement. Begin again with question 1 for the next product.

If you answered "No" to this question, this product may be within the scope of this policy statement.

Go on to question 3.

3. Does the labeling explicitly limit uses *only* to those *not* directly related to the production of food, feed, fiber, timber, turfgrass, or ornamentals, such as the following:

- Use on pasture or rangeland?
- Use on rights-of-way or other non-crop areas?
- Use for structural pest control?
- Use for mosquito abatement, Mediterranean fruit fly eradication, or in other wide-area government-sponsored pest control programs?

If you answered "Yes" to this question, this product is *not* within the scope of this policy. Begin again with question 1 for the next product.

If you answered "No" to this question, this product may be within the scope of this policy. Go on to question 4.

4. Does the labeling contain directions only for one or more of the following:

- Control of vertebrate pests?
- Use as an attractant in traps?
- Use on the portions of agricultural plants that have been harvested, including harvested timber?
- Application using a point-source pheromone dispenser of a size easily retrieved from the field, such as a "twist-tie"?

If you answered "Yes" to this question, this product is *not* within the scope of this notice. Begin again with question 1 for the next product.

If you answered "No" to this question, this product may be within the scope of this policy. Go on to question 5.

5. Is the product labeled *primarily* for use in production of plants in homes, home flower or vegetable gardens, home lawns, or home greenhouses? Answer "yes" to this question only if the current labeling meets *all* the following tests:

- a. The labeling indicates that the product is intended for use in or around the home, home flower or vegetable garden, home lawn, or home greenhouse.
- b. The labeling does *not* include any of the following directions or phrases:
 - Skull and crossbones symbol and word "Poison."
 - A requirement for users to wear a respirator.
 - A requirement for users to wear chemical-resistant, waterproof, or liquid-proof suits or coveralls or "rainsuits."
 - The phrase "for professional use."
 - The phrase "for commercial use."
 - Directions for use on farms, sod farms, forests, nurseries, or greenhouses except home greenhouses.
 - Directions for use including the phrases "for crop production" or "for sod production."
 - Application rates expressed per acre.
 - Dilution rates expressed per hundred gallons.
 - Directions for application by aerial, ground-boom, airblast, or other motor-driven vehicles or equipment.
 - Directions for use of a "surfactant," "buffer," or "adjuvant," using those words.
 - Any reference to chemigation.
 - Directions for mechanical agitation.
 - Instructions or restrictions concerning livestock grazing.

c. The product is packaged in a container holding no more than 40 pounds if the product is a solid, or 2 gallons if it is a liquid, or 2 pounds if it is an aerosol.

If all three tests (5a, 5b, 5c) above are fully satisfied, this product is *not* within the scope of this policy. Begin again with question 1 for the next product.

If any of these three tests is *not* fully satisfied, this product is within the scope of this policy statement. (If the product does not satisfy all these three tests but you believe it is nonetheless intended primarily for home use or is otherwise limited to use on plants grown for other than commercial or research purposes, check with the registrant. Start again with question 1 for the next product.)

C. Registrant Responsibilities in the Revision of Product Labels to Comply with the WPS

Registrants must conduct or authorize any relabeling. If a retailer or wholesaler will relabel products, the registrant must provide a written authorization and provide product-specific WPS labeling.

In conducting or authorizing relabeling, registrants are responsible for ensuring that relabeling of non-complying products takes place in accordance with the WPS and this policy statement. They may choose to conduct relabeling by recalling the product and relabeling with final printed replacement labeling at a registered establishment or relabeling at the location of the product; or authorize a wholesaler or retailer to relabel in accordance with this policy. Options and required specifications for relabeling are outlined in Unit IV.F. of this document.

The registrant must provide a written authorization to any wholesaler or retailer who agrees to relabel non-complying products. The authorization should outline the specific roles of the retailer, wholesaler, and registrant in relabeling. Registrants are fully responsible for ensuring that labeling modifications are carried out correctly by any person or company they authorize. Any limitations on who may be authorized to carry out relabeling under this policy statement must be explicit in the authorization document. The authorization cannot change the responsibilities of any of the parts of terms of this policy statement. Any relabeling of products with WPS labels must be done in cooperation with all involved parties and under the written authorization of the registrant.

The registrant must provide labeling to those they authorize to conduct