Section 110.2—Definitions

Licensed Health Care Professional

The current regulations define "licensed health care professional" as "a physician, nurse, emergency medical technician or other qualified individual, licensed by a State to provide medical treatment."

AMS proposed to amend the definition of a "licensed health care professional" to mean "a physician, nurse, emergency medical technician or other qualified individual, licensed or certified by a state to provide medical treatment." AMS proposed this amendment to clarify our intention to include qualified individuals who have been certified by a state to provide medical treatment in the definition of "licensed health care professional."

Many comments supported the proposed change in the definition citing the need to include all individuals who are either state certified or licensed, and are qualified to provide medical treatment in cases of pesticide related illness in the definition of "licensed health care professional." For example, one commentor stated, "the proposed definition recognizes the realities of modern health care, in that many tasks are performed by paraprofessionals and other persons working under the direction of licensed professionals." Another commentor stated, "* * ' often the first responder for medical emergencies or medical care is not a licensed health care professional. The definition needs to be broadened to include other professionals to ensure greater access to immediate and appropriate medical treatment.'

AMS agrees that under some circumstances certified individuals are qualified to provide medical treatment for pesticide related exposures. Some states use the term "certified" and "licensed" interchangeably. For example, a "licensed nurse practioner" in one state may be classified as a "certified nurse practioner" in another state. Therefore, this final rule amends the definition of "licensed health care professional" to include any qualified individuals certified by a state to provide medical treatment. However, individuals who have been certified only to provide first aid or cardiopulmonary resuscitation (CPR) through organizations such as the American Red Cross are not included in the definition of "licensed health care professional" in this final rule.

AMS also received comments which expressed concerns that allowing access by "certified" individuals would greatly expand access to private record information to individuals who are not qualified to provide proper treatment for pesticide related illnesses. One commentor stated, "* * * there are 23 different health care professionals certified by the state including such professions as: Athletic Training, Chiropractic, Mental Health Practice, Physical Therapy and Psychology. Under the proposed changes, these professionals would be able to request records and release the information. This change would not increase health protection, but rather provide an avenue for non-related health care professionals to have access to private records."

We agree with comments received expressing concerns that certified individuals such as physical or athletic therapists should not be able to request pesticide record information. We are addressing these concerns in section 110.5(a) by allowing only the attending licensed health care professional, or an individual acting under the direction of the attending licensed health care professional, access to record information. This amendment to section 110.5(a) should eliminate the request for pesticide record information by individuals who are not qualified to provide medical treatment for pesticide related injuries or illness.

For these reasons, we are adopting the proposed language. "Licensed health care professional" shall be defined as "a physician, nurse, emergency medical technician, or other qualified individual, licensed or certified by a State to provide medical treatment."

Medical Emergency

The current regulations define "medical emergency" as "injuries or illnesses which require immediate medical attention to prevent lifethreatening or disabling conditions."

AMS proposed to change the definition of "medical emergency" after concerns were raised that the definition was too restrictive and could hinder medical treatment by licensed health care professionals of individuals who may have been exposed to a federally restricted use pesticide. It was not the intent of AMS to limit medical treatment of persons who may have been exposed to a restricted use pesticide. Therefore, AMS proposed that the term "medical emergency" be defined as "a situation that requires immediate medical treatment or first aid."

AMS received 27 comments concerning the proposed change to the definition of "medical emergency." The commentors who supported the proposed definition stated that the current definition was too restrictive. For example, one commentor stated that

the proposed definition "* * * ensures that all instances of pesticide related illnesses can be appropriately dealt with; that they do not get omitted inadvertently due to an overly narrow definition." Another commentor stated, "Expanding this definition ensures the appropriate care and medical response for all pesticide related illnesses."

Commentors who opposed the proposed change stated that the current and proposed definitions of "medical emergency" are too broad because they encompass illnesses or injuries that have nothing to do with possible pesticide poisonings. One of these commentors stated that "The definition should refer to and be limited to the related pesticide situation to avoid confusion and misunderstanding." However, the comments opposing the change to the definition did support providing the record information when appropriate for pesticide related illness.

AMS agrees that the current definition of "medical emergency" is too restrictive and could hinder appropriate medical treatment to individuals who may have been exposed to a federally restricted use pesticide. After considering the comments, we have adopted a definition that is less restrictive than the current definition and provides for more appropriate access to record information for a medical emergency. The definition of "medical emergency" in the final rule encompasses situations that require immediate medical treatment or first aid as set forth in the proposal. Further, in response to the comments which stated that the definition was too broad, we added a phrase which limits the definition of medical emergency to situations that require treatment or first aid "to treat possible symptoms of pesticide poisoning or exposure.'

Therefore, this final rule amends the definition of "medical emergency" to read as follows: "A situation that requires immediate medical treatment or first aid to treat possible symptoms of pesticide poisoning or exposure."

Section 110.3(a)(6)—Spot Applications

The current pesticide recordkeeping regulations provide reduced requirements for recording information for "spot applications." Section 110.3(a)(6) provides that applications of restricted use pesticides made on the same day in a total area of less than one-tenth (1/10) of an acre require the following elements be recorded: (1) Brand or product name and EPA registration number; (2) total amount applied; (3) location must be designated as "spot application"; and (4) the date of application. Section 110.3(a)(6) does