§ 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.

[60 FR 21952, May 3, 1995]

§ 170.110 Restrictions associated with pesticide applications.

(a) *Farms and forests.* During the application of any pesticide on a farm or in a forest, the agricultural employer shall not allow or direct any person,