

§ 170.5

trees; tree seedlings; live Christmas trees; vegetable, fruit, and ornamental transplants; and turfgrass produced for sod.

Owner means any person who has a present possessory interest (fee, leasehold, rental, or other) in an agricultural establishment covered by this part. A person who has both leased such agricultural establishment to another person and granted that same person the right and full authority to manage and govern the use of such agricultural establishment is not an owner for purposes of this part.

Restricted-entry interval means the time after the end of a pesticide application during which entry into the treated area is restricted.

Treated area means any area to which a pesticide is being directed or has been directed.

Worker means any person, including a self-employed person, who is employed for any type of compensation and who is performing activities relating to the production of agricultural plants on an agricultural establishment to which subpart B of this part applies. While persons employed by a commercial pesticide handling establishment are performing tasks as crop advisors, they are not workers covered by the requirements of subpart B of this part.

§ 170.5 Effective date and compliance dates.

(a) *Effective date.* The effective date for this part, including § 170.112(e), shall be October 20, 1992.

(b) *Accelerated provisions.* The compliance date shall be April 21, 1993, for:

- (1) Section 170.112(a) through (c)(3);
- (2) Section 170.112(d)(1) through (d)(2)(ii);
- (3) The requirement of § 170.112(c)(3) as referenced in § 170.112(d)(2)(iii);
- (4) The requirement of § 170.112(c)(3) as referenced in § 170.112(e)(5);
- (5) Section 170.120(a)(3); and
- (6) Section 170.120(b)(3).

(c) *All other provisions.* The compliance date for all other provisions of this part shall be April 15, 1994.

40 CFR Ch. I (7-1-04 Edition)

§ 170.7 General duties and prohibited actions.

(a) *General duties.* The agricultural employer or the handler employer, as appropriate, shall:

(1) Assure that each worker subject to subpart B of this part or each handler subject to subpart C of this part receives the protections required by this part.

(2) Assure that any pesticide to which subpart C of this part applies is used in a manner consistent with the labeling of the pesticide, including the requirements of this part.

(3) Provide, to each person who supervises any worker or handler, information and directions sufficient to assure that each worker or handler receives the protections required by this part. Such information and directions shall specify which persons are responsible for actions required to comply with this part.

(4) Require each person who supervises any worker or handler to assure compliance by the worker or handler with the provisions of this part and to assure that the worker or handler receives the protections required by this part.

(b) *Prohibited actions.* The agricultural employer or the handler employer shall not take any retaliatory action for attempts to comply with this part or any action having the effect of preventing or discouraging any worker or handler from complying or attempting to comply with any requirement of this part.

§ 170.9 Violations of this part.

(a) Under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 *et seq.*) (FIFRA) section 12(a)(2)(G) it is unlawful for any person “to use any registered pesticide in a manner inconsistent with its labeling.” When this part is referenced on a label, users must comply with all of its requirements except those that are inconsistent with product-specific instructions on the labeling. For the purposes of this part, EPA interprets the term “use” to include:

- (1) Preapplication activities, including, but not limited to:
 - (i) Arranging for the application of the pesticide;