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Title 40 —Protection of Environment
Chapter I —Environmental Protection Agency
Subchapter E —Pesticide Programs

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PART 167—REGISTRATION OF PESTICIDE AND ACTIVE INGREDIENT PRODUCING ESTABLISHMENTS, SUBMISSION OF PESTICIDE REPORTS

Authority: 7 U.S.C. 136 (e) and (w).

Source: 53 FR 35058, Sept. 8, 1988; 54 FR 32638, Aug. 9, 1989, unless otherwise noted.

Subpart A—General Provisions

§ 167.3 Definitions.

Terms used in this part shall have the meanings set forth for such terms in the Federal Insecticide, Fungicide, and Rodenticide Act. In addition, when used in this part, the following terms shall have the meanings stated below:

Act means the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, 7 U.S.C. 136 *et seq.*

Amount of pesticidal product means quantity, expressed in weight or volume of the product, and is to be reported in pounds for solid or semi-solid pesticides and active ingredients or gallons for liquid pesticides and active ingredients, or number of individual retail units for devices.

Current production [sales or distribution] means amount of planned production in the calendar year in which the pesticides report is submitted, including new pesticidal products not previously sold or distributed.

Custom blender means any establishment which provides the service of mixing pesticides to a customer's specifications, usually a pesticide(s)-fertilizer(s), pesticide-pesticide, or a pesticide-animal feed mixture, when:

(1) The blend is prepared to the order of the customer and is not held in inventory by the blender;

(2) the blend is to be used on the customer's property (including leased or rented property);

(3) the pesticide(s) used in the blend bears end-use labeling directions which do not prohibit use of the product in such a blend;

(4) the blend is prepared from registered pesticides; (b) the blend is delivered to the end-user along with a copy of the end-use labeling of each pesticide used in the blend and a statement specifying the composition of mixture; and (6) no other pesticide production activity is performed at the establishment.

Device means any device or class of devices as defined by the Act and determined by the Administrator pursuant to section 25(c) to be subject to the provisions of section 7 of the Act.

Establishment means any site where a pesticidal product, active ingredient, or device is produced, regardless of whether such site is independently owned or operated, and regardless of whether such site is domestic and producing a pesticidal product for export only, or whether the site is foreign and producing any pesticidal product for import into the United States.

Past year means the calendar year immediately prior to that in which the report is submitted.

Pesticidal product means a pesticide, active ingredient, or device.

Pesticidal product report means information showing the types and amounts of pesticidal products which were:

(1) Produced in the past calendar year;

(2) produced in the current calendar year; and,

(3) sold or distributed in the past calendar year. For active ingredients, the pesticidal product report must include information on the types and amounts of an active ingredient for which there is actual or constructive knowledge of its use or intended use as a pesticide. This pesticidal product report also pertains to those products produced for export only which must also be reported. A positive or a negative annual report is required in order to maintain registration for the establishment.

Produce means to manufacture, prepare, propagate, compound, or process any pesticide, including any pesticide produced pursuant to section 5 of the Act, any active ingredient or device, or to package, repackage, label, relabel, or otherwise change the container of any pesticide or device.

Producer means any person, as defined by the Act, who produces any pesticide, active ingredient, or device (including packaging, repackaging, labeling and relabeling).

Sold or distributed means the aggregate amount of a pesticidal product released for shipment by the establishment in which the pesticidal product was produced.

Type of pesticidal product refers to each individual product as identified by: the product name; EPA Registration Number (or EPA File Symbol, if any, for planned products, or Experimental Permit Number, if the pesticide is produced under an Experimental Use Permit); active ingredients; production type (technical,

formulation, repackaging, etc.); and, market for which the product was produced (domestic, foreign, etc.). In cases where a pesticide is not registered, registration is not applied for, or the pesticide is not produced under an Experimental Use Permit, the term shall also include the chemical formulation.

Subpart B—Registration Requirements

§ 167.20 Establishments requiring registration.

(a) ***Who must register.***

(1) Any establishment where a pesticidal product is produced must be registered with the Agency. This requirement does not apply to custom blenders as defined in this part.

(2) Any establishment where a substance is produced must be registered with the Agency if the producer intends the substance to be used as an active ingredient of a pesticide, or has actual or constructive knowledge that the substance will be used by any person as an active ingredient of a pesticide.

(3) Any domestic establishment producing a pesticidal product for export, or any unregistered pesticide, or any foreign establishment producing a pesticidal product for import into the United States must be registered. Also, any establishment, either foreign or domestic, which produces a pesticidal product for use under an Experimental Use Permit, FIFRA section 18 Emergency Exemption or section 24(c) Special Local Needs registration, must be registered.

(b) ***Information required.*** An applicant for establishment registration must submit the following information:

(1) Name and address of the company.

(2) The type of ownership (individual, partnership, cooperative association, corporation, or any organized group of persons whether incorporated or not).

(3) The name and address of each producing establishment for which registration is sought.

(c) ***When to apply.*** An application for establishment registration must be submitted, and an establishment registration number must be assigned by the Agency, before any production may occur at an establishment. In the case of an establishment which has not previously been required to be registered and is not currently registered, the producer must apply for establishment registration by submitting an application within 180 days after the effective date of this regulation.

(d) ***Assignment of establishment registration number.*** The Agency will return incomplete or inaccurately completed applications to the applicant. If the application is complete and accurate, the Agency will register the establishment and assign a registration number to the establishment. The establishment registration number will be entered on the application, and a copy of the application will be returned to the applicant.

(e) ***Amendment.*** If at any time after the first report there is a change in the information required to be submitted under paragraph (b) of this section, that new information must be reported to EPA, in writing on letterhead stationery or on forms supplied by the Agency, within 30 days after such change occurs.

(f) ***Duration of registration.*** Establishment registration will remain effective provided pesticide reports are submitted annually pursuant to the requirements of this part. Failure to submit a report may result in termination of establishment registration, civil and/or criminal penalty assessments.

[53 FR 35058, Sept. 8, 1988; 54 FR 32638, Aug. 9, 1989, as amended at 58 FR 34203, June 23, 1993]

Subparts C-D [Reserved]

Subpart E—Recordkeeping and Reporting Requirements

§ 167.85 Reporting requirements.

(a) ***Who must report.*** Each producer operating an establishment must submit the reports required by this section concerning any pesticide, active ingredient, or device produced at each establishment. Custom blenders are not required to report production to the Agency.

(b) ***Information required.*** The pesticide report shall include the following:

(1) Name and address of the establishment;

(2) amount of each pesticidal product:

(i) Produced during the past year;

(ii) sold or distributed during the past year;

(iii) estimated to be produced during the current year. The report shall only include those pesticidal products actually produced at the reporting establishment. Reports submitted by foreign-producing establishments shall cover only those pesticidal products exported to the United States.

(c) ***How to report.*** The reports required by this section must be made on forms supplied by the Agency. It is the ultimate responsibility of companies to obtain, complete, and submit the form each year.

(d) ***When to report.*** A producer operating an establishment must submit an initial report no later than 30 days after the first registration of each establishment the producer operates. Thereafter, the producer must submit an annual report on or before March 1 of each year, even if the producer has produced no pesticidal product for that reporting year.

[53 FR 35058, Sept. 8, 1988; 54 FR 32638, Aug. 9, 1989, as amended at 58 FR 34203, June 23, 1993]

§ 167.90 Where to obtain and submit forms.

(a) ***Where to obtain forms.*** Any person may obtain blank forms for the applications and reports required by this part from any EPA Regional Office, or from the address listed in paragraph (b) of this section.

(b) ***Where to submit applications and reports.*** Each producer operating an establishment, with the exception of those establishments not found at the same location as their company headquarters, must submit applications and reports required by this part to the EPA Regional Office which serves the area where the establishment is located. The list of Regional Office addresses is found in 40 CFR 1.7. Applications and reports for those establishments not found at the same location as their company headquarters to be submitted by the company headquarters to the Regional Office having jurisdiction over the State in which the company headquarters is located. A foreign producer who exports any pesticide product, device, or active ingredient to the United States must submit all applications and reports to:

> U.S. Environmental Protection Agency, Office of Enforcement and Compliance Assurance, Office of Compliance, Agriculture and Ecosystems Division (2225A), Ariel Rios Building, 1200 Pennsylvania Avenue, N.W., Washington, DC 20460, ATTN: FIFRA Foreign Establishment Registration Contact.

[53 FR 35058, Sept. 8, 1988; 54 FR 32638, Aug. 9, 1989, as amended at 62 FR 49620, Sept. 23, 1997; 65 FR 4577, Jan. 31, 2000]