

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 170

[OPP-250122; FRL-5599-3]

RIN 2070-AC95

Exception Decisions to Early Entry Prohibition, Worker Protection Standard; Technical Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical amendment.

SUMMARY: EPA is modifying its worker protection regulation to provide notice of an additional administrative exception to the general prohibition on early entry into pesticide-treated areas contained in the Worker Protection Standard (WPS) issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The exception allows, under specific conditions, early entry for workers to hand harvest greenhouse grown cut-roses. To ensure that the regulated community is aware of this and future administrative exceptions to the early-entry prohibition, EPA is amending the WPS to add a new paragraph to § 170.112(e)(7) which informs the regulated community where to locate **Federal Register** notices that set forth the terms and conditions of the administrative exceptions.

EFFECTIVE DATE: This document is effective October 3, 1997.

FOR FURTHER INFORMATION CONTACT: Sara Ager, Office of Pesticide Programs (7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: 1921 Jefferson Davis Highway, Rm. 1121, Crystal Mall #2, Arlington, VA, (703) 305-7666, e-mail: ager.sara@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

EPA issued the WPS on August 21, 1992 (57 FR 38102) (40 CFR part 170).

The WPS includes a prohibition (§ 170.112) against routine early entry into pesticide-treated areas during restricted-entry interval (referred to as "early entry"). Section 170.112(e) of the WPS provides a process for EPA to consider and grant administrative exceptions to this prohibition on early entry. Elsewhere in this issue of the **Federal Register**, EPA is granting the fourth such administrative exception. The exception allows, under specific conditions, early entry for workers to hand harvest greenhouse grown cut-roses. The exception allows, under specific conditions, early entry for workers to hand harvest greenhouse grown cut-roses. The addition to paragraph (e)(7) is a technical amendment. It does not make any substantive changes in the WPS or § 170.112. EPA provided notice and opportunity for comment on the proposed administrative exception (61 FR 56100, October 30, 1996) (FRL-5571-8).

II. Regulatory Assessment Requirements

This final rule does not impose any requirements. It only implements a technical correction to the Code of Federal Regulations (CFR). As such, this action does not require review by the Office of Management and Budget under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). For the same reason, it does not require any action under Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), or Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994). In addition, since this type of

action does not require any proposal, no action is needed under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

III. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, the Agency has submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office prior to publication of this rule in today's **Federal Register**. This is a technical correction to the CFR and is not a major rule as defined by 5 U.S.C. 804(2).

List of Subject in 40 CFR Part 170

Environmental protection, Administrative practice and procedure, Labeling, Occupational safety and health, Pesticides and pests.

Dated: September 29, 1997.

Susan H. Wayland,
Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, 40 CFR part 170 is amended as follows:

PART 170—[AMENDED]

1. The authority citation for part 170 continues to read as follows:

Authority: 7 U.S.C. 136w.

2. Section 170.112 is amended by adding paragraph (e)(7)(iv) to read as follows:

§ 170.112 Entry restrictions.

- (e) * * *
- (7) * * *

(iv) Exception for hand labor to harvest greenhouse-grown roses under specified conditions published in the **Federal Register** of October 3, 1997, effective December 18, 1996 to October 4, 1999.