

Environmental Protection Agency

§ 171.3

(1) The term *restricted use pesticide retail dealer* means any person who makes available for use any restricted use pesticide, or who offers to make available for use any such pesticide.

(2) The term *make available for use* means to distribute, sell, ship, deliver for shipment, or receive and (having so received) deliver, to any person. However, the term excludes transactions solely between persons who are pesticide producers, registrants, wholesalers, or retail sellers, acting only in those capacities.

(3) The term *dealership* means any site owned or operated by a restricted use pesticide retail dealer where any restricted use pesticide is made available for use, or where the dealer offers to make available for use any such pesticide.

(4) The term *uncertified person* means any person who is not holding a currently valid certification document indicating that he is certified under section 11 of FIFRA in the category of the restricted use pesticide made available for use.

(5) The term *principal place of business* means the principal location, either residence or office, in the State in which an individual, partnership, or corporation applies pesticides.

[39 FR 36449, Oct. 9, 1974, as amended at 48 FR 53974, Nov. 1983; 73 FR 75599, Dec. 12, 2008]

§ 171.3 Categorization of commercial applicators of pesticides.

(a) *Procedure.* Categories of applicators (other than private) using or supervising the use of restricted use pesticides are identified below. State systems of applicator identification shall adopt these categories as needed, along with such appropriate subcategories as are necessary to meet the particular requirements of the State.

(b) *Categories—(1) Agricultural pest control—(i) Plant.* This category includes commercial applicators using or supervising the use of restricted use pesticides in production of agricultural crops, including without limiting the foregoing, tobacco, peanuts, cotton, feed grains, soybeans and forage; vegetables; small fruits; tree fruits and nuts; as well as on grasslands and non-crop agricultural lands.

(ii) *Animal.* This category includes commercial applicators using or supervising the use of restricted use pesticides on animals, including without limiting the foregoing, beef cattle, dairy cattle, swine, sheep, horses, goats, poultry, and livestock, and to places on or in which animals are confined.

Doctors of Veterinary Medicine engaged in the business of applying pesticides for hire, publicly holding themselves out as pesticide applicators, or engaged in large-scale use of pesticides are included in this category.

(2) *Forest pest control.* This category includes commercial applicators using or supervising the use of restricted use pesticides in forests, forest nurseries, and forest seed producing areas.

(3) *Ornamental and turf pest control.* This category includes commercial applicators using or supervising the use of restricted use pesticides to control pests in the maintenance and production of ornamental trees, shrubs, flowers, and turf.

(4) *Seed treatment.* This category includes commercial applicators using or supervising the use of restricted use pesticides on seeds.

(5) *Aquatic pest control.* This category includes commercial applicators using or supervising the use of any restricted use pesticide purposefully applied to standing or running water, excluding applicators engaged in public health related activities included in category 8 below.

(6) *Right-of-way pest control.* This category includes commercial applicators using or supervising the use of restricted use pesticides in the maintenance of public roads, electric powerlines, pipelines, railway rights-of-way or other similar areas.

(7) *Industrial, institutional, structural and health related pest control.* This category includes commercial applicators using or supervising the use of restricted use pesticides in, on, or around food handling establishments, human dwellings, institutions, such as schools and hospitals, industrial establishments, including warehouses and grain elevators, and any other structures and adjacent areas, public or private; and for the protection of stored, processed, or manufactured products.

§ 171.4

40 CFR Ch. I (7–1–10 Edition)

(8) *Public health pest control.* This category includes State, Federal or other governmental employees using or supervising the use of restricted use pesticides in public health programs for the management and control of pests having medical and public health importance.

(9) *Regulatory pest control.* This category includes State, Federal or other governmental employees who use or supervise the use of restricted use pesticides in the control of regulated pests.

(10) *Demonstration and research pest control.* This category includes: (i) individuals who demonstrate to the public the proper use and techniques of application of restricted use pesticides or supervise such demonstration, and (ii) persons conducting field research with pesticides, and in doing so, use or supervise the use of restricted use pesticides. Included in the first group are such persons as extension specialists and county agents, commercial representatives demonstrating pesticide products, and those individuals demonstrating methods used in public programs. The second group includes: State, Federal, commercial and other persons conducting field research on or utilizing restricted use pesticides.

(c) *Other categories and subcategories.* Any State submitting a plan pursuant to this section for the certification of applicators, as provided for below, may designate such subcategories within the above 10 categories as it deems necessary. In addition, a State may delete a category not needed or may request the Administrator's approval of additional major categories.

§ 171.4 Standards for certification of commercial applicators.

(a) *Determination of competency.* Competence in the use and handling of pesticides shall be determined on the basis of written examinations, and, as appropriate, performance testing, based upon standards set forth below and which are approved by the Administrator. Such examination and testing shall include the general standards applicable to all categories (§ 171.4(b)) and the additional standards specifically identified for each category or subcategory (if any) in which an applicator is to be

classified (§ 171.4(c)). State standards must conform and be at least equal to those prescribed herein. In developing the details of standards at the State level and in structuring examinations, it is important to recognize and reflect the extent of competency appropriate and necessary to a particular category.

(b) *General standards for all categories of certified commercial applicators.* (1) All commercial applicators shall demonstrate practical knowledge of the principles and practices of pest control and safe use of pesticides. Testing shall be based on examples of problems and situations appropriate to the particular category or subcategory of the applicator's certification and the following areas of competency:

(i) *Label & labeling comprehension.* (a) The general format and terminology of pesticide labels and labeling;

(b) The understanding of instructions, warnings, terms, symbols, and other information commonly appearing on pesticide labels;

(c) Classification of the product, general or restricted; and

(d) Necessity for use consistent with the label.

(ii) *Safety.* Factors including:

(a) Pesticide toxicity and hazard to man and common exposure routes;

(b) Common types and causes of pesticide accidents;

(c) Precautions necessary to guard against injury to applicators and other individuals in or near treated areas;

(d) Need for and use of protective clothing and equipment;

(e) Symptoms of pesticide poisoning;

(f) First aid and other procedures to be followed in case of a pesticide accident; and

(g) Proper identification, storage, transport, handling, mixing procedures and disposal methods for pesticides and used pesticide containers, including precautions to be taken to prevent children from having access to pesticides and pesticide containers.

(iii) *Environment.* The potential environmental consequences of the use and misuse of pesticides as may be influenced by such factors as:

(a) Weather and other climatic conditions;

(b) Types of terrain, soil or other substrate;