

regulations by adding language which clarifies the certified applicator's responsibility to provide federally restricted use pesticide record information for medical treatment.

AMS also received comments supporting allowing 30 days to record pesticide application information because it was consistent with section 1491(a)(2) of the FACT Act which requires certified commercial applicators to provide a copy of a restricted use application record within 30 days of the application. Although the FACT Act requires certified commercial applicators to provide a copy of the record information to their clients within 30 days of application, it does not provide a time period within which a certified applicator, private or commercial, shall make a record.

In addition, numerous commentors supported the 30 day period to make a record because they believed the 7 days did not provide certified applicators adequate time to make a record in peak production periods. AMS has reevaluated the proposed 7 day time period and agrees that during peak production periods certified applicators could need more time to make accurate records due to the long hours many applicators spend in the field during those periods.

Therefore, to provide a balanced approach to assure accurate information for data collection on federally restricted use pesticides and provide adequate time for certified applicators to make a record, we are amending section 110.3(b), which is redesignated in this final rule as section 110.3(c), to require that certified applicators must complete the record within 14 days following the pesticide application. However, whether or not the written record has been completed, the certified applicator shall provide the information to be recorded in accordance with section 110.5(a).

AMS also received comments from certified commercial applicators objecting to the change in the time frame to provide copies of restricted use application records to clients from 30 days to the proposed 7 days. We did not propose to change, nor does this final rule change the time within which certified commercial applicators must provide clients with copies of records of restricted use applications. Certified commercial applicators are still given 30 days to provide a copy of the federally restricted use application record to their clients.

AMS also received comments requesting clarification of the use of the term "official record" in the supplementary information in the proposed rule. The use of the term

"official record" was incorrect. Its use was our attempt to describe the recording of a pesticide application as required under 7 CFR part 110.

Section 110.5(a)—Availability of Records To Facilitate Medical Treatment

Currently, section 110.5(a) of the rule states: "When a licensed health care professional determines that any record of the application of restricted use pesticide required to be maintained under § 110.3 of this part is necessary to provide medical treatment or first aid to an individual who may have been exposed to the restricted use pesticide for which the record is maintained, the certified applicator required to maintain the record shall provide the record information and any available label information promptly to the licensed health care professional. If it is determined by a licensed health care professional to be a medical emergency, the record information of the restricted use pesticide relating to the medical emergency shall be provided immediately."

AMS proposed to amend section 110.5(a) to address concerns that if a strict interpretation was applied to this section, it would require the licensed health care professional to personally make the record information request and possibly hinder access to record information and medical treatment. AMS never intended to prevent an individual acting under the direction of the attending licensed health care professional from requesting record information. We are aware that, in some instances, the attending licensed health care professional may rely on a person acting under his/her direction to make the contacts necessary to obtain the pesticide record information.

In order to clarify the regulations concerning the availability of pesticide record information to facilitate medical treatment, AMS proposed to amend section 110.5(a) to provide that either the licensed health care professional or an individual acting under the direction of the attending licensed health care professional could request record information when necessary to provide medical treatment or first aid. The proposed amendment reads as follows: "When a licensed health care professional, or an individual acting under the direction of the attending licensed health care professional, determines that any record of the application of restricted use pesticide required to be maintained under § 110.3 of this part is necessary to provide medical treatment or first aid to an individual who may have been exposed

to the restricted use pesticide for which the record is or will be maintained, the certified applicator required to maintain the record shall promptly provide the record information and any available label information. If it is determined by a licensed health care professional, or an individual acting under the direction of the attending licensed health care professional, to be a medical emergency, the record information of the restricted use pesticide, relating to the medical emergency, shall be provided immediately."

AMS received 28 comments regarding proposed section 110.5(a). Most of the commentors supported the proposed change. Additionally, several commentors supported the concept of the proposed amendment, but suggested changes in the proposed language to decrease the possibility of unqualified licensed health care professionals obtaining the record information.

After consideration of the comments, AMS agrees that the proposed language could be more specifically worded to address comments received regarding access to records by licensed health care professionals who may not be qualified to provide treatment for pesticide related illness. Therefore, we are adding the word "attending" to licensed health care professional to be consistent throughout the rule and help eliminate request for records or record information from individuals who may be licensed or certified by a state to provide medical treatment or first aid, but are not qualified to provide medical treatment for possible pesticide injury or illness. This final rule amends section 110.5(a) to read as follows:

When the attending licensed health care professional, or an individual acting under the direction of the attending licensed health care professional, determines that any record of the application of a restricted use pesticide required to be maintained under § 110.3 is necessary to provide medical treatment or first aid to an individual who may have been exposed to the restricted use pesticide for which the record is or will be maintained, the certified applicator required to maintain the record shall promptly provide the record information and any available label information. If it is determined by the attending licensed health care professional, or an individual acting under the direction of the attending licensed health care professional, to be a medical emergency, the record information of the restricted use pesticide, relating to the medical emergency, shall be provided immediately.