

EPA's Proposed Revisions to the Worker Protection Standard

Oregon Pesticide Symposium



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April 29, 2014

WPS Overview

- The Agricultural Worker Protection Standard (WPS) was established to provide workplace protections for agricultural workers and pesticide handlers to prevent or reduce occupational pesticide exposure and incidents/illnesses
- Scope: Agricultural establishments (farms, including nurseries and greenhouses, and forest operations)

Reasons for Rule Change

- Reduce Occupational Pesticide Exposure and Incidents
 - Workers and handlers face high risk of exposure to pesticides through their agricultural occupations
 - Current pesticide illnesses and incidents may be avoidable
 - Training may help reduce exposures
- Improve Clarity of Rule to Increase Compliance
 - Add definitions to ensure clarity
 - Address WPS issues raised through Interpretive Guidance Workgroup
- Provide Better Enforcement Tools
 - Recordkeeping requirements to document compliance

Proposed Changes: Training

Current Rule

- Pesticide safety training every 5 years
- Brief training required prior to entering treated area; delay allowed for full pesticide safety training for up to 5 days (“grace period”)
- No recordkeeping requirement

Proposal

- Pesticide training every year
- Expand training content
- “Grace period” allowed for 2 days
- Expand “grace period” training
- Require recordkeeping of training for 2 years

Proposed Changes: Training Cont.

Current Rule

- No record of training provided to employee
- No requirements for worker trainers
- Establishment-specific training not organized into one area

Proposal

- Employer must provide copy of training record to employees
- Worker trainers must complete EPA-approved training program
- Establishment specific training required



Proposed Changes: Notification

Current Rule

- Oral or posted notification of treated areas unless labeling requires both
- Workers entering when restricted-entry interval (REI) in effect (early-entry workers) must receive PPE

Proposal

- Post treated areas when REI is greater than 48 hours
- Provide early-entry workers with oral notification covering
 - information about the pesticide application
 - specific task to be performed
 - amount of time that the worker is allowed to remain in the treated area
- Require recordkeeping of notification

Proposed Changes: Hazard Communication

Current Rule

- Post application-specific information at central display until 30 days after REI expires
- No requirement for making SDS or pesticide labeling available to employees

Proposal

- Reduce burden by removing requirement to post application-specific information at central display
- Make available application-specific information, labeling, and Safety Data Sheets (SDS)
- Retain application-specific information, labeling, and SDS for 2 years

Proposed Changes: Minimum Age

Current Rule

- No minimum age

Proposal

- Require pesticide handlers and early-entry workers (entering during REI) to be at least 16 years old
- Members of owner's immediate family are exempt from this requirement



Proposed Changes: PPE

Current Rule

- Employers must provide PPE required by labeling & ensure respirator fits correctly
- No recordkeeping of respirator fit-testing required

Proposal

- Adopt by reference OSHA standard for respirators – fit test, medical evaluation, respirator training
- Add requirement for recordkeeping of respirator program

Proposed Changes: PPE

Current Rule

- Handlers can reduce PPE if a closed system is used
- No clear standard or maintenance requirements for closed systems included in rule

Proposal

- Add specific requirements for closed systems based on existing CA standard
- Does not establish requirement to use closed system



Proposed Changes: Extend Entry-Restricted Areas to Farms/Forests

Current Rule

- Workers and other persons are prohibited from being in areas adjacent to treated areas (entry-restricted areas) during the pesticide application
- **Applies to nurseries and greenhouses only**

Proposal

- Establish similar entry-restricted areas for farms and forests during applications using same criteria for nurseries
- WPS entry-restricted areas are limited by the boundary of the establishment owner's property

Proposed Changes: Decontamination

Current Rule

- Employers must provide “sufficient amount of water so that the workers/handlers may wash thoroughly.”
- One pint of water required for eye flushing.

Proposal

- Specify minimum amounts of water required for workers, handlers, and early-entry workers on a per worker or per handler basis (i.e., 1 gallon per worker and 3 gallons per handler/early entry worker).
- Require running water at permanent mix/load sites for handler eye flushing.



Proposed Changes: Emergency Assistance

Current Rule

- Employers must provide “prompt” transportation to an emergency medical facility for workers or handlers who may have been exposed to pesticides
- Upon request, employers must provide certain information, if available, to the exposed person or medical personnel

Proposal

- Define “prompt” as within 30 minutes of learning of the exposure
- Require employers to provide the product’s Safety Data Sheet (SDS), labeling, and specific information about the product, as well as the circumstances of the application and exposure, to either the exposed person or to treating medical personnel

Proposed Changes: Requirements During Application

Current Rule

- Prohibits the handler from applying a pesticide in such a way as to contact any workers or other persons directly or through drift

Proposal

- Handler or applicator must “immediately cease or suspend application” if any person other than a trained/equipped handler enters the treatment or entry restricted area
- Retains the prohibition on applying a pesticide in a manner that results in contact



Proposed Changes: Definitions

- Proposal revises the following key definitions:
 - Immediate Family – expands definition and the number of farms eligible for owner and immediate family exemption
 - Handler – clarifies the range of tasks that constitute handler activities
- Remaining revisions to existing definitions are to clarify terms or address other WPS revisions
- Proposal adds the following key definitions:
 - Authorized representative, closed system, commercial pesticide handler employer, commercial production, employ, enclosed cab, enclosed space production, entry-restricted area, forest operation, labor contractor, outdoor production, personal protective equipment, safety data sheet, use, and worker housing area

Costs

- Annual Cost: \$61.9 - \$72.4 million
- \$25 – 30 per employee (worker/handler)
- \$400 for large farms (sales >\$750,000/year)
- \$150 for small farms, ~0.1% of annual sales
- Jobs impact: Would cost an additional \$5 to employ a worker and \$60 to employ a handler.

Benefits from Reducing Acute Incidents

- Estimated reduction in incidents of 50 – 60%, up to 2,800 incidents per year, with substantial underreporting
- Quantifiable benefits from preventing acute agricultural worker illnesses: \$10-14 million per year

Benefits from Potential Reduction in Chronic Incidents

- OPP using “break-even analysis” approach to estimate the number of cases of chronic illnesses that the rule would have to prevent in order for the benefits to exceed the costs
- Break-even analysis develops estimate using cost to treat the illness and willingness to pay to avoid illness
- Illnesses considered in the break-even analysis chosen based on literature review
- Illnesses considered are non-Hodgkin’s lymphoma, prostate cancer, Parkinson’s disease, lung cancer, bronchitis and asthma, for which the literature shows possible association with pesticide exposure
- If only 0.8% (53 cases per year) of these illnesses among farmworkers are prevented by the rule, the benefits of the proposed rule would exceed the cost (>\$64M in benefits)



Comment Period

- The comment period will close June 17, 2014 (90 days after the proposed changes to the WPS were published in the Federal Register)
- May be lengthened if an extension to the comment period is requested



WPS Proposal Resources

- EPA's website on proposed changes to the WPS:
<http://www.epa.gov/oppfead1/safety/workers/proposed/index.html>
- Comparison of current WPS and proposed changes:
<http://www.epa.gov/oppfead1/safety/workers/proposed/comparisons-current-proposed-wps.pdf>
- Full text of proposed changes to the WPS:
<http://www.epa.gov/oppfead1/safety/workers/proposed/pre-pub-wps-proposed-rule.pdf>



Questions?

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