

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 170**

[OPP-250097A; FRL-4949-9]

RIN No. 2070-AC69

Pesticide Worker Protection Standard; Grace Period for Providing Worker Safety Training

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; amendment.

SUMMARY: EPA is amending the 1992 Worker Protection Standard (WPS), by making the 5-day grace period (the number of days of employment before workers must be trained) effective January 1, 1996. Additionally, effective January 1, 1996, EPA is requiring agricultural employers to assure that untrained workers receive basic pesticide safety information before they enter a treated area on the establishment.

EFFECTIVE DATE: This rule will become effective July 17, 1995.

FOR FURTHER INFORMATION CONTACT:

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ADDRESSES: The Agency invites any interested person who has concerns about the implementation of this action to submit written comments identified by docket number "OPP-250097A" to: By mail: Public Response and Program Resources Branch, Field Operations Division (7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number "OPP-250097A." No Confidential Business Information (CBI) should be submitted through e-mail. Electronic

comments on this document may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in Unit VI of this document.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the Virginia address given above from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

SUPPLEMENTARY INFORMATION: This document discusses the background leading to this final rule amending the Worker Protection Standard; summarizes the public's comments on the provisions of the proposed amendments (60 FR 2820, January 11, 1995); provides EPA's response to comments and final determination with respect to modifying the training provisions of the Worker Protection Standard, and provides information on the applicable statutory and regulatory review requirements.

I. Statutory Authority

This rule is issued under the authority of section 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136w(a).

II. Background

In 1992 EPA revised its Worker Protection Standard (40 CFR part 170) (57 FR 38102, August 21, 1992) which is intended to reduce the risk of pesticide poisonings and injuries among agricultural workers who are exposed to pesticide residues. The WPS is also intended to reduce the risk of pesticide poisonings and injuries among pesticide handlers who may face more hazardous levels of exposure. The 1992 WPS superseded the 1974 WPS and expanded the WPS scope not only to include workers performing hand labor operations in fields treated with pesticides, but also to include workers in or on farms, forests, nurseries, and greenhouses, as well as pesticide handlers who mix, load, apply, or otherwise handle pesticides. The WPS contains requirements for pesticide safety training, notification of pesticide applications, use of personal protective equipment, restricted entry intervals

following pesticide application, and decontamination and emergency medical assistance in the event of an accident.

The 1992 WPS requires agricultural employers to assure that before the 6th day of employment (referred to as the grace period) a worker receives basic pesticides safety training before entering any areas on the agricultural establishment where, within the last 30 days, a pesticide has been applied or a restricted entry interval (REI) has been in effect. For the first 5 years after the effective date of the WPS, however, the WPS allows employers up to the 16th day of employment to assure that the worker receives the training. Additionally, workers are required to be retrained at 5-year intervals.

Since the issuance of the 1992 WPS, farmworker groups have expressed an interest in enhancing specific protection measures, while grower groups, the National Association of State Departments of Agriculture and others have expressed an interest in addressing practical, operational concerns. The Agency received various requests and comments in the form of letters, petitions, and individual and public meetings to address concerns with the WPS, some specifically suggesting changes to the training requirements.

In response, EPA proposed five actions to revise elements of the WPS. These actions were published on January 11, 1995 (60 FR 2820), and proposed to:

- (1) Shorten the time periods before which employers must train workers and retrain workers and handlers in pesticide safety.
- (2) Exempt those who perform crop advising tasks from certain requirements.
- (3) Allow early entry to pesticide treated areas to perform certain time-sensitive irrigation activities.
- (4) Allow early entry to pesticide treated areas to perform certain time-sensitive activities resulting in "limited contact" with pesticide-treated surfaces.
- (5) Allow workers to enter areas treated with certain lower risk pesticides after 4 hours rather than 12 hours.

This action addresses the proposed rulemaking to shorten the time periods before which employers must train workers and retrain workers and handlers in pesticide safety. Final determinations on the other four actions mentioned above are being published elsewhere in this issue of the **Federal Register**.