

(2) Entry is prohibited for the first 4 hours after a pesticide application and until ventilation criteria and inhalation exposure levels are met.

(3) PPE must be provided and.

(4) The workers must be informed of the safety information on the product labeling.

The Agency recognizes that a time limit for limited contact tasks will be more difficult to enforce than universally prohibiting workers from entering the treated area under any conditions. EPA contends, however, that in this case, administrative ease must be balanced against the agricultural industry's need to cope with critical needs.

#### *F. Exclusion of Double-Notification Pesticides*

Entry into areas treated with pesticides requiring "double notification" is not allowed under the terms of this exception. The "double notification" provision relates to pesticides that are highly toxic, dermally irritating, or have other health effects that set them apart from other pesticides and requires growers to both post the treated area and orally notify workers of the application.

Several commenters opposing the exclusion of double-notification pesticides asserted that the same tasks are necessary for crops treated with these pesticides; they said they believed the risks would be low since workers would have only "minimal contact with treated surfaces," and that PPE would provide adequate protection. Other alternatives proposed included: Allowing entry to fields based on the height of the crop or on the nature of the task, rather than on the toxicity of the pesticide, and reducing the maximum time allowed in fields treated with double notification pesticides.

Another commenter stated that other hazardous pesticides as well as ones posing chronic risk have not been subjected to the double notification requirement and are, therefore, still included under this exception.

The Agency is convinced that allowing workers to enter a field treated with a double-notification pesticide before the expiration of the REI would pose an unreasonable risk. Incidental exposure to double-notification and other highly toxic pesticides, such as brushing against a treated surface, more than with other pesticides, has the potential to cause an acute illness or a delayed effect. There are reports of acute poisonings which have occurred after short-term exposure to many of these highly toxic pesticides. Thus, shortening the period allowed for early

entry may still not provide adequate protection. EPA has data demonstrating that the majority of pesticides requiring double-notification are responsible for many reported incidents of worker poisonings. The Agency is prohibiting early entry during the REI to fields treated with pesticide products which require both the posting of treated areas and oral notification to workers (i.e. double-notification).

EPA acknowledges the concern raised by commenters that exclusion of double notification pesticides may not guarantee that all hazardous chemicals are excluded from use under this exception. EPA believes it has excluded a group of pesticides known to be responsible for many poisoning incidents because of their acute toxicity. The Agency believes that worker exposure to other pesticides has been addressed by the stringent terms of this exception.

#### **IV. Definitions and Examples**

##### *A. Definitions*

This exception defines a "limited contact task" as follows:

A limited contact task is a non-hand labor task performed by workers that results in minimal contact with treated surfaces (including but not limited to soil, water, surfaces of plants, and equipment), and where such contact with treated surfaces is limited to the forearms, hands, lower legs, and feet.

This exception specifically prohibits hand labor activity, as defined by the WPS. The WPS defines "hand labor" as follows:

Any agricultural activity performed by hand or with hand tools that causes a worker to have significant contact with surfaces (such as plants, plant parts, or soil) that may contain pesticide residues.

##### *B. Examples*

Examples of possible limited contact tasks that might qualify for the exception include, but are not limited to: The operation and repair of weather monitoring and frost protection equipment; the repair of greenhouse heating, air conditioning, and ventilation equipment; the repair of non-application field equipment; the maintenance and moving of beehives.

Examples of hand labor activity that is specifically prohibited include, but are not limited to: Harvesting; detasseling; thinning; weeding; caning; girdling; topping; planting; sucker removal; pruning; disbudding; roguing; packing produce into containers in the field.

Hand labor does not include operating, moving, or repairing

irrigation or watering equipment or performing the tasks of crop advisors. Hand labor tasks involve substantial contact and have a potential for high exposure.

#### **V. Terms of the Exception**

The exception described in this Notice may be used unless early entry is expressly prohibited in product labeling. For example, some labels prohibit entry — including entry that would otherwise be permitted under the WPS and this exception — by any person other than trained and equipped handlers performing handling tasks for specified periods after the application. It should be noted that because this exception allows tasks to be performed during the REI, all persons engaged in irrigation tasks permitted under this exception must be trained.

Under this exception, a trained worker may enter a treated area during a restricted entry interval to perform a limited contact task if the agricultural employer ensures that the following requirements are met:

(1) The need for the task could not have been foreseen and cannot be delayed until after the expiration of the REI. A task that cannot be delayed is one that, if not performed before the REI expires, would cause significant economic loss, and there are no alternative tasks which would prevent significant loss.

(2) No hand labor activity is performed. (The WPS defines "hand labor" as any agricultural activity performed by hand or with hand tools that causes a worker to have substantial contact with surfaces (such as plants, plant parts, or soil) that may contain pesticide residues.)

(3) The worker's only contact with treated surfaces (including but not limited to soil, water, surfaces of plants, crops), is minimal and is limited to feet, lower legs, hands, and forearms.

(4) The personal protective equipment for early entry must be provided to the worker by the agricultural employer for all tasks. Such personal protective equipment shall either: (a) Conform with the label requirements for early entry PPE; or (b) consist of coveralls, chemical-resistant gloves, socks, and chemical-resistant footwear, and eyewear (if eyewear is required for early entry PPE by the product labeling). In either case, the PPE must conform to the standards set out in § 170.112(c)(4)(i) through (c)(4)(x).

(5) The pesticide product does not have a statement in the pesticide product labeling requiring both the posting of treated areas and oral notification to workers ("double