

or Tribal requirements. The agricultural employer, however, is responsible for assuring that workers receive required training and the handler employer is responsible for assuring that handlers receive the required training.

To assist agricultural employers in fulfilling their responsibilities to ensure training and to provide a uniform national standard for the conduct of worker training, EPA and the U.S. Department of Agriculture have established a joint training verification program. Under this program, which would be administered on a voluntary basis by States through agreements with EPA, workers who have been trained may be issued a training verification card. The card could be shown to each agricultural employer who hires the worker. Under § 170.130(d) possession of a valid card serves as proof of training, thus relieving the employer of having to provide training or to determine whether and when training is required.

The training verification program is beneficial to the agricultural employer and workers alike in that it provides a common basis for agreement that training provided to the worker meets the requirements of the WPS. EPA expects the training verification card program to benefit agricultural employers because it obviates the need to train a worker, thus minimizing the costs of the WPS training requirement. Without such a card system, the employer might have to provide training more frequently and to more workers to assure that all had received training.

For workers, possession of a card assures that they will be able to work immediately without unnecessary delay for training.

III. Current WPS Training Provisions at Issue

This proposal addresses three elements of the worker training requirements. The three elements are: the grace period before training must be provided; the phase-in period for the grace period for workers; and the retraining requirement for workers and handlers.

1. *The grace period before training must be provided.* Section 170.130(a)(3)(i) requires agricultural employers to assure that workers have been trained in pesticide safety before their 6th day of entry into areas on the agricultural establishment that have been treated with a pesticide or that have been under a restricted entry interval (REI) within the previous 30 days.

EPA emphasizes that the grace period applies only to routine worker training,

not early-entry training or handler training. No changes are being proposed or considered for early entry or handler training.

2. *The interim grace period for workers.* The current WPS requires that the agricultural employer assure that a worker receives pesticide safety training before the 6th day of entry into any treated area on the agricultural establishment. Section 170.130(a)(3)(ii) provides for an exception for a 5-year period until October 20, 1997, during which time workers would be allowed to enter treated areas at the establishment for 15 days before the employer must assure that they have been trained. After October 20, 1997, the 15-day grace period is no longer in effect.

3. *The retraining requirement for workers and handlers.* Section 170.130(a)(1) requires that agricultural employers assure that each worker has been trained within the previous 5 years. Section 170.230(a)(1) requires that handler employers assure that each handler has been trained within the previous 5 years.

IV. Reasons for this Proposal

The WPS is intended to reduce the risk of pesticide poisonings and injuries among agricultural workers and pesticide handlers through implementation of appropriate measures. Pesticide safety training is a key component of the Standard - trained, informed workers and handlers can take steps to avoid exposure or mitigate harmful pesticide effects, thereby reducing the number and severity of pesticide poisonings and other adverse effects.

Subsequent to promulgation of the final rule in 1992, the Agency received comments from farm worker groups suggesting changes in the grace period and the retraining interval. Additionally, the Agency was petitioned by the National Association of State Departments of Agriculture (NASDA) to eliminate the interim grace period. The Agency also met a number of times with farm worker groups to hear their concerns on the worker training provisions. Following is a summary of their concerns on the training grace period and 5-year retraining interval.

A. Training Grace Period

Farm worker groups are concerned that the current grace period would result in untrained workers being harmed on the job. They contrasted the WPS grace period with the Occupational Safety and Health Administration's (OSHA) Hazard Communication Standard training

requirement (29 CFR 1910.1200), under which workers must be trained about hazardous chemicals in their work area before first exposure.

States and farm worker groups asserted that the grace period would be difficult to enforce. Subsequent to publication of the WPS, the California Department of Pesticide Regulation (CDPR) raised concern about the anticipated difficulties in enforcing the training requirement. They asserted that it may not be feasible to track accumulated days in treated areas in anticipation of the required training and that employers cannot track the activities of every worker in their employ.

Additionally, farm worker groups were concerned that the grace period could encourage employers to avoid providing the required training. They were particularly concerned that, because of the transient nature of the agricultural workforce, workers who move frequently might never be trained if training were required only after a 5-day grace period per establishment. They noted that some workers might not spend 5 days on any particular establishment.

Finally, the farm worker groups argued that all workers should be entitled to know how to protect themselves from pesticide residues before entering treated areas; for training to be effective in reducing risk, they argued, training must take place before possible exposure to pesticides.

B. Five-Year Retraining

Farm worker groups are concerned that the 5-year retraining interval is too long to be effective. They assert that large numbers of workers and handlers, particularly field labor contractor employees, might not have regular access to the safety poster displayed on the agricultural establishment because they are hired off the farm and taken directly to the field. EPA's confidence in the safety poster as a means of reinforcing training, they claim, is misplaced. Also, many workers and handlers may not read well (or not be literate in the poster language), so the impact of poster messages might be limited. Qualified trainers assert that repeat training enhances the retention of safety training information.

The farm worker groups also requested a shorter retraining interval. They pointed to other regulatory programs under OSHA, EPA, and State initiatives that require annual retraining. They also noted that agricultural employment is seasonal in nature, and farm workers realistically cannot be expected to remember