

Requesters state that company records indicate 11 pesticide related incidents between 1985 and 1993. They estimate their records cover 80 handlers and 700 workers with field oriented tasks, working 40 to 48 hours per week, 12 months per year, for 15,795,000 exposure hours. They report 10 unforeseen incidents involving handlers, including exposure due to a broken hose or fittings. Requesters note that all but one incident occurred before 1990, when operational sequences were changed to address the exposure episodes. The one incident which required absence from work did not involve pre-emergence herbicide application, but rather hand application later in the crop cycle.

IV. The Agency's Exception Proposal

A. Background

Since the Worker Protection Standard was promulgated in August 1992, the Agency has received information from growers and representatives from the Departments of Agriculture in several states regarding the 1-hour-per-worker-per-day limit during a restricted-entry interval to perform irrigation-related tasks. Most commenters, including the National Association of the State Departments of Agriculture (NASDA), asserted that the restriction would cause substantial disruption in the production of a wide variety of agricultural crops across a broad geographic area. NASDA and others urged the Agency to consider allowing entry during a restricted-entry interval for an unlimited time per day per worker, if the worker would not have substantial contact with treated surfaces, including crop foliage.

They asked the Agency also to consider establishing a single suite of personal protective equipment that could be worn by irrigation workers rather than requiring them to wear the early-entry PPE specified on the labeling of the pesticide applied to the treated area. They argued that often irrigation workers need to work in several different treated areas in a single workday and that it would be burdensome to require workers to consult the pesticide label and to change their PPE before entering each different area. Although not directly addressed in the exception requests from California and Hawaii, these concerns are reflected in EPA's following proposed exception for irrigation tasks, and in the comments and information EPA solicits through this notice.

The proposed exception specifically excludes pesticides whose labeling requires "double notification" — both

the posting of treated areas and oral notification to workers. The following Table lists the active ingredients subject to this requirement, which were identified in PR Notice 93-7.

B. Worker Protection Standard "Double Notification" Active Ingredient List

The following Table 1 does not contain the active ingredients in products already bearing mandatory posting requirements prior to adoption of the WPS and which must be retained under WPS. It may also contain a few active ingredients which upon further Agency review, such as during reregistration, will be found not to require double notification (posting of treated areas and oral notification to workers). EPA expects the list to be amended prior to any final determination by the Agency. Nonetheless, EPA believes that this list contains the bulk of the active ingredients subject to double notification, and the list is included in this notice for the convenience of commenters. These pesticides contain an active ingredient categorized as highly toxic when absorbed through the skin (acute dermal toxicity), or as highly irritating (corrosive) when it contacts the skin, or otherwise are pesticides considered by EPA as posing high risk to workers for reasons such as suspected delayed effects, epidemiological data, or unusually long restricted-entry intervals. The Agency requires "double notification" for a pesticide when an incidental exposure — for example, contact from brushing against the treated surfaces — has the potential to cause an acute illness or injury or a delayed effect, such as developmental toxicity. For pesticides that contain "double notification" requirements on their labeling, the short-term (1 hour per worker per day) exception at 40 CFR 170.112(c) would continue to apply.

TABLE 1.—DOUBLE NOTIFICATION ACTIVE INGREDIENT LIST
From PR Notice 93-7, Appendix 3-A

Common name	Chemical code	CAS Number
aldicarb	098301	116-06-3
aldoxycarb	110801	1646-88-4
arsenic acid	006801	7778-39-4
arsenic trioxide	007001	1327-53-3
carbofuran	090601	1563-66-2
chlorfloreinol	098801	2536-31-4
chloropicrin	081501	76-06-2
cuprous oxide	025601	1317-39-1
disulfoton	032501	298-04-4

TABLE 1.—DOUBLE NOTIFICATION ACTIVE INGREDIENT LIST—Continued
From PR Notice 93-7, Appendix 3-A

Common name	Chemical code	CAS Number
dodine	044301	2439-10-3
endothall, dimethylcocoamine.	038905	
endothall, disodium salt.	038903	129-67-9
ethephon	099801	16672-87-0
ethoprop	041101	13194-48-4
fonofos	041701	944-22-9
(s)-(+)-lactic acid ..	128929	79-33-4
metam-sodium	039003	137-42-8
methamidophos ...	101201	10265-92-6
methyl bromide	053201	74-83-9
methyl parathion ..	053501	298-00-0
mevinphos	015801	7786-34-7
nicotine	056702	54-11-5
paraquat	061601	1910-42-5
parathion	057501	56-38-2
phorate	057201	298-02-2
profenofos	111401	41198-08-7
propargite	097601	2312-35-8
sabadilla alkaloids	002201	8051-02-3
sulfotepp	079501	3689-24-5
sulfuric acid	078001	7664-93-9
sulprofos	111501	35400-43-2
tefluthrin	128912	79538-32-2
terbufos	105001	13071-79-9
TPTH	083601	76-87-9

The Agency has identified a range of national irrigation options with varying time and duration of entry, required PPE, and levels of exposure. The Pesticide Compliance Dates Extension Act, Pub. L. No. 103-231, included these irrigation provisions:

[A] worker may enter an area treated with a pesticide product during the restricted entry interval specified on the label of the pesticide product to perform tasks related to the production of agricultural plants if the agricultural employer ensures that — (1) no hand labor activity is performed; (2) no such entry is allowed for the first 4 hours following the end of the application of the pesticide product; (3) no such entry is allowed until any inhalation exposure level listed on the product labeling has been reached; and (4) the personal protective equipment specified on the product labeling for early entry is provided in clean and operating condition to the worker.

(b) Protective Equipment for Irrigation Work. — For irrigation work for which the only contact with treated surfaces is to the feet, lower legs, hands, and arms, the agricultural employer may provide coveralls,