

has seriously considered NASDA's request and acknowledges that there may be certain non-hand labor tasks that may be necessary while a treated area remains under an REI, such that the benefits resulting from the performance of these tasks outweigh the risks associated with the tasks as long as the workers can perform the early entry tasks with minimal contact. While the WPS does provide in §170.112 for exceptions for short-term tasks and 'no contact' tasks, EPA recognizes that there may be non-hand labor tasks that may not be able to be performed under the time limitations of the short-term (1 hour) exception, or may not completely fit under the provisions of the no contact or agricultural emergency exceptions.

B. Discussion of EPA's proposal

EPA proposes an exception that would allow workers to perform limited contact tasks for up to 3 hours during the REI if: (1) the tasks must be performed during the REI, (2) the inhalation exposure level or ventilation criteria have been met (3) the tasks result in minimal contact with treated surfaces, (4) contact with pesticides is limited to forearms, hands, lower legs, and feet, and (5) the specified PPE requirements are met.

There may be non-hand labor tasks that must be performed during the REI that are necessary for crop production. Examples of possible limited contact tasks include: (1) the operation and repair of weather monitoring equipment, and frost protection equipment, (2) repair of greenhouse heating, air conditioning, and ventilation equipment (3) repair of non-application field equipment, and (4) maintaining and moving beehives.

The following scenarios provide examples of limited contact tasks:

(1) The information collected from weather monitoring equipment is often critical for the successful implementation of integrated pest management and agricultural production (e.g., rainfall amounts, degree days). Weather information is used to schedule pesticide and irrigation applications, and it may be necessary to enter the treated area during an REI to collect the information. Weather equipment may be stationed in more than one location around a large treated area, and it may take longer than 1 hour for the worker to walk to each site to complete the information collection. The worker must walk through the treated area, but all of the treated plants are well below knee-height and/or are sufficiently spaced apart so that the task may be accomplished in a manner that results in minimal contact with treated surfaces, and such contact is only to lower arms, hands, lower legs, and feet.

(2) On occasion, unanticipated repairs must be made to non-application field equipment while in the treated area during an REI. The immediate repair of the non-application field equipment is necessary and important to crop production. The nature of the breakdown, and/or the size of the equipment may hinder the removal of the equipment from the treated field for repair, and the repair may not be able to be completed within an hour.

The proposed exception specifically excludes pesticides whose labeling requires "double notification", i.e., the labeling requires both the posting of treated areas and oral notification to workers. EPA requires double notification for a pesticide when exposure — for example, contact with treated surfaces — has the potential to cause acute illness or injury. 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) and PPE requirements would still apply. For the convenience of commenters, the following Appendix A lists the active ingredients subject to WPS that may be subject to the double notification requirement.

Appendix A

Worker Protection Standard "Double Notification" Active Ingredient List

Please note that Appendix A (From PR Notice 93-7, Appendix 3-A) is incomplete in several respects: first, it does not contain the active ingredients in products already bearing mandatory posting requirements prior to adoption of the WPS and that must be retained under WPS; second, it may contain a few active ingredients that will be found to not require double notification upon further EPA review (such as reregistration), and third, active ingredients requiring double notification may be added during reregistration or other Agency action. Nonetheless, EPA believes that this list contains the bulk of the active ingredients subject to double notification. These listed 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 is considered by EPA as high risk to workers. In addition, the exception excludes pesticides whose labels prohibit any person from entering during the REI. In other words, the label does not allow the use of the exceptions set out in §170.112.

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
chlorflurenol	098801	2536-31-4
chloropicrin	081501	76-06-2
cuprous oxide	025601	1317-39-1
disulfoton	032501	298-04-4
dodine	044301	2439-10-3
endothall, dimethylcocoamine	038905	
endothall, disodium salt	038903	129-67-9
ethephon	099801	16672-87-0