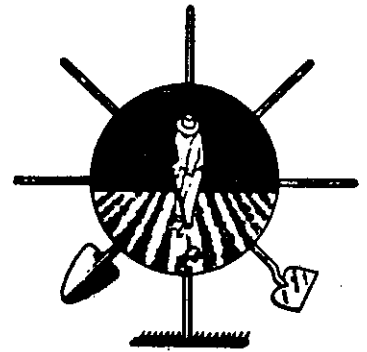


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**THE WORKER PROTECTION STANDARD
 AND ITS AMENDMENTS**

The 1992 Worker Protection Standards

On August 21, 1992, the United States Environmental Protection Agency (EPA) published the Worker Protection Standard (WPS). 57 Fed. Reg. 38,102 (August 21, 1992). The WPS, which had been developed over eight years, covers workers on farms, and in forests, nurseries, and greenhouses, as well as those who handle pesticides. This memorandum will briefly summarize the 1992 WPS and the 1995-96 changes.

I. In brief the 1992 WPS required the following:

Emergency Assistance: The regulations require that the employer post at a central location the name, address, and telephone number of the nearest emergency facility. This information may be included on the required pesticide safety poster or placed nearby. The employer must make available to any worker or handler who may have been poisoned by pesticides prompt transportation to an emergency medical facility. Upon request, the employer must provide the worker or medical personnel any available label information about the pesticide to which the worker may have been exposed. 57 Fed. Reg. 38,125.

Re-entry Intervals and General Early Entry Exceptions: The regulations set generic re-entry intervals (REIs) for all pesticides for which pesticide-specific REI's have not been established, based on the acute toxicity of the product. A "re-entry interval" is the time that must elapse after a pesticide is applied before workers without personal protective equipment can enter the area. EPA set the minimum restricted entry interval at twelve hours. 57 Fed. Reg. at 38,109. Other REIs are twenty-four (toxicity category II), forty-eight hours (some toxicity category I) and seventy-two hours (the most dangerous toxicity category I).

The Agency allows for entry before the REI has expired for tasks, which do not involve hand labor. where there is no contact with pesticide treated surfaces. This would include operating a closed vehicle with a filtration system, travelling in the aisles between pesticide treated rows, etc. 57 Fed. Reg. 38,111. In any case, no entry is permitted for the first four hours after the pesticide application and early entry tasks cannot last more than eight hours in a twenty-four hour period. 57 Fed. Reg. at 38,112.

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Worker Protection Standard and Its Amendments

The EPA also created an exception for hand labor tasks in the event of an agricultural emergency. However, such an emergency must be declared by a Tribal, State or Federal Agency, and entry is only allowed after four hours have passed since application, with adequate PPE, for a maximum of eight hours in a 24 hour period.

Finally, the EPA established a process by which growers could petition the agency for an REI exception for a particular pesticide or cultivation practice.

Training: Field workers and handlers must be given pesticide training in a manner that the workers can understand. 57 Fed. Reg. at 38,125. This training must include information on where and how workers might come into contact with pesticides, acute and chronic health effects of pesticides, signs and symptoms of poisoning, first aid measures, and hazards from drift and from residues on work clothes.

The training must take place within 15 days of a worker's beginning work in any areas where a pesticide has been applied or an REI has been in effect within the last thirty days. 57 Fed. Reg. at 38,126. In five years the training grace period would be reduced from fifteen days to five days. The training grace period does not apply to early entry workers or handlers.

Posting: Mandatory posting is required for Toxicity Category I pesticides, and for other pesticides as determined by the EPA. In addition, all pesticide applications in greenhouses must be posted with an EPA warning sign or its equivalent. In other circumstances, the EPA has given growers the option of using oral or written notification to workers regarding treated areas. 57 Fed. Reg. at 38,114. No warnings are needed if workers will not come within 1/4 of a mile of a pesticide treated area during the time between application of a pesticide and the expiration of the REI. 57 Fed. Reg. at 38,114.

Chemical List: Growers are required to post a chemical list in a central place on the agricultural establishment, stating the name of each pesticide applied within the past thirty days and the location of each such application.

Personal Protective Equipment: The EPA requires PPE for handlers and early entry workers. 57 Fed. Reg. 38,117. For early entry activities, the required PPE is that of the applicator. Generic PPE requirements vary with the acute toxicity category of the pesticide; chemical specific PPE requirements apply where they have been stated on the label.

Decontamination Water: Employers must provide a decontamination site when workers will come into contact with pesticide-treated surfaces before an REI has expired or if a pesticide has been applied within thirty days. 57 Fed. Reg. at

38,123. The site must include water for routine washing and emergency eye-flushing, and soap and disposable towels. The water itself may be such as to cause injury or illness if swallowed. The decontamination supplies must be located within 1/4 mile of the worksite, or at the nearest place of vehicular access. If necessary, water from streams, spring, or lakes can be used. 57 Fed. Reg. at 38,124.

Rose Exception: The EPA allowed an early entry exception for workers involved in the cultivation and harvesting of roses. Under this special exception, hand labor tasks are allowed as long as no entry occurs within the first four hours after application, the employer provides PPE, decontamination water, and change areas, the workers are trained, and measures to prevent heat-related illnesses are taken when appropriate. 57 Fed. Reg. 38,175. The time in treated areas cannot exceed three out of any twenty-four hour period. This exception was due to expire in June, 1996. A request for renewal has just been filed. The EPA is accepting comments until the end of November, 1996.

II. THE 1995 - 1996 CHANGES

Amendments of May 3, 1995: Establishing 4-hour REIs for "Low Toxicity" Pesticides; Requiring Worker Training Within 5 Days; Permitting Early Entry Exceptions for Crop Advisors and Their Employees, for Limited Contact Work and for Irrigators

The EPA reduced the REIs for certain low risk pesticides from twelve hours to four hours. The pesticides so designated were listed in the May 3, 1995 Federal Register (60 Fed. Reg 21,965). and became effective that day. Some of these "low risk" pesticides cause skin or eye irritation.

The EPA reduced the grace period for worker training from 15 days to 5 days. 60 Fed. Reg. 21,944. The EPA also requires employers to provide brief pesticide safety information to untrained agricultural workers during the 5 day grace period, before they enter areas which have been treated with pesticides within the past 30 days. Employers are required to verify compliance with this requirement. This rule became effective on July 17, 1995.

Certified or licensed crop advisors and their employees are now exempt from REI restrictions while they are performing crop advisory tasks. Nor are they required to wear PPE when reentering a field during the REI period. They cannot, however, enter an area while pesticides are being applied. 60 Fed. Reg. 21,948. Also, certified advisors and their employees are no longer subject to the worker or handling training requirements. This rule became effective July 17, 1995.

Another newly created REI exception allows workers to re-enter

pesticide treated areas during restricted entry intervals in order to perform limited contact work (e.g., no hand labor activities which entail substantial contact with pesticide-treated surfaces). 60 Fed. Reg. at 21,955. Workers must be provided with PPE and the time in the treated area must not exceed eight hours in any twenty-four hour period. 60 Fed. Reg. at 21,957. The effective date of this rule is May 3, 1995.

Irrigation workers are permitted to re-enter pesticide treated areas during restricted entry intervals. 60 Fed. Reg. at 21,955. Workers must be provided with limited PPE and the work period must not exceed eight out of twenty-four hours. 60 Fed. Reg. 21,957. This rule became effective May 3, 1995.

Amendments of June 26, 1996: Reduced Time Requirement for Decontamination Water for "Low Toxicity" Pesticides and Changes in the Required Warning Sign

The EPA reduced from 30 days to 7 days, the length of time for which decontamination supplies (soap, water, paper towels) must be available to workers entering a field where low toxicity pesticides have been used. Low toxicity pesticides are those which have restricted entry intervals of four hours or less. The reduced time period does not apply when two or more pesticides are mixed together, unless all of the pesticides in the mixture have REIs of four hours or less. Employers may still choose to provide decontamination supplies for longer periods of time. 60 Fed. Reg. 50,686.

Another amendment allowed employers to replace the Spanish language on required warning signs with another language tailored to the language most often used by workers in that location. The sign must be in the format required by the WPS and be visible and legible. The requirement of an English portion of the sign was not changed. The use of the English/Spanish sign is always acceptable. Smaller signs are also allowed as long as they meet certain minimum letter size requirements. 60 Fed. Reg. 50,682.

The original WPS guidelines called for signs to be fourteen inches by sixteen inches. The growers had argued that particularly in nurseries, such signs were too burdensome. The EPA now permits one inch letters and allows smaller signs when the standard size sign interferes with operations. 60 Fed. Reg. 50,686. The effective date of these amendments, including the reduced REIs is August 26, 1996.