

Ran's Copy

OUTLINE OF PROPOSED PESTICIDE APPLICATION STANDARDS

7.25 SCOPE OF PESTICIDE APPLICATION STANDARDS.....1

- (a) Purpose.....1
- (b) Exemptions from regulation.....1
- (c) Conditional exemptions from regulation.....1
- (d) Definitions.....2

7.26 NOTIFICATION REQUIREMENTS.....4

- (a) Responsibility.....4
- (b) Exemption from notification requirements.....4
- (c) Who may request.....4
- (d) Content of request.....4
- (e) Certified mail preferred.....5
- (f) Length of effectiveness.....5
- (g) Multiple requests.....5
- (h) Exception.....6
- (i) Content of notice.....6
- (j) Time of notice.....6
- (k) Form of notice.....6
- (l) Emergency.....6

7.27 WORKER REENTRY INTO TREATED FIELDS.....7

- (a) Responsibility.....7
- (b) Fields with reentry intervals of 7 days or less.....7
- (c) Fields with reentry intervals of more than 7 days.....8
- (d) Posting of flags.....8

7.28 ORAL WARNING.....9

- (a) Responsibility.....9
- (b) Content of warning.....9
- (c) Language of the warning.....10

7.29 PROHIBITED PESTICIDE APPLICATIONS.....	10
(a) Direct spray prohibited.....	10
(b) Human exposure prohibited.....	10
(c) Ordered entry prohibited.....	10
(d) Protective clothing.....	10
(e) Duty to stop application.....	11
(f) Duty to avoid drift.....	11
7.30 REENTRY INTERVALS.....	12
(a) Applicable interval.....	12
(b) Reentry intervals for all crops.....	12
(c) Reentry intervals for labor intensive crops.....	12
7.31 TECHNICAL ADVISORY COMMITTEE.....	16
(a) Purpose.....	16
(b) Priority action.....	17
(c) Standards for establishing reentry intervals.....	17
(d) Best available information.....	17
(e) Petition for review.....	18

1. TDA Resource

o Sam Bissoe, Leland

2. Hearings on the Regs

o November 12th - Corpus

14

16

7.25 SCOPE OF PESTICIDE APPLICATION STANDARDS

- (a) Purpose. The purpose of Sections 7.25 through 7.31 of this title shall be to establish pesticide application standards designed to prevent unreasonable risk to human health and incorporate a reasonable margin of safety necessary to ensure the protection of workers and others in the production of agricultural commodities.
- (b) Exemptions from regulation. These regulations do not apply to:
- (1) Pesticides used in structures, greenhouses, personal gardens, health related or aquatic pest control programs conducted by or under the authority of governmental entities, and regulatory pest control;
 - (2) Persons determined by the Commissioner to have only limited and intermittent exposure to treated plants such as pest control advisors, and federal, state and county employees who need to enter treated areas before the expiration of applicable reentry intervals; and
 - (3) Livestock.
- (c) Conditional exemptions from regulation. Sections 7.27 and 7.30 of these regulations do not apply to crops which do not require a worker to have substantial contact with plants, foliage, soil or other sources where pesticide residues may exist, which include but are not limited to cotton, wheat, rice, hay or grazing crops, peanuts, rye, safflower, sesame, sorghum, corn, barley, sugarcane, soybeans, sugar beets, flax, oats, sunflowers, alfalfa and guar. If a worker is required to make substantial contact with plants, foliage, soil, or

other sources of pesticide residue after application of a pesticide and before expiration of the applicable reentry interval on such crops, however, Sections 7.27 and 7.30 of these regulations apply.

(d) Definitions. In addition to the definitions set out in Texas Agriculture Code, Chapter 76, Section 76.001 (1981), and Section 7.1 of this chapter, the following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

- (1) Labor intensive crops. Labor intensive crops are those crops requiring a worker to make substantial contact with plants, foliage, soil or other sources of pesticide residue after application of a pesticide and before expiration of the applicable reentry interval, which include but are not limited to vegetables, fruit, seed corn, and seed sorghum.
- (2) Appropriate protective clothing. Appropriate protective clothing means protective clothing as specified for the applicator on the label or as required by state or federal law or regulation, whichever is more protective. At a minimum, such protective clothing shall include a loose fitting one or two-piece garment of closely woven or impermeable material which is worn over normal work attire and affords entire body protection (except for the feet, hands or head), head covering, boots or shoes and socks, and gloves impermeable to the pesticide residue.
- (3) Farm operator. The farm operator is the person responsible for the control and management of the crop.

Responsibilities of the farm operator may be contracted to a second party. However, if the effective date of the transfer of responsibility is unclear, both the farm operator and the second party may be held liable for any violation of these regulations.

- (4) Person. The term person includes any individual, partnership, association, corporation, and any organized group of persons, whether incorporated or not.
- (5) Points of access. Points of access are places on the border of a field at which workers might reasonably be anticipated to enter the field.
- (6) Reentry interval. A reentry interval is the period of time between the application of a pesticide and the time when persons may reenter the field without wearing appropriate protective clothing.
- (7) Worker. A worker is any person who performs work for compensation by the farm operator, either directly or indirectly, and enters a field for any reason associated with the growing or management of the crop, including field workers, irrigation workers and pesticide applicators.
- (8) Workplace. The term workplace includes outdoor areas or nurseries to which pesticides are being applied and where workers may reasonably be expected to enter during the course of performance of his/her duties.

7.26 NOTIFICATION REQUIREMENTS

- (a) Responsibility. The farm operator shall be responsible for prior notification requirements.
- (b) Exemption from notification requirements. All applications of pesticides by ground application equipment are exempted from these provisions. Applicators using ground equipment shall allow a reasonable buffer zone around the targeted area to control drift which may cause damage to property or exposure to persons or animals.
- (c) Who may request. Any person who works or resides in a building, house, or other structure immediately adjacent to farm lands on which pesticides are to be applied may request prior notification of any pesticide application. In addition, the following persons may request prior notification of a pesticide application:
 - (1) Persons with chemical hypersensitivities, allergies, or other medical conditions which may be aggravated by a pesticide exposure whose residence or place of employment is within one mile of the place of application, if they attach to the request a doctor's written confirmation of the medical condition; and
 - (2) Persons who may be economically affected by a pesticide application within one mile of their place of business, such as stockpersons and beekeepers who have stock or hives, if they attach to the request a statement of potential economic harm.
- (d) Content of request. The request for prior notification shall be made in writing to the farm operator and should include:

- (1) The name, address and telephone number of the person making the request;
 - (2) The date of the request;
 - (3) The location of the land for which the request for notification is being made; and
 - (4) A request to be notified prior to the application of any pesticides to the area described in (d)(3) above or the trade name and/or chemical name of specific pesticides for which prior notification is requested.
- (e) Certified mail preferred. Requests for prior notification should be sent by certified mail. It shall be the responsibility of the person making the request to retain copies of the request and the return receipts of certified letters.
- (f) Length of effectiveness. A request for prior notification shall be in effect through December 31 of the year that the request is received.
- (g) Multiple requests. When more than one person residing in the same building or working in the same workplace immediately adjacent to the property on which a pesticide is being applied requests prior notification, general notice shall be sufficient. In providing general notice, the farm operator shall initially inform each person making a request as to the place and manner in which general notice will be provided. The farm operator shall provide such general notice in writing, posted in a prominent place in a public area, at least 24 hours prior to the scheduled application of any pesticide for which notice is required.

- (h) Exception. No request for prior notification is necessary for schools, hospitals or temporary housing provided for workers within a one-half mile of the land on which pesticides are to be applied. The farm operator shall provide written notice to the director, owner, or the person in charge of the site. This person should communicate such notice to all appropriate persons at the site.
- (i) Content of notice. Notice shall include:
 - (1) The intended date and approximate time of application;
 - (2) The trade and chemical name, unless otherwise requested, of the pesticide to be applied; and
 - (3) The location of the land on which the application is to be made.
- (j) Time of notice. Notice shall be given at least 24 hours prior to the scheduled application. Notice shall be deemed given at the time of delivery to the requesting person or to the address provided in the request for prior notification.
- (k) Form of notice. Notice may be written or oral unless either is specifically required or requested. Notice shall be made in a language understood by the person(s) receiving notice.
- (l) Emergency. Advance notice need not be given in emergencies where an immediate application is required and time does not reasonably allow the giving of an advance 24-hour notice, except in cases where the requesting persons are medically or economically affected. Notice of emergency applications shall be given as soon as reasonably possible before or after the application and shall include a brief explanation of the circumstances constituting the emergency.

7.27 WORKER REENTRY INTO TREATED FIELDS

(a) Responsibility.

- (1) The farm operator shall be responsible for complying with these requirements.
- (2) The farm operator shall be responsible for knowing or having access to the trade and chemical name of the pesticide and label safety requirements and making such information available to workers, victims of pesticide exposure and treating medical personnel promptly upon request.
- (3) No person may apply any pesticide unless there is compliance with these regulations. Where posting of flags is required, such flags must be in place before application can occur.

(b) Fields treated with pesticides with reentry intervals of 7 days or less. A farm operator may take either of the following actions to ensure adequate worker protection after application of a pesticide for which a reentry interval of 7 days or less has been established pursuant to Section 7.30:

- (1) Prohibit workers from entering the treated area until expiration of the reentry interval and enforce compliance with such prohibition; or
- (2) Allow workers who are wearing appropriate protective clothing as defined in these regulations into the treated area during the reentry period, and post in accordance with subsection (d).

- (c) Fields treated with pesticides with reentry intervals of more than 7 days. All fields treated with pesticide for which a reentry interval more than 7 days has been established pursuant to Section 7.30 shall be posted for the entire reentry interval in accordance with subsection (d). A farm operator must also:
- (1) Prohibit workers from entering the treated area until expiration of the reentry interval and enforce compliance with such prohibition, or
 - (2) Allow only workers who are wearing the appropriate protective clothing as defined in these regulations into the treated area during the reentry period.
- (d) Posting of flags:
- (1) Flags must be posted not more than 24 hours prior to the scheduled treatment and must remain in good condition throughout the reentry interval.
 - (2) Flags must be removed within 24 hours after the expiration of the reentry interval specified in Section 7.30.
 - (3) Flags must be at least 2 feet square and must have the words "DANGER" and "PELIGRO" and an appropriate symbol to be established by the Commissioner, such as the skull and crossbones symbol, which shall be clearly visible.
 - (4) Flags must be posted at each corner of the area scheduled for pesticide application and at each point of access or, alternatively, at points which delineate such fields and where such flags may be seen by workers likely to enter such fields.

7.28 ORAL WARNING

- (a) Responsibility. The farm operator shall be responsible for oral warnings to any person that may reasonably be expected to enter a field before the expiration of the reentry interval:
- (1) That is about to be treated with a pesticide;
 - (2) That is being treated with a pesticide; or
 - (3) That has been treated with a pesticide if the reentry interval has not expired.
- (b) If the oral warning is to provide information to workers or others who must enter the field before the reentry interval expires, the warning shall include:
- (1) The trade and chemical name of the pesticide applied to the field;
 - (2) The date and time the reentry interval will expire;
 - (3) A clear statement that it is not safe to enter the field until the reentry interval expires unless appropriate protective clothing is worn;
 - (4) A clear statement that entry to the field is prohibited until the reentry interval expires unless appropriate protective clothing is worn;
 - (5) A description of appropriate protective clothing to be worn when in the field;
 - (6) Clear instructions on appropriate sanitation procedures, as required by label or by state or federal laws or regulations, after the person leaves the field;

- (7) A clear statement of physical symptoms that may result from exposure to the pesticide; and
 - (8) Clear instructions to seek medical attention in the event they show symptoms of pesticide poisoning or feel they were accidentally exposed.
- (c) Language of the warning. Oral warning shall be given in a language understood by the person(s) receiving the warning.

7.29 PROHIBITED PESTICIDE APPLICATIONS

- (a) Direct spray prohibited. Pesticides may not be applied if persons not involved with the application of the pesticide are present in the workplace.
- (b) Human exposure prohibited. No person shall apply any pesticide in such a manner that it exposes the body or clothing of any person, except for the appropriate protective clothing of persons involved in the application process.
- (c) Ordered entry prohibited. No person may order, instruct or permit any worker to engage in any activity that may involve substantial and prolonged body contact with the treated plant unless the applicable reentry interval has expired or unless appropriate protective clothing is worn.
- (d) Protective clothing. Employees shall not be permitted to enter any area treated with a pesticide until the expiration of any applicable reentry interval, unless that worker wears appropriate protective clothing. Minimum appropriate protective clothing shall be worn in the absence of a protective clothing specification on the label.

- (e) Duty to stop application. The applicator shall stop the application of a pesticide if any person not involved with the application process enters the workplace. The applicator shall stop the application of a pesticide if any person not wearing appropriate protective clothing lawfully enters the field. No person shall enter a workplace without the authorization of the farm operator for the express purpose of stopping or preventing a lawful application.
- (f) Duty to avoid drift.
- (1) Pesticides may not be applied within a buffer zone required or recommended on the label or required by federal or state laws or regulations.
 - (2) Every applicator has the duty to prevent pesticides from drifting off target. The Department shall interpret evidence of drift which causes damage to property or exposure to persons or animals as evidence of negligence.
 - (3) Each applicator is expected to allow a reasonable buffer zone around sensitive areas designated by the Department to guarantee the avoidance of drift. The Department shall view evidence of drift to these areas which causes damage to property or exposure to persons or animals as evidence of negligence.
 - (4) The Department, in an aerial application case involving damage to property or exposure to persons or animals, shall treat as evidence of negligence the applicator's failure to take a reconnaissance flight over or otherwise inspect the area to be treated to clearly designate the targeted area, to identify sensitive areas which should

be buffered, to ensure the avoidance of drift, to ensure that posting has occurred where required by these regulations, and to ensure that only persons involved with the pesticide application are in the targeted area.

7.30 REENTRY INTERVALS

- (a) Applicable interval. If there is a discrepancy between reentry intervals required by federal laws or regulations, state laws or regulations, or the pesticide label, the longest reentry interval shall apply.
- (b) Reentry intervals for all crops. Workers shall not be permitted to enter any area treated with a pesticide until the pesticide spray has dried or the pesticide dust has settled unless that employee wears appropriate protective clothing. In no case does the waiting period for the drying or settling to occur need to exceed twenty-four hours, unless otherwise required in subsection (c) of this section.
- (c) Reentry intervals for labor intensive crops. The following reentry intervals are hereby established for pesticides when used on labor intensive crops:
 - (1) A 24-hour reentry interval applies after each application of a toxicity category one pesticide formulation used on a labor intensive crop. Toxicity category one pesticides are identified by use of the signal word "danger" on the label.
 - (2) A 48-hour reentry interval applies after each application on a labor intensive crop of a pesticide containing one of the following ingredients:

Azodrin
Bidrin
Carbophenothion
Demeton
Disulfoton
Endosulfan
Endrin
Ethion
Metasystox (R)
Methidathion
Methyl parathion
Phorate
Phosphamidon

- (3) A 7-day reentry interval applies after each application on a labor intensive crop of a pesticide containing one of the following ingredients:

Azinphos-methyl (Guthion)
Ethyl parathion
Mevinphos

- (4) Effective July 1, 1986, the reentry intervals set out below shall apply to each application of the designated pesticide to the specific crop, unless prior to that date the registrants of such pesticides or active ingredients present to the Department satisfactory residue degradation data, dermal absorption data, other scientifically reliable data, and any other data demonstrating that a shorter reentry interval is warranted:

<u>Name of Chemical</u>	<u>Interval</u>	<u>Use</u>
Azinphos-methyl	30 days	citrus
Azinphos-methyl	21 days	grapes
Azinphos-methyl	14 days	apples, peaches or nectarines
Carbophenothion	14 days	citrus, peaches, nectarines or grapes
Chlorobenzilate	14 days	citrus

<u>Name of Chemical</u>	<u>Interval</u>	<u>Use</u>
Demeton	5 days	citrus
Demeton	7 days	peaches, nectarines or grapes
Diazinon	5 days	citrus, peaches, nectarines or grapes
Dimecron	14 days	citrus
Dimethoate	4 days	grapes or citrus
Dioxathion	30 days	citrus, peaches, nectarines or grapes
EPN	14 days	citrus, peaches, nectarines, grapes or apples
Ethion	14 days	peaches, nectarines or grapes
Ethion	30 days	citrus
Ethyl parathion	21 days	peaches, nectarines or grapes
Ethyl parathion	14 days	apples
Ethyl parathion	30 days (may vary depending on rate of mixing)	citrus
Imidan	7 days	peaches, nectarines or grapes
Malathion	1 day	citrus, peaches or grapes
Methidathion	30 days	citrus
Methiocarb	7 days	peaches or nectarines
Methomyl	2 days	citrus, peaches, nectarines, grapes or apples
Methyl parathion	14 days	apples or grapes
Methyl parathion	21 days	peaches or nectarines
Naled	1 day	citrus, peaches, nectarines or grapes

<u>Name of Chemical</u>	<u>Interval</u>	<u>Use</u>
Omite	7 days	grapes
Phosalone	7 days	citrus, peaches, nectarines or grapes

(5) One hundred twenty days following promulgation of these regulations an interim 24-hour reentry interval is established for all pesticides used on labor intensive crops, unless pesticide registrants submit to TDA:

(A) A sworn statement and supporting documentation demonstrating that for each formulation all chronic toxicity data required by the current EPA data requirements for pesticide registration (40 CFR 158) have been submitted to EPA and that these data demonstrate an absence of chronic effects; or,

(B) In the event that animal testing indicates the possibility of the occurrence of chronic effects, a sworn statement and supporting documentation affirming that required chronic toxicity data have been submitted to the EPA and a risk assessment acceptable to the Department which includes supporting documentation demonstrating that an unreasonable risk to human health will not occur if field reentry occurs within 24 hours after application of a pesticide.

(6) If the Department, on its own motion or at the request of a third party, does not accept the validity of the statement or risk assessment submitted by a registrant under this section, the 24-hour interim reentry interval

shall remain in effect until the registrant sustains the burden of showing that a lesser reentry interval will not impose an unreasonable risk to human health.

7.31 TECHNICAL ADVISORY COMMITTEE

(a) Purpose. The Commissioner shall, within 30 days of the date of implementation of these regulations or as soon thereafter as practicable, establish a Technical Advisory Committee that shall have the following functions:

- (1) To develop a method for determining appropriate reentry intervals;
- (2) To develop a list of chemicals that are likely to involve high worker exposure;
- (3) To develop a list of chemicals that require a reevaluation of reentry intervals;
- (4) To make a priority listing of chemicals to be reviewed for reentry intervals;
- (5) To solicit input from all affected and interested parties on (1) through (4) of this subsection and all other matters covered by these regulations;
- (6) To provide notice to the public of actions taken on (1) through (4) of this subsection within 180 days of the date of implementation of these regulations;
- (7) To recommend appropriate reentry intervals or other application criteria; and
- (8) To serve as an advisory committee on matters related to pesticide use and worker protection.

- (b) Priority action. The list of chemicals for review developed pursuant to (a) above shall be such that highly toxic pesticides and pesticide uses that involve substantial worker exposure are reviewed first.
- (c) Standards for establishing reentry intervals. The method for determining appropriate reentry intervals shall incorporate the following:
- (1) Acute, subchronic and chronic toxicity of the pesticide and its degradation products;
 - (2) The rate of degradation of the pesticide and its degradation products;
 - (3) Environmental factors that may affect the potential for transfer of residues to workers;
 - (4) Application rates and method of application of the pesticide;
 - (5) Inert ingredients that may affect the rate of absorption of residues;
 - (6) Actual data on worker exposure or dislodgeable residue data;
 - (7) The rate and extent of dermal absorption and inhalation; and
 - (8) Consideration of other exposure to pesticides in addition to occupational exposure, including pesticide residues in food and water.
- (d) Best available information. In cases where there is inadequate data for a pesticide, the Committee shall not delay its determination of appropriate reentry intervals or application criteria but shall use the best information

available to set intervals and criteria designed for worker protection in an expeditious manner. The intervals and criteria shall be set at a level adequate to protect human health and shall incorporate a reasonable margin of safety to ensure protection of human health.

- (e) Petition for review. Any person may petition the Department to review the reentry intervals of a pesticide, class of pesticides, or use of a pesticide or pesticides. The petition shall be referred to the Committee for a recommendation of appropriate action. A person requesting that reentry intervals be shortened shall at all times bear the burden of proof that shorter reentry intervals will not impose an unreasonable risk to human health.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas on _____, 1984.

Dolores Alvarado Hibbs, Agency Liaison
Texas Department of Agriculture