EPA’s Worker Protection Standard: The 2014 Proposed Revision

Needed Protections?

or

Government Bureaucracy at Its Worst?

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US EPA Worker Protection Standard (40 CFR 170)

- Quick Reminder – What it is
- EPA’s Proposed Changes
- Reactions to the Proposal
- Future Forecast – What will become of the proposal?
Quick Refresher

• The Agricultural Worker Protection Standard (WPS) was established in 1992 to improve occupational protections for ag workers and pesticide handlers.

• Scope – Ag establishments (farms, nurseries, forests) involved in commercial production.

• Not covered – non-ag pesticide uses, such as ROWs, parks/gardens, range/pasture, structural pest control.
Relationship Between Pesticide Labeling & WPS

- The labeling has product-specific requirements to protect workers and handlers
- WPS has instructions on how to implement the label requirements
- WPS also has general protections too lengthy to place on every label, such as:
  - Pesticide safety training
  - Hazard communication materials
  - Decontamination
  - Emergency assistance

• Pesticide safety training and safety posters
• Notification to workers of treated areas
• Restrictions on entry into treated areas

- Decontamination supplies
- Emergency assistance
- Access to application-specific information and labeling (hazard communication)
- Personal protective equipment (PPE)
EPA’s Proposal

• Proposed revisions to WPS announced March 19, 2014 in Federal Register
• Public comment period closed August 18
• 119,528 responses received of which there are 2,343 unique comments
• EPA is now evaluating public comments
• [www.regulations.gov](http://www.regulations.gov), docket ID EPA-HQ-OPP-2011-0184
Reasons for EPA’s Proposal

• Concern over occupational incidents of pesticide exposure
• Concern that day-to-day exposure may have long term effects
• Parts of existing rule unclear or difficult to implement
Proposed Changes

• More controversial:
  – Train workers/handlers **every year** instead of every 5 years
  – Phase-out of certified applicators as trainers of workers
  – Require unit posting if REI > 48 hours, changes sign
  – No entry buffers adjacent to treated units
  – Minimum age of 16 years for handler
Proposed Changes

• More controversial:
  – Allowing *authorized representative* to obtain pesticide application information on behalf of an ag worker
  – Cease applications if workers or other persons are in the treated area
  – Respirator use will use OSHA standards
  – Use CA standards for closed mixing system
  – Increased record keeping requirements, but drops central posting requirement
Reactions to WPS Proposal

• Not surprisingly, strong reactions from all sides –
  – growers, grower groups/lobbyists, farm bureaus
  – state pesticide regulators
  – farm workers and their advocates/lobbyists
  – pesticide applicators and applicator groups
  – government health organizations
Responses - Cal DPR

• Does not support phase out of cert applicators as trainers of workers
• Supports 18 years as minimum age for handler
• Closed system - CA moving away from prescriptive to performance based standard – recommends EPA do same
• Supports posting requirement but asks that CA sign still be allowed
• Request EPA generate a standard training form
‘Yes to all but Require More’

• Mandatory monitoring of workers using cholinesterase-inhibiting pesticides
• Retain central posting requirements
• Expand spray buffers, and expand onto neighboring properties
• Posting should be required for REI>24 hours
• Raise minimum age to 18 for handlers
• Provide legal aid contacts & how to report pesticide violations as part of worker training
• Central gov’t database for training records
• Increase records retention time (5, 7, 30 years)
‘No to Most - Require less’

• Drop proposed rule entirely; no justification
• Keep certified applicators as trainers of workers
• Annual training not justified
• Concerned about additional state costs not considered
• Drop authorized rep from proposal
• Reduce or eliminate no-entry buffers
• Retain use of ‘natural waters’ for decontamination
Forecast

• EPA is currently analyzing comments
• Controversial nature of this proposal will likely defer any decision until at least after elections
• EPA may decide to take a more piecemeal approach to changing the WPS
• Don’t hold your breath on this one
QUESTIONS?

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