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## Proposed Changes to The WPS Rule

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On April 3, 2014 a meeting was sponsored by the Florida Dept. of Agriculture and Consumer Services to give agriculture an overview of the proposed changes to the Worker Protection Standard (WPS) regulations. In this article we are going to bring you highlights of these changes but encourage you to read up on all the changes yourself. The EPA's website has the proposed changes at:

<http://www.epa.gov/oppfead1/safety/wroker/proposed/index.html>. A full text of the proposed changes can be found at: <http://www.epa.gov/oppfead1/safety/wokers/proposed/pre-pub-wps-proposed-rule.pdf>. For a detailed comparison of the changes you can go to <http://www.epa.gov/oppfead1/safety/workers/proposed/comparisons-current-proposed-wps.pdf>.

These changes are being made by the EPA and are for the whole country. Let's start with the reasons for these proposed changes. The first is to reduce occupational pesticide exposure and incidents for workers. EPA believes with more training that numbers of incidents will be lower and the work place will be safer for workers. EPA wants to improve the clarity of the rule to increase compliance. Also, the new rules would provide better enforcement tools such as recordkeeping requirements to document compliance.

**Changes in Training:** A big change that is coming is that pesticide training that is currently required to be done every 5 years would be required every year. For growers in our area we retrain workers at the start of each season so this new regulation would not significantly impact you. Right now you must give a brief training before starting work but there is a grace period of 5 days for the worker to be fully trained. If the proposed change occurs, that grace period would only be 2 days. You do not have to keep records on the brief training you give in the grace period but the new change will require that you expand the training information you give the workers and that you keep records of the training for 2 years.

Right now you do not have to give your worker a copy of the record of training you provide when you give them their full WPS training. The new proposal will require you to give them a copy of the record so they can prove they have had training if they move to another employer. The new proposal will also require anyone who trains workers to complete an EPA-approved training program first. Right now pesticide license holders can train workers and handlers, and handlers can train workers. With the proposed rule change, pesticide license holders and handlers can no longer train workers. You would have to complete the EPA-approved train-the-trainer program. Many employers may choose to train everyone as a handler to avoid additional trainer requirements. Another major issue is that everyone who has previously completed the train-the-trainer program would need to go through the training again once these rules go into effect. There would be a 2-year grace period to get everything in place. This part is a huge issue that you as growers need to be aware of.

Also, workers and handlers would need to be given establishment-specific training before they do any WPS tasks. This would include the location of pesticide safety information, where the information on application and hazards is located, where the decontamination supplies are located and how to obtain medical assistance.

**Changes in Notification:** Sprayed areas would need to be posted if the Re-entry interval (REI) is greater than 48 hours regardless of the chemical used. Any early-entry workers would need oral notification of the information of what was sprayed, the specific task to be done, and the amount of time they are allowed to remain in the treated area, as well as providing the appropriate personal protective equipment (PPE) for early-entry workers which is all that is required right now. Also, under the proposed changes the grower would need to keep a record of the notification given to the workers.

**Hazard Communication:** As the rule stands now you must post the information on what was sprayed at your central posting area and leave it until 30 days after the REI has expired. Under the new rule you will not have to post application-specific information at the central posting area. You will need to make the information available as well as Material Safety Data Sheets (MSDS) which they are now calling Safety Data Sheets (SDS). You will need to retain the spray records, labeling and SDS for 2 years.

**Minimum Age:** The new changes will require handlers and early-entry workers to be at least 16 years old but owner's immediate family will still be exempt.

**PPE:** There are more requirements for respirators. Under the proposed rule respirator use will follow OSHA standards of fit test, medical evaluation and training. There will also be a recordkeeping requirement. New requirements will be added for closed systems on tractors and will follow existing California standards but does not establish requirements to use a closed system.

**Extend Entry-Restricted Areas to Farms/Forests:** As the rule reads now workers and other persons are prohibited from being in areas adjacent to entry restricted areas during the application and it mainly applies to nurseries and greenhouses. The proposed rule changes would establish similar restrictions for farms and forests during application. This would be a 25-100 foot entry restricted buffer area during the application and it is limited by the owner's property line. You would stop application if an untrained or unequipped person entered the buffer area while you are spraying.

**Decontamination:** The new rule will specify the amount of water that must be on hand for workers and handlers on a per person basis. It will be 1 gallon per worker and 3 gallons per handler/early-entry worker. One pint of water was required for eye flushing and this will change to a requirement of running water at permanent mix/load sites for handlers to be able to do eye flushing.

**Emergency Assistance:** Right now it says "prompt" transportation to a medical facility must be given but "prompt" is undefined. The proposed rule defines it as 30 minutes. It will also require that employers provide SDS, labeling, specific information about product used, and circumstances of application and exposure to either the exposed person or to the treating medical personnel.

**Requirements during Application:** Right now it says that a handler must apply a pesticide in a way as to not contact workers and others directly or through drift. That will change to must "immediately cease or suspend application" if someone other than a trained/equipped handler enters the area of buffer. The applicator is still responsible to apply in a manner to avoid contact.

There are some changes to definitions. One regards immediate family and has been expanded. The range of handler activities is also spelled out.

Of course, added cost is a big issue. EPA is estimating that these changes will cost \$25-\$30 per employee for both workers and handlers. EPA feels the job impact is that it would cost an additional \$5 to employ a worker and \$60 to employ a handler. The benefits they see will be an estimated reduction of 50-60% in the 2,800 incidents per year. EPA feels there will be a \$10-\$14 million per year benefit from preventing acute agricultural worker illnesses.

The comment period on these proposed changes is set to close June 17, 2014. There may be an extension but if you feel this will impact your operation or have comments to make on specific areas on the changes then send in your comments to EPA. The EPA recommends submitting constructive comments regarding specifics of how these changes will affect your operation. Comments containing economic and environmental effects are especially helpful.

They also welcome suggestions for alternatives to these changes. For how to comment go to

<http://www.regulations.gov>. Search for the docket for the WPS proposal: EPA-HQ-OPP-2011-0184. There should be a blue "Comment Now" button.

If you have any questions please feel free to get in touch with one of us.

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