

**PART 170—WORKER PROTECTION STANDARD**

1. The authority citation for Part 170 would continue to read as follows:

**Authority:** 7 U.S.C. 136w.

2. In Section 170.130 by paragraph (b) to read as follows:

**§170.130 Pesticide safety training for workers.**

\* \* \* \* \*

(b) *Exceptions.* The following persons need not be trained under this section:

(1) A worker who is currently certified as an applicator of restricted-use pesticides under part 171 of this chapter.

(2) A worker who satisfies the training requirements of part 171 of this chapter.

(3) A worker who satisfies the handler training requirements of §170.230(c).

(4) A person who is licensed or certified as a crop advisor by a program administered or approved by a State, Tribal or Federal agency having jurisdiction over such licensing or certification, provided that a requirement for such licensing or certification is pesticide safety training that includes all the information set out in §170.230(c)(4)

\* \* \* \* \*

3. In Section 170.202 by revising paragraph (c) to read as follows:

**§170.202 Applicability of this subpart.**

\* \* \* \* \*

(c) *Exemptions.* The handlers listed in this paragraph are exempt from the specified provisions of this subpart.

(1) *Owners of agricultural establishments.* (i) The owner of an agricultural establishment is not required to provide to himself or members of his immediate family who are performing handling tasks on their own agricultural establishment the protections of:

- (A) Section 170.210(b) and (c).
- (B) Section 170.222.
- (C) Section 170.230
- (D) Section 170.232.
- (E) Section 170.234.
- (F) Section 170.235.
- (G) Section 170.240(e) through (g).
- (H) Section 170.250.
- (I) Section 170.260.

(ii) The owner of the agricultural establishment must provide the protections required by paragraph (c)(1)(i) of this section to other handlers and other persons who are not members of his immediate family.

(2) *Licensed or certified crop advisors and their employees.* (i) A person who is licensed or certified as a crop advisor by a program administered or approved

by a State, Tribal or Federal agency having jurisdiction for such licensing or certification, provided that a requirement for such licensing or certification is pesticide safety training that includes all the information set out in §170.230(c)(4), is not required to provide to himself or his crop advisor employees the protections of:

- (A) Section 170.210(b) and (c).
- (B) Section 170.232.
- (C) Section 170.240.
- (D) Section 170.250.
- (E) Section 170.260.

(ii) Any individual when performing tasks as a crop advisor is exempt until January 1, 1996 from the requirements of:

- (A) Section 170.210(b) and (c).
- (B) Section 170.230.
- (C) Section 170.232.
- (D) Section 170.240.
- (E) Section 170.250.
- (F) Section 170.260.

5. In §170.230 by revising paragraph (b) to read as follows:

**§170.230 Pesticide safety training for handlers.**

\* \* \* \* \*

(b) *Exceptions.* The following persons need not be trained under this section:

(1) A handler who is currently certified as an applicator of restricted-use pesticides under part 171 of this chapter.

(2) A handler who satisfies the training requirements of part 171 of this chapter.

(3) A person who is licensed or certified as a crop advisor by a program administered or approved by a State, Tribal or Federal agency having jurisdiction over such licensing or certification, provided that a requirement for such licensing or certification is pesticide safety training that includes all the information set out in paragraph (c)(4) of this section.

\* \* \* \* \*

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**40 CFR Part 170**

[OPP-250098; FRL-4917-7]

**Exceptions to Worker Protection Standard Early Entry Restrictions; Irrigation Activities**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed exceptions to rule; request for comment.

**SUMMARY:** EPA is considering exceptions to the Worker Protection Standard for Agricultural Pesticides (WPS),

published at 57 FR 38102 (August 21, 1992), that would allow, under specified conditions, workers to perform early entry irrigation tasks for more than 1 hour per day during a restricted entry interval (REI). Early entry is entry to a pesticide-treated area before expiration of the REI.

**DATES:** Comments, data, or evidence should be submitted on or before February 27, 1995. EPA does not intend to extend this comment period.

**ADDRESSES:** Comments identified by the document control OPP-250098 should be submitted in triplicate by mail to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environment Protection Agency, 401 M St., SW., Washington, DC 20460. All written comments filed pursuant to this notice will be available for public inspection in Room 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305-5805, from 8:00 a.m. to 4:30 p.m. Monday thru Friday except legal holidays.

Comments and data may also be submitted electronically by any of three different mechanisms: by sending electronic mail (e-mail) to: Docket-OPPTS@epamail.epa.gov; by sending a "Subscribe" message to listserv@unixmail.rtpnc.epa.gov and once subscribed, send your comments to RIN-2070-AC69; or through the EPA Electronic Bulletin Board by dialing 202-488-3671, enter selection "DMAIL," user name "BB-USER" or 919-541-4642, enter selection "MAIL," user name "BB-USER." Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number OPP-250098 since all five documents in this separate part provide the same electronic address. No CBI should be submitted through e-mail. Electronic comments on this proposed rule, but not the record, may be viewed or new comments filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in unit VI. of this document.

**FOR FURTHER INFORMATION CONTACT:** Jeanne Heying, Certification, Training and Occupational Safety Branch (7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, (703) 305-7666, or your regional or State official as noted in the List of Worker Protection Contact below.

**SUPPLEMENTARY INFORMATION:****I. Background**

This proposed WPS rule amendment is one of a series of Agency actions in response to concerns raised since publication of the final rule in August 1992 by those interested in and affected by the rule. In addition to this proposed amendment, EPA is publishing four other notices soliciting public comment on concerns raised by various affected parties. Other actions EPA is considering include: (1) modification to the worker training requirements; (2) requirements for crop advisors; (3) reduced restricted entry intervals (REIs) for low risk pesticides; and (4) reduced early entry restrictions for activities involving limited contact with treated surfaces. The Agency is interested in receiving comments on all options and questions presented.

Section 170.112(e) of the Worker Protection Standard for Agricultural Pesticides (WPS) (40 CFR part 170), published at 57 FR 38102 (August 21, 1992), provides a mechanism for considering exceptions to the WPS provision that limits early entry during a restricted-entry interval (REI) to perform agricultural tasks, including irrigation tasks. The Agency has received requests for exceptions to the early entry limitations for performing irrigation tasks from parties in the States of California and Hawaii. The California parties also requested an indefinite entry period for frost-prevention tasks; this request has been returned to the requesters for additional supporting information and may be considered later. The Agency is proposing for consideration a national exception to the WPS early entry restrictions for performing irrigation tasks. The purpose of this notice is to solicit further information and comment on the proposal to assist the Agency in determining whether the conditions of entry under any of the proposed exceptions would pose unreasonable risks to workers performing the permitted irrigation tasks during a restricted-entry interval. In addition, EPA solicits further information about the economic impact of granting or not granting the proposed exceptions. For further information please contact the person list under FOR FURTHER INFORMATION CONTACT above, or your regional or State official as noted in the following List:

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#### A. Worker Protection Standard

The revisions to the Worker Protection Standard (WPS) promulgated at 57 FR 38102, August 21, 1992, were intended to reduce the risk of pesticide poisonings and injuries among agricultural workers, including pesticide handlers. The WPS includes three types of provisions to:

(1) Eliminate or reduce exposure to pesticides.

(2) Mitigate exposures that occur.

(3) Inform employees about the hazards of pesticides.

Exposure reduction provisions include application restrictions, use of personal protective equipment (PPE), and entry restrictions.

#### B. Restricted Entry Intervals (REI)

Agricultural workers, in general, are prohibited from entering a pesticide-treated area during the restricted entry interval (REI) specified on the product labeling if they might contact anything treated with a pesticide.

Regulations at 40 CFR part 156, subpart K specify that WPS labeling retains all of the pesticide-specific

permanent REIs set by EPA on the basis of adequate data, and retains all established interim REIs longer than those established in part 156. The WPS preamble notes: "These longer REIs have been based, in general, on either delayed [chronic] effects or other exposure hazards such as persistence, post-application chemical transformations, or potential for severe skin sensitization." In the absence of pesticide-specific REIs, the WPS establishes a range of REIs, from 12 to 72 hours, depending upon the toxicity of the active ingredient(s) and other factors.

During an REI, tasks that result in contact with treated surfaces (including soil, water, air, and plant surfaces in the treated area) are limited to the following:

(1) Short-term tasks (1 hour per day) that do not require hand labor.

(2) Tasks, including hand labor tasks, performed in a situation meeting the definition of an agricultural emergency.

(3) Tasks that may be permitted by EPA through case-by-case exceptions. Exceptions may be granted pursuant to 40 CFR 170.112(e)(2), if affected persons or organizations persuade EPA that the benefits of the exception outweigh the risks associated with the exception and the workers can perform the early entry tasks without unreasonable adverse risk.

#### C. Current WPS Irrigation Provisions During REI

Irrigation activities expressly are excluded from the definition of "Hand labor" at 40 CFR 170.3: "Hand labor does not include operating, moving, or repairing irrigation or watering equipment..." EPA realizes that moving, adjusting, or repairing irrigation equipment may result in contact with treated surfaces, yet these tasks may be necessary while an area remains under a REI. The Agency thus has allowed entry during an REI to perform irrigation-related tasks, but has placed strict limitations on that entry.

These limitations, set out at 40 CFR 170.112(c), include:

(1) There is no entry for the first 4 hours after application and thereafter until any exposure level listed on the labeling has been reached or any ventilation criteria established at 40 CFR 170.110(c)(3) or in the labeling has been met.

(2) No hand labor tasks are performed.

(3) The time for any worker in treated areas under an REI does not exceed 1 hour in any 24-hour period.

(4) The required PPE is provided, cleaned, and maintained for the worker.

(5) Agricultural employers ensure that workers wear required PPE, and other PPE-related protections are provided.

(6) Measures are taken to avoid heat stress (see, A Guide to Heat Stress in Agriculture, EPA HW77 March 1994).

(7) Required decontamination supplies and decontamination areas are provided.

(8) Required PPE-related, heat-stress-related, and labeling-specific safety information have been furnished.

Pursuant to The Pesticide Compliance Dates Extension Act, Pub. L. 103-231, April 6, 1994, implementation of some WPS provisions, including some entry restrictions, has been delayed until January 1, 1995. Until then, if irrigation workers contact with pesticide-treated surfaces is limited only to feet, lower legs, hands, and forearms, then coveralls plus chemical-resistant gloves and chemical-resistant footwear may be substituted for the early-entry PPE specified on the label. Also, until January 1, 1995, workers performing non-hand-labor tasks may work for an unlimited time in an area remaining under an REI. Starting January 1, 1995, routine early entry to perform non-hand labor tasks, including operating irrigation equipment, will be limited to 1 hour per worker each day if the entry would result in contact with pesticide-treated surfaces. In addition, irrigation workers must wear PPE specified on the pesticide label for early entry.

#### *D. Irrigation Tasks Allowed by the WPS After January 1, 1995*

EPA has issued the following guidance in the publication *Worker Protection Questions & Answers*, clarifying circumstances in which irrigation tasks can take place during a restricted-entry interval pursuant to the restrictions at 40 CFR 170.112:

WPS was designed to reduce the opportunities for workers to be exposed to pesticide residues in treated areas during REIs. For example, with the exceptions noted below, irrigation pipe may not be moved during REIs when that task would bring workers into contact with treated surfaces. As a result, agricultural employers should schedule pesticide applications and irrigation so that the need for irrigation involving workers during REIs will be minimized. If, however, irrigation in a treated area under a REI is essential, it is permitted under WPS under the following conditions:

1. *Without entry to treated Area.* Some irrigation tasks take place at the edges of fields, which may not be within the treated area (area to which the pesticide has been directed.) An example may be the installation or removal of pipe for furrow irrigation. As long as such activities do not cause workers to enter the treated area, they may take place without time limit or use of PPE during the REI.

2. *With Entry to Treated Area.*

a. *By Pesticide Handlers.* During chemigation or when pesticide labeling requires the pesticide to be watered-in, this task may be performed by trained handlers wearing the handler PPE specified on the product labeling. [See the Question and Answer on watering-in, found in the *Handler Activities* section of *Worker Protection Questions & Answers*, for additional details.]

b. *By Workers With No Contact.* WPS provides an exception for entry to treated areas, after any inhalation exposure level or ventilation criteria have been met, without PPE or other time limitation, when there will be no contact with the pesticide or its residues (40 CFR 170.112(b)). Note, however, that PPE cannot be used to prevent the contact under this exception. This exception may apply to a variety of typical irrigation situations, e.g.:

Workers moving irrigation equipment or performing other tasks in the treated area after the pesticide was correctly soil-incorporated or injected, provided the workers do not contact the soil subsurface by digging or other activities.

Workers walking or performing other tasks in furrows after the pesticides are applied to the soil surface in a narrow band on beds and there is no contact with those treated surfaces.

c. *Short Term* — Workers may enter treated areas during REIs to perform short-term tasks [40 CFR 170.112(c)] provided that:

(1) Such entry does not take place during the first 4 hours after application and until any inhalation exposure limits or ventilation criteria are met;

(2) The entry does not involve more than 1 hour per day per worker;

(3) The worker does not perform tasks defined in WPS to be hand labor (operating irrigation equipment is not hand labor under WPS);

(4) The worker wears the early-entry PPE specified on the pesticide labeling;

(5) Is correctly informed as required for early-entry workers in the WPS; and

(6) all other applicable requirements of 40 CFR 170.112 are met.

(d) *Agricultural Emergencies.* The WPS permits early entry by workers to perform tasks including irrigation while wearing early-entry PPE, and without time limits, in response to an agricultural emergency, as defined in the regulation at 40 CFR 170.112(d).

e. *EPA-Approved Exceptions.* Section 170.112(e) of WPS permits exceptions to the general prohibition on work in treated areas during REIs when EPA has approved a special exception. Exceptions may be requested of EPA as described in that section of the regulation.

The EPA publication *Worker Protection Questions & Answers* is available through the docket at EPA Headquarters.

## **II. Evidence Necessary to Support Exception**

The Worker Protection Standard establishes at 40 CFR 170.112(e)(2), a

process to allow the Agency to initiate an exception to WPS entry restrictions, or to grant exceptions upon request from interested persons, if the benefits associated with otherwise-prohibited early entry activities exceed the risks associated with those early entry activities.

As specified in existing WPS, at 40 CFR 170.112(e)(2), data supporting an exception request should include:

(1) Crop(s) and specific production task(s) for which the exception is requested, including an explanation of the necessity to apply pesticides of types and at frequencies such that the REI would interfere with necessary and time-sensitive tasks for the requested exception period.

(2) Geographic area, including unique exposures or economic impacts resulting from REI prohibitions.

(3) Evaluation, for each crop-task combination, of technical and financial viability of alternative practices, and projection of practices most likely to be adopted by growers if no exception is granted, including rescheduling pesticide application or irrigation tasks, non-chemical pest control, machine irrigation, or use of shorter-REI pesticides.

(4) Per-acre changes in yield, market grade or quality, and changes in revenue and production cost attributable to REI prohibitions for crop and geographic area, specifying data before and after WPS implementation. Also, include factors which cause changes in revenue, market grade or quality; product performance and efficacy studies; and source of data submitted and the basis for any projections.

(5) The safety and feasibility of the requested exception, including feasibility of performing irrigation activity wearing early-entry PPE required for pesticides used; means of mitigating heat-related illness; time required daily per worker to perform irrigation activity; and methods of reducing worker exposure. Mitigating factors discussed should include availability of water for routine and emergency decontamination, and mechanical devices to reduce worker contact with treated surfaces. Discussion of the costs of early entry should include decontamination facilities, worker training, heat stress avoidance procedures, and provision, inspection, cleaning and maintenance of PPE.

(6) Why alternative practices would not be technically or financially feasible.

### III. Requests for Exception and Supporting Evidence

Parties from the States of California and Hawaii each have requested exceptions to the WPS REI requirements for workers performing tasks related to irrigation. The full exception requests are available through the docket at EPA Headquarters, the Regions and the States.

#### A. California Growers Request for Exception

California growers have requested that workers be permitted entry into treated areas under an REI for an indefinite time to perform irrigation tasks when workers are (1) properly trained, (2) use the label-specified PPE, (3) are provided decontamination facilities, and (4) are not allowed entry to the treated area for at least 4 hours following pesticide application.

California cited a broad range of soil types, climates and crops requiring irrigation tasks such as moving pipe, turning on valves, checking sprinkler and drip irrigation nozzles, and removing debris or obstructions impeding water flow. Requesters indicate that these tasks "do not involve substantial contact with treated plants." The California requesters cite conditions specific to their state to support an REI exception.

1. *Alternate practices.* The California requesters assert that alternative practices are not technically practical because the availability of irrigation water is often at the discretion of the irrigation district. They note that often a grower does not know until the last few hours when water will arrive from the irrigation contractor.

The California requesters also state that the failure to properly irrigate plants in a timely manner induces plant stress, disrupts integrated pest management (IPM) practices, increases plant susceptibility to pests, and may ultimately increase pesticide use, resulting in greater exposure to workers.

Finally, the requesters state that the 1-hour limitation on early entry activity per worker per day unnecessarily restricts agricultural activities vital to crop production.

2. *California regulations.* The requesters cite California Regulations (Article 3, Field Worker Safety, section 6770), which permit workers to perform irrigation activities in treated areas during a restricted-entry interval, provided:

(1) Sprays have dried and dusts have settled.

(2) The workers are informed of the identity of the pesticide applied, the

existence of the REI, and the protective work procedures they are required to follow.

(3) Workers are wearing the personal protective equipment required by the pesticide label for early entry.

(4) The workers are instructed to thoroughly shower with warm water and soap as soon as possible after the end of the work shift.

For certain pesticides, including all pesticides with the signal word DANGER and certain other pesticides with a history of illness or injury incidents involving workers exposed to post-application residues, the California regulations prohibit entry during a restricted-entry interval to perform hand labor tasks, such as picking, other hand harvesting, tying, pruning, tree-limb propping, disbudding, and other nonharvest cultural practices that may involve worker contact with plants. Irrigation tasks specifically are not included in this list of prohibited tasks. For all other pesticides, entry during a restricted-entry interval to perform tasks, including hand labor tasks, is permitted after sprays have dried and dusts have settled, provided the protections listed above are provided to the worker.

The California requesters state that heat-related illness will be mitigated by training workers and field-crew supervisors on heat stress symptoms and first-aid procedures. They note that drinking and handwash water and toilet facilities currently are required for all field workers under California regulations; and that the location of the nearest emergency medical care facility is listed on crop sheets that must be at each work site. They state also that WPS PPE maintenance provisions and early-entry restrictions will be required under California regulations as soon as they are revised to incorporate Federal standards.

3. *Economic impact.* The California requesters estimate a sizeable economic impact if the requested exception is denied, based upon an estimated crew of two to four workers who require 6 to 8 hours to set up a sprinkler irrigation system on a 20-acre block of a vegetable crop. They state that the WPS requirement for worker rotation after 1 hour is problematic because it would reduce efficiency and increase costs to recruit, hire, train and schedule workers; irrigators are unwilling to work for only 1 hour; and crop loss or nonuniform crop maturation would result from potential untimely irrigation of sensitive crops and seedlings.

4. *Pesticide injuries.* Requesters address the protective nature of the requested exception by citing California

Department of Pesticide Regulation (CDPR) records of reported pesticide injuries through the California Pesticide Illness Surveillance Program. The requesters' evaluation of this information alleges that allowing protected workers into treated areas to conduct irrigation activities for an unlimited time after an initial period of prohibited entry does not result in significant risk of illness or injury. Requesters support their exception request with data from DPR's pesticide illness surveillance program, which tracks potential pesticide injuries. They state, "In 1990, there were approximately 2,500 alleged pesticide illnesses/ injuries reported. These included occupational and non-occupational situations. Of these, only 20 cases involved irrigators that were in fields when exposure occurred. Only 1 of the 20 irrigation-related injury cases was classified as 'definitely' related to pesticides. In that case, the worker was determined to be involved in an activity that involved contact with containers contaminated with pesticide residues. In 1990, there were over 2.2 million agricultural pesticide application reports submitted in the state. The rate of irrigator injuries to possible pesticide exposure was 1 in over 110,000 applications."

#### B. Hawaii Request for Exception

The State of Hawaii provided EPA with an exception request submitted by an agricultural establishment, the Hawaiian Commercial Sugar Company (HC&S). The request related specifically to irrigation activities related to planting new crops, and appeared to comprise full exemption from WPS REI requirements for all agricultural activities described in their request. Requesters specifically cite their desire to return to the pre-WPS standard allowing agricultural workers to enter a field after pesticide application, once dusts have settled and sprays have dried. It is noteworthy that this was not allowed in the legislation delaying implementation of some portions of the WPS, which provided: "Under the exception in section 2, no entry is allowed for the first 4 hours after application of the pesticide. This restriction parallels the requirements in the other exceptions to early entry promulgated in the Worker Protection Standard (WPS) at 40 CFR 170.112."

Requesters state that during seed planting there is a "buffer space" between the cover machine and the herbicide tractor to ensure that agricultural workers are not exposed to pesticide drift. The size of the buffer space is dependent upon the wind

direction. Requesters state that herbicide sprays dry within a few minutes, and that on a typical sunny day drying occurs on contact. The irrigation hook-up crew follows behind the weed control operations, and connect the irrigation tubing injected by the mechanical planter, to the irrigation mainlines existing in the field.

Requesters state that the majority of irrigation work is done on the field edge, which has the least amount of pesticide.

Requesters state that timing of the irrigation operation is critical, since seed pieces are prone to desiccation and disease, and the seed needs water to germinate. Soil into which the seed pieces are placed is dry; thus if the fields are not irrigated immediately after planting, seed pieces will not germinate.

Requesters also note that irrigation system repair is conducted at the time of planting. The drip irrigation system is largely underground and the main line at the field perimeter is reused for every crop. Since it is underground, system damages from harvesting of the previous crop are not evident until planting of the section is started. Drip hookup is performed as soon as possible so system damages can be repaired and the system returned to function before the seed dehydrates. Underground pipes are composed of PVC (polyvinylchloride); thus there is a delay of at least 1 day to dry repair glues.

Requesters utilize furrow irrigation for approximately 2,000 acres of the 36,000 acre plantation, utilizing cane wash water from its factories. Installation of feeder ditches follow herbicide application in furrow irrigated fields. Some fields also are "ratooned," where cane stalks are severed at the base of the plant during harvest, and the cane plant regrows from the stubble. The mechanical planter follows the emerged cane line in ratooned fields and places seed in the gaps where there are no plants. Vegetation is present to heights less than 1 foot. Requesters state that it is readily evident when "sprays have dried and dusts have settled" in ratooned fields.

1. *Alternate practices.* The request was limited to the time until new preemergence herbicides are approved for use in sugarcane fields. Requesters note that application of water to the field before the herbicide operation would result in tractors stuck in the mud and compaction of the moist soil. They state that application of herbicides immediately after planting is critical because it allows for minimal use of pesticides — less material is needed to kill weeds as they try to emerge than to kill weeds after they emerge. Requesters

state that capillary action of water is relied upon to wet the seed, this occurring within 24 to 72 hours depending upon soil type. Requesters state that if herbicide applications were delayed until after seed pieces were wetted, weed seeds would have germinated and herbicide usage rates would need to be increased.

Requesters also note that the HC&S is located on the island of Maui, in a valley with average wind speeds of approximately 30 miles per hour. Pesticide applications must be done carefully to reduce drift to non-target areas; timing of application is used as the variable to control pesticide volume applied, and tractors are used to minimize herbicide usage by more accurately directing material to the target area. Rains from 10 to 40 inches per year are very seasonal; therefore requesters state that the plantation is totally reliant upon drip irrigation for growing crops.

2. *Current regulations.* Requesters noted no pesticide regulations beyond current pesticide label requirements governing their operations. Requesters cited Hawaii's Workers Compensation Plan in discussing the safety and feasibility of their requested exception.

3. *Economic impact.* Requesters state that immature sugarcane stalks are high in moisture content and vulnerable to desiccation resulting in failure to germinate. The cut ends of the stalk (as well as damaged portions of the 40 percent of seed pieces which are damaged physically), are avenues of entry for disease organisms, specifically the fungus *Ceratocystis paradoxa* or pineapple disease. Requesters note that timely treatment, planting and irrigation of seed pieces thus is important.

Requesters note that tractor application of herbicides replaced aerial applications 7 years ago, in order to reduce herbicide usage, improve herbicide placement, reduce off-target drift, and to protect workers and the environment. Requesters also state that aerial applications are estimated to cost 20% more than current tractor costs, or \$137,880 per year. Respraying by hand or tractor application is estimated to cost another \$250,000 per year, to address areas missed along roads and pole lines, and increased weeds when application is delayed due to unfavorable wind conditions. Thus requesters estimate that total increased operating costs for aerial herbicide applications in place of timely tractor applications is \$387,880 per year, an increase of 55 percent over current practice, as well as unquantifiable effects of potential off-target drift and potential for greater worker exposure.

Nighttime aerial application is precluded by undulating terrain, poles and lines transecting fields, difficulty in determining flight path, and variable wind.

Requesters also estimate that water application before herbicide application would impair field trafficability, decrease plant growth, increase weeds, require more pesticide use and additional worker exposure, and cost approximately \$301,600 or 42 percent more than current costs. Requesters estimate that using more tractors to cover the treated seed would require significant capital expenditure, with very poor return on investment since there will be significant amounts of unproductive time between tractor operations. They estimate an increase of \$232,000 in operating costs per year to increase tractors and associated additional manpower, an increase of 33 percent over current operating costs, with no return on investment. Requesters also considered utilizing night operations to minimize the impact of a 12-hour REI. They estimate an increase of \$188,873 in annual operating costs, or 27 percent over current costs for this alternative, primarily due to missed areas, repair to damaged risers, and installation of lights.

Finally, requesters estimate a cost of \$702,000 for adhering to a stated 12-hour REI, due to delayed or reduced germination of seed pieces, a loss of at least 2 months in crop age, and the added cost of hand replanting. They estimate a loss of \$2,332,800 in plantation profitability due to yield impacts.

4. *Pesticide injuries.* Requesters cite the unique nature of sugarcane cultivation in discussing the safety and feasibility of their requested exception. They note that, unlike fields with crop canopies taller than workers, such as cornfields or grape vineyards, newly planted or ratooned sugarcane fields are bare or have vegetation less than 1 foot in height. They cite company policy requiring all workers to wear long-sleeved shirts, long pants, and eye protection. They note that irrigation hookup crews wear company-provided rubber gloves and rubber boots, due to constant contact with water. They state that irrigation crews work on the field edge, which has a minimum amount of herbicide, and that agricultural workers' frequent contact with water will wash off any residue that may be contacted. They note that workers have readily available potable water supplies, ready access to medical facilities, and ready access to Workers Compensation claims if they have a work related incident.

Requesters state that company records indicate 11 pesticide related incidents between 1985 and 1993. They estimate their records cover 80 handlers and 700 workers with field oriented tasks, working 40 to 48 hours per week, 12 months per year, for 15,795,000 exposure hours. They report 10 unforeseen incidents involving handlers, including exposure due to a broken hose or fittings. Requesters note that all but one incident occurred before 1990, when operational sequences were changed to address the exposure episodes. The one incident which required absence from work did not involve pre-emergence herbicide application, but rather hand application later in the crop cycle.

**IV. The Agency's Exception Proposal**

**A. Background**

Since the Worker Protection Standard was promulgated in August 1992, the Agency has received information from growers and representatives from the Departments of Agriculture in several states regarding the 1-hour-per-worker-per-day limit during a restricted-entry interval to perform irrigation-related tasks. Most commenters, including the National Association of the State Departments of Agriculture (NASDA), asserted that the restriction would cause substantial disruption in the production of a wide variety of agricultural crops across a broad geographic area. NASDA and others urged the Agency to consider allowing entry during a restricted-entry interval for an unlimited time per day per worker, if the worker would not have substantial contact with treated surfaces, including crop foliage.

They asked the Agency also to consider establishing a single suite of personal protective equipment that could be worn by irrigation workers rather than requiring them to wear the early-entry PPE specified on the labeling of the pesticide applied to the treated area. They argued that often irrigation workers need to work in several different treated areas in a single workday and that it would be burdensome to require workers to consult the pesticide label and to change their PPE before entering each different area. Although not directly addressed in the exception requests from California and Hawaii, these concerns are reflected in EPA's following proposed exception for irrigation tasks, and in the comments and information EPA solicits through this notice.

The proposed exception specifically excludes pesticides whose labeling requires "double notification" — both

the posting of treated areas and oral notification to workers. The following Table lists the active ingredients subject to this requirement, which were identified in PR Notice 93-7.

**B. Worker Protection Standard "Double Notification" Active Ingredient List**

The following Table 1 does not contain the active ingredients in products already bearing mandatory posting requirements prior to adoption of the WPS and which must be retained under WPS. It may also contain a few active ingredients which upon further Agency review, such as during reregistration, will be found not to require double notification (posting of treated areas and oral notification to workers). EPA expects the list to be amended prior to any final determination by the Agency. Nonetheless, EPA believes that this list contains the bulk of the active ingredients subject to double notification, and the list is included in this notice for the convenience of commenters. These 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 are pesticides considered by EPA as posing high risk to workers for reasons such as suspected delayed effects, epidemiological data, or unusually long restricted-entry intervals. The Agency requires "double notification" for a pesticide when an incidental exposure — for example, contact from brushing against the treated surfaces — has the potential to cause an acute illness or injury or a delayed effect, such as developmental toxicity. 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) would continue to apply.

TABLE 1.—DOUBLE NOTIFICATION ACTIVE INGREDIENT LIST  
From PR Notice 93-7, Appendix 3-A

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
chlorfloreinol .....	098801	2536-31-4
chloropicrin .....	081501	76-06-2
cuprous oxide .....	025601	1317-39-1
disulfoton .....	032501	298-04-4

TABLE 1.—DOUBLE NOTIFICATION ACTIVE INGREDIENT LIST—Continued  
From PR Notice 93-7, Appendix 3-A

Common name	Chemical code	CAS Number
dodine .....	044301	2439-10-3
endothall, dimethylcocoamine.	038905	
endothall, disodium salt.	038903	129-67-9
ethephon .....	099801	16672-87-0
ethoprop .....	041101	13194-48-4
fonofos .....	041701	944-22-9
(s)-(+)-lactic acid ..	128929	79-33-4
metam-sodium ....	039003	137-42-8
methamidophos ...	101201	10265-92-6
methyl bromide ....	053201	74-83-9
methyl parathion ..	053501	298-00-0
mevinphos .....	015801	7786-34-7
nicotine .....	056702	54-11-5
paraquat .....	061601	1910-42-5
parathion .....	057501	56-38-2
phorate .....	057201	298-02-2
profenofos .....	111401	41198-08-7
propargite .....	097601	2312-35-8
sabadilla alkaloids	002201	8051-02-3
sulfotepp .....	079501	3689-24-5
sulfuric acid .....	078001	7664-93-9
sulprofos .....	111501	35400-43-2
tefluthrin .....	128912	79538-32-2
terbufos .....	105001	13071-79-9
TPTH .....	083601	76-87-9

The Agency has identified a range of national irrigation options with varying time and duration of entry, required PPE, and levels of exposure. The Pesticide Compliance Dates Extension Act, Pub. L. No. 103-231, included these irrigation provisions:

[A] worker may enter an area treated with a pesticide product during the restricted entry interval specified on the label of the pesticide product to perform tasks related to the production of agricultural plants if the agricultural employer ensures that — (1) no hand labor activity is performed; (2) no such entry is allowed for the first 4 hours following the end of the application of the pesticide product; (3) no such entry is allowed until any inhalation exposure level listed on the product labeling has been reached; and (4) the personal protective equipment specified on the product labeling for early entry is provided in clean and operating condition to the worker.

(b) Protective Equipment for Irrigation Work. — For irrigation work for which the only contact with treated surfaces is to the feet, lower legs, hands, and arms, the agricultural employer may provide coveralls,

chemical resistant gloves, and chemical resistant footwear instead of the personal protective equipment specified on the label.

The Congressional Record of March 24, 1994 provides further information concerning the legislative intent of the nature of the irrigation exception:

Section 2(b) provides, until January 1, 1995, optional PPE for early entry workers operating, moving, or repairing irrigation or watering equipment where contact with the treated surfaces is limited to hands, arms, lower legs, and feet. Instead of providing the PPE on the label specified for early entry, in this situation, the agricultural employer can provide to the irrigation workers the following PPE: chemical resistant boots, chemical resistant gloves, and coveralls. This exception is only for workers performing irrigation work.

In considering the terms of a proposed national exception, one concern is the need to learn from experience how the exception is being implemented, and whether workers truly are protected under the terms of the exception. Therefore, the Agency is proposing to limit the exception to 2 years, and to review and revise the terms of the exception as appropriate based upon experience during that 2 years.

#### C. Proposed Terms of Exception

The Agency is considering the following proposed exception to early entry restrictions for irrigation tasks:

A worker may enter a treated area during a restricted-entry interval to perform tasks related to operating, moving, or repairing irrigation or watering equipment, if the agricultural employer ensures that the following requirements are met:

(1) The worker's only contact with treated surfaces (including, but not limited to, soil, water, air, surfaces of plants, crops, and irrigation equipment if exposed to pesticides during application) is to the feet, lower legs, hands and forearms.

(2) The tasks could not be delayed until after expiration of the restricted-entry interval or the pesticide application could not be delayed until after the task is completed.

(3) The pesticide product does not have a statement in the pesticide product labeling requiring both the posting of treated areas and oral notification to workers ("double notification").

(4) The personal protective equipment for early entry is provided to the worker. Such personal protective equipment shall either: (a) conform with the label requirements for early entry; or (b) coveralls, chemical resistant gloves, socks, and chemical resistant footwear.

(5) No hand labor activity is performed.

(6) The time in treated areas under a restricted-entry interval for any worker does not exceed 8 hours in any 24 hour period.

(7) The requirements of 40 CFR 170.112(c)(3) through (9) are met. These are WPS requirements for all early-entry situations that involve contact with treated surfaces. They include (a) a prohibition against entry during the first 4 hours, and until applicable ventilation criteria have been met, and until any label-specified inhalation exposure level has been reached; (b) PPE definitions and requirements; (c) label-specific instructions; (d) heat-related illness avoidance measures; (e) decontamination requirements; and (f) a prohibition against wearing home or taking home PPE.

(8) Notice about the exception for irrigation workers. The agricultural employer shall:

(a) Notify early-entry irrigation workers orally, before such workers enter a treated area, that the establishment is relying on this exception to allow workers to enter treated areas to complete irrigation tasks.

(b) post information about the terms and conditions of this exception. The posted information shall convey the following information:

(i) The establishment is operating under the conditions of the exception for irrigation workers.

(ii) No entry is allowed for the first 4 hours following an application, and until any exposure level has been reached or any ventilation criteria have been met.

(iii) Time in treated areas under a restricted-entry interval for any worker does not exceed 8 hours in any 24 hour period.

(iv) Decontamination and change areas are provided.

(v) Basic safety training and label-specific information must be provided to early-entry irrigation workers.

(vi) The personal protective equipment specified on the product labeling for early-entry, or a set of coveralls, chemical resistant gloves, socks, and chemical resistant footwear must be provided, cleaned, and maintained for early-entry irrigation workers.

(vii) Early-entry irrigation workers must be instructed in how to put on, use, and remove the personal protective equipment.

(viii) Measures to prevent heat stress must be implemented when appropriate.

(ix) A pesticide safety poster and information about pesticide applications must be displayed in a central location.

(x) The exception expires on January 11, 1997.

(9) This exception shall expire 24 months after the effective date.

#### V. Comments Solicited

The Agency is interested in a full range of comments and information on these exception requests, and is providing 45 days for submission of comments. Comments should be submitted in triplicate and addressed to the Document Control Officer (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

##### A. Possible Exceptions for Irrigation Tasks

The Agency requests comments on whether an exception (if granted) should be limited to a geographic region that would be comprised of two or more States in one area. Comments are requested on whether an exception should be limited to California, should be limited to Hawaii, should include other states with irrigation issues similar to California and Hawaii, or should include the whole country.

In determining whether to grant an exception, and, if so, whether the exception should or should not be limited to any particular geographic areas, the Agency will assess whether the risks and benefits associated with early-entry irrigation tasks differ across the country. In that regard, it should be noted that the California and Hawaii requests contained much information that may not apply to other parts of the country. This is particularly true with regard to the issue of the need to perform early-entry tasks. On this issue, the requestors identified a number of factors which may be unique to the two States involved. Commenters are encouraged to provide information about conditions in other States, and are particularly encouraged to include in their comments whether (and to what extent) the comments apply to particular geographic areas or to the whole country.

The Agency particularly welcomes comments and risk/benefit information (including scientific data, where available) on the California, Hawaii, and Agency proposed exceptions, addressing the following issues:

(1) The risks to workers under the various proposed exceptions, and whether risks differ among irrigation tasks or crop sites.

(2) Whether use of personal protective equipment while performing irrigation work is feasible; and to what extent PPE is necessary to reduce risk to workers performing irrigation tasks.

(3) Whether it is reasonable to expect early entry irrigation workers to wear the early entry PPE required on the pesticide label.

(4) Whether feasible alternative practices would make routine early entry unnecessary to perform irrigation work.

(5) Whether an exception is necessary to perform all irrigation tasks on all crop sites, or whether the Agency decision should differentiate among irrigation tasks or crops.

(6) Whether an exception is necessary in all States, or whether the Agency decision should differentiate among States or regions (two or more States in one area) because of climate, water availability, or for other reasons.

(7) The economic impact on the agricultural industry (or portions of the agricultural industry) of continued limitation of irrigation tasks during WPS restricted-entry intervals if the requested exception (or part of the exception) is not granted.

(8) Other States' regulation of irrigation workers' exposure to pesticides.

#### *B. Exposure Data to Evaluate Irrigation Exception Proposals*

To fully evaluate the exception proposals, the Agency solicits specific information concerning the following:

(1) Potential worker exposure to pesticide residues related to early-entry irrigation activities, including setting-up, running, maintaining, checking, repairing, and moving irrigation equipment for different irrigation systems and equipment.

(2) The amount of potential worker exposure/contact with surface residues or pesticides, including residues on soil, foliage, and irrigation pipes and equipment, including the expected timing, frequency, and duration of exposure.

(3) The potential for field/site variables to affect potential exposure such as type of crop, crop height and density, crop row spacing, or whether surface residues are wet or dry.

(4) Minimal exposure irrigation practices including incidental or intermittent exposure to surface residues on soil, foliage, irrigation pipes and equipment; versus potentially high exposure practices involving prolonged or continuous hand and upper body exposure from contact with residues on medium to tall crops, or moving irrigation pipes that may have high

surface pesticide residues from being exposed in the field during pesticide spray operations.

#### *C. Benefits Data to Support Exception*

EPA is specifically interested in benefits data that include, but are not limited to, the following:

(1) Identification of the crops, specific production tasks and/or unique geographic areas for which this exception would apply. A well supported explanation of the use practices (e.g. typical rates, number and methods of application) that would be adversely impacted by denying the exception.

(2) Evaluation of technically and financially viable alternatives for each crop/task combination and projection of the most likely alternative(s) that would be adopted by the growers in each unique geographic area if no exception is granted (e.g., rescheduling pesticide application or irrigation tasks, using non-chemical pest controls or shorter REI pesticides, utilizing different irrigation systems or agronomic practices, producing different crops, or any other adjustments that may be relevant). The submitted evaluations of impacts should be supported with documented empirical data as fully as possible; if experimental data are lacking, the basis for projected impacts must be adequately explained and documented.

(3) Unique geographic estimates of grower impacts per acre for crop yield, market grade or quality, revenues, and production costs. These estimates should be based on the assumption that the growers will adopt the most likely alternative(s). Any new investment costs associated with the REI should be appropriately annualized. All estimates should be sufficiently documented for items such as current crop production budgets and comparative efficacy/performance studies for alternative pest control practices. Background information such as five previous years of data associated with total acres grown or harvested, total production/yield, farm level prices, market grades and other relevant information for each unique geographic area should be provided in order to establish a baseline.

(4) Aggregate grower level impacts on an annual basis for all estimated impacted acres in each unique geographic area. Estimation of expected crop price changes, if any, without the exception and the basis for these estimates.

(5) Estimation of any other significant economic impacts that are expected if the exception is not granted. Examples

include impacts on consumers and foreign trade, regional shifts in commodity production, or social/community effects associated with local employment and income.

#### *D. Other Valuable Data Solicited*

The Agency also solicits comment and information (including scientific data, where available) on the Agency's proposed exception and on several possible modifications to the proposed exception that the Agency is considering. These modifications include:

(1) Establishing specific criteria for determining whether the early-entry is a necessity rather than a convenience.

(2) Excluding from the exception all pesticides with the signal word DANGER in addition to (or rather than) those with "double notification."

#### *E. Applicability of Exceptions*

EPA remains convinced that routine entry for unlimited time periods into areas remaining under a restricted-entry interval should not be allowed except under rare circumstances. Therefore, if the Agency grants a special exception for irrigation tasks, it intends, to the extent feasible, to limit the exception to situations where entry during the restricted-entry interval is a technical and economic necessity. The Agency seeks comments and information about:

(1) Criteria limiting the exception to situations where the availability of irrigation water is unpredictable or the length of the REI exceeds the acceptable watering interval for the crop.

(2) Situations where entry during a restricted-entry interval is an economic necessity.

(3) Situations where entry during a restricted-entry interval is a technical necessity.

(4) Other possible criteria for limiting an exception to those circumstances where early entry is unavoidable.

(5) Excluding double-notification pesticides from any exception it may grant.

(6) Whether to exclude all products with the signal word DANGER from any exception it may grant. EPA notes, however, that signal words are based on the acute toxicity of the end-use (formulated) product by any route of entry. The signal word would not reflect any concerns about delayed effects or sensitization. Furthermore, a DANGER signal word may be a result of an irritating "inert" ingredient in the formulated product that is volatile and thus is no longer present beyond 4 hours after the application is complete. Also, the DANGER signal word may be based on oral or inhalation toxicity,

which are not usually a concern for exposures to residues on treated surfaces.

(7) Physical activities involved in irrigation. The Agency's proposed exception would allow only those irrigation tasks for which contact with the treated surfaces would be limited to the feet, lower legs, hands, and forearms. These tasks would include tasks such as operating irrigation gates, adjusting irrigation valves, and checking for or unclogging obstructions in areas with low crops or widely spaced rows. Carrying irrigation equipment that was in the treated area during application on one's shoulder or against one's chest would NOT meet these criteria.

Therefore, the Agency solicits specific information about potential worker exposure to pesticide residues during various irrigation activities, including moving, installing, operating, maintaining, checking, repairing, and unclogging irrigation equipment. The Agency also seeks comment and information about whether the irrigation-related tasks that would be performed if the exception is granted would result in exposures just to the feet, lower legs, hands, and forearms, or whether many such tasks would result in more widespread exposures due to contact with residues on medium to tall crops or on residue-laden irrigation equipment.

(8) Finally, EPA requests comment on whether to allow employers of early-entry irrigation workers to choose whether to provide the PPE specified on the pesticide label for early entry or the exception-based PPE (coveralls plus chemical-resistant gloves and footwear). For any toxicity category pesticide, the label-specified PPE might be more protective, because it might include coveralls over other work attire and/or protective eyewear. However, since the exposures are limited to the feet, lower legs, hands, and forearms, this extra PPE may not be necessary. Conversely, the coveralls plus chemical-resistant gloves and chemical-resistant footwear PPE in the proposed exception are more protective than the early-entry PPE required for toxicity III and IV (signal word CAUTION) pesticides, where chemical-resistant footwear is not required (labels will require coveralls, chemical-resistant gloves, shoes, and socks). EPA requests comment on whether to require chemical-resistant footwear for all irrigation workers under this exception, because of the long period of potential exposure. The Agency did not include protective eyewear in the proposed exception, since exposure is limited to feet, lower legs, hands, and forearms. Also many

pesticides that are highly irritating to skin (and are excluded from this exception) are also highly irritating to the eyes. Therefore, many of the products most irritating to the eyes also will be excluded from the exception. However, EPA solicits comment on whether protective eyewear should be included in the minimum PPE requirement for early-entry irrigation workers under any exception due to concern about workers rubbing or wiping residues into their eyes from hands, gloves, or sleeves.

## VI. Public Docket and Electronic Comments

A record has been established for this rulemaking under docket number "OPP-250098" (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as confidential business information (CBI), is available for inspection from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, CM #2, 1921 Jefferson Davis Highway, Arlington, VA. Written comments should be mailed to: Public Response and Program Resources Branch, Field Operations Division (7506C) Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

As part of an interagency "streamlining" initiative, EPA is experimenting with submission of public comments on selected **Federal Register** actions electronically through the Internet in addition to accepting comments in traditional written form. This proposed exception is one of the actions selected by EPA for this experiment. From the experiment, EPA will learn how electronic commenting works, and any problems that arise can be addressed before EPA adopts electronic commenting more broadly in its rulemaking activities. Electronic commenting through posting to the EPA Bulletin Board or through the Internet using the ListServe function raise some novel issues that are discussed below in this Unit.

To submit electronic comments, persons can either "subscribe" to the Internet ListServe application or "post" comments to the EPA Bulletin Board. To "Subscribe" to the Internet ListServe application for this proposed exception, send an e-mail message to:

listserv@unixmail.rtpnc.epa.gov that says "Subscribe RIN-2070-AC69 <first name> <last name>." Once you are subscribed to the ListServe, comments should be sent to: RIN-2070-AC69@unixmail.rtpnc.epa.gov. All comments and data in electronic form should be identified by the docket number OPP-250098 since all five documents in this separate part provide the same electronic address.

For online viewing of submissions and posting of comments, the public access EPA Bulletin Board is also available by dialing 202-488-3671, enter selection "DMAIL," user name "BB-USER" or 919-541-4642, enter selection "MAIL," user name "BB-USER." When dialing the EPA Bulletin Board type <Return> at the opening message. When the "Notes" prompt appears, type "open RIN- 2070-AC69" to access the posted messages for this document. To get a listing of all files, type "dir/all" at the prompt line. Electronic comments can also be sent directly to EPA at:

Docket-OPPTS@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. To obtain further information on the electronic comment process, or on submitting comments on this proposed exception electronically through the EPA Bulletin Board or the Internet ListServe, please contact John A. Richards (Telephone: 202-260-2253; FAX: 202-260-3884; Internet: richards.john@epamail.epa.gov).

Persons who comment on this proposed rule, and those who view comments electronically, should be aware that this experimental electronic commenting is administered on a completely public system. Therefore, any personal information included in comments and the electronic mail addresses of those who make comments electronically are automatically available to anyone else who views the comments. Similarly, since all electronic comments are available to all users, commenters should not submit electronically any information which they believe to be CBI. Such information should be submitted only directly to EPA in writing as described earlier in this Unit.

Commenters and others outside EPA may choose to comment on the comments submitted by others using the RIN-2070-AC69 ListServe or the EPA Bulletin Board. If they do so, those comments as well will become part of EPA's record for this rulemaking. Persons outside EPA wishing to discuss comments with commenters or

otherwise communicate with commenters but not have those discussions or communications sent to EPA and included in the EPA rulemaking record should conduct those discussions and communications outside the RIN-2070-AC69 ListServe or the EPA Bulletin Board.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically in the RIN-2070-AC69 ListServe or the EPA Bulletin Board, in accordance with the instructions for electronic submission, into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. All the electronic comments will be available to everyone who obtains access to the RIN-2070-AC69 ListServe or the EPA Bulletin Board; however, the official rulemaking record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document. (Comments submitted only in written form will not be transferred into electronic form and thus may be accessed only by reviewing them in the Public Response and Program Resources Branch as described above.)

Because the electronic comment process is still experimental, EPA cannot guarantee that all electronic comments will be accurately converted to printed, paper form. If EPA becomes aware, in transferring an electronic comment to printed, paper form, of a problem or error that results in an obviously garbled comment, EPA will attempt to contact the comment submitter and advise the submitter to resubmit the comment either in electronic or written form. Some commenters may choose to submit identical comments in both electronic and written form to ensure accuracy. In that case, EPA requests that commenters clearly note in both the electronic and written submissions that the comments are duplicated in the other medium. This will assist EPA in processing and filing the comments in the rulemaking record.

As with ordinary written comments, at the time of receipt, EPA will not attempt to verify the identities of electronic commenters nor to review the accuracy of electronic comments. Electronic and written comments will be placed in the rulemaking record without any editing or change by EPA except to the extent changes occur in the process of converting electronic comments to printed, paper form.

If it chooses to respond officially to electronic comments on this proposed rule, EPA will do so either in a notice in the **Federal Register** or in a response to comments document placed in the rulemaking record for this proposed rule. EPA will not respond to commenters electronically other than to seek clarification of electronic comments that may be garbled in transmission or conversion to printed, paper form as discussed above. Any communications from EPA employees to electronic commenters, other than those described in this paragraph, either through Internet or otherwise are not official responses from EPA.

#### **VII. Agency Decision on Proposed Exception**

EPA will publish in the **Federal Register** its decision whether to grant the requests for exception, as well as its final decision on a national exception. EPA will base its decision on whether the benefits of the exceptions outweigh the costs, including the value of the health risks attributable to the exception. An exception may be withdrawn by the Agency at any time if the Agency receives poisoning information or other data that indicate that the health risks imposed by the early-entry exception are unacceptable or if the Agency receives other information that indicates that the exception is no longer necessary or prudent.

#### **List of Subjects**

Administrative practice and procedure, Labeling, Occupational safety and health, Pesticides and pests.

Dated: January 3, 1995.

**Lynn R. Goldman,**

*Assistant Administrator for Prevention, Pesticides and Toxic Substances.*

[FR Doc. 95-585 Filed 1-6-95; 12:16 pm]

BILLING CODE 6560-50-F

#### **40 CFR Part 170**

[OPP-250101; FRL-4930-4]

#### **Exceptions to Worker Protection Standard Early Entry Restrictions; Limited Contact Activities**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed exceptions to rule; request for comment.

**SUMMARY:** EPA is proposing an exception to the Worker Protection Standard for Agricultural Pesticides (WPS), that would allow, under

specified conditions, workers to perform early entry limited contact tasks for up to 3 hours per day during a restricted entry interval (REI). Early entry is entry into a pesticide-treated area before the expiration of the REI.

**DATES:** Comments, data, or evidence should be submitted on or before February 27, 1995. EPA does not intend to extend this comment period.

**ADDRESSES:** Comments identified by the document control number OPP-250101 should be submitted in triplicate by mail to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. All written comments filed pursuant to this notice will be available for public inspection in Room 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305-5805, from 8:00 a.m. to 4:30 p.m. Monday thru Friday except legal holidays.

Comments and data may also be submitted electronically by any of three different mechanisms: by sending electronic mail (e-mail) to: Docket-OPPTS@epamail.epa.gov; by sending a "Subscribe" message to listserv@unixmail.rtpnc.epa.gov and once subscribed, send your comments to RIN-2070-AC69; or through the EPA Electronic Bulletin Board by dialing 202-488-3671, enter selection "DMAIL," user name "BB-USER" or 919-541-4642, enter selection "MAIL," user name "BB-USER." Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. All comments and data in electronic form must be identified by the docket number OPP-250101 since all five documents in this separate part provide the same electronic address. No CBI should be submitted through e-mail. Electronic comments on this proposed rule, but not the record, may be viewed or new comments filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in unit VI. of this document.

**FOR FURTHER INFORMATION CONTACT:** Cathy Kronopolus, Certification, Training and Occupational Safety Branch (7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, (703) 305-7371.