a. The authority citation for part 170 continues to read as follows:

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

b. In § 170.120, by revising paragraph (c)(2), redesignating existing paragraphs (c)(3) through (c)(7) as (c)(4) through (c)(8) respectively, and adding a new paragraph (c)(3) to read as follows:

§ 170.120 Notice of applications.

* * * * *

(c) * * *

(2) The standard sign shall be at least 14 inches by 16 inches with letters at least 1 inch in height. Farms and forests shall use the standard size sign unless a smaller sign is necessary because the treated area is too small to accommodate a sign of this size. In nurseries and greenhouses, the agricultural employer may, at any time, use a sign smaller than the standard size sign. Whenever a small sign is used on any establishment, there are specific posting distances depending on the size of the lettering and symbol on the sign. If a sign is used with DANGER and PELIGRO in letters at least 7/8 inch in height and the remaining letters at least 1/2 inch in height and a red circle at least 3 inches in diameter containing an upraised hand and a stern face, the signs shall be no further than 50 feet apart. If a sign is used with DANGER and PELIGRO in letters at least 7/16 inch in height and the remaining letters at least 1/4 inch in height and a red circle at least 1 1/2 inches in diameter containing an upraised hand and a stern face, the signs shall be no further than 25 feet apart. A sign with DANGER and PELIGRO in letters less than 7/16 inch in height or with any words in letters less than 1/4 inch in height or a red circle smaller than 1 1/2 inches in diameter containing an upraised hand and a stern face will not satisfy the requirements of the rule. All signs must meet the requirements of paragraph (c)(1) of this section.

(3) The employer may replace the Spanish portion of the warning sign with a non-English language read by the largest group of workers who do not read English. The replacement sign must be in the same format as the original sign and be visible and legible.

* * * * *

[FR Doc. 96–16201 Filed 6–25–96; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 170

[OPP–250108A; FRL–5358–8]

RIN 2070–AC93

Pesticide Worker Protection Standard; Decontamination Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is amending the 1992 Worker Protection Standard (WPS) by establishing the length of time for which decontamination supplies are required at 7 days following the expiration of pesticide restricted-entry intervals (REIs) of 4 hours or less. Pesticides with REIs of 4 hours or less have passed an EPA risk screening process because of their low acute toxicity, an absence of evidence of worker poisonings after the REI, and a lack of other concerns about toxicity. The decontamination requirements for all other pesticides are not affected by this amendment.

EFFECTIVE DATE: This rule will become effective August 26, 1996.

FOR FURTHER INFORMATION CONTACT: Linda Strauss or Joshua First, Office of Pesticide Programs (7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location: Room 1121, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202. By telephone: (703) 308-3240 or 305-7437. By electronic mail: strauss.linda@epamail.epa.gov or first.joshua@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Entities potentially regulated by this action are agricultural employers who use pesticides that are regulated by the Worker Protection Standard.

Category	Regulated entities
Industry	Agricultural employers

This table is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be regulated by this action. To determine whether or not you are subject to regulation by this action, you should carefully examine 40 CFR part 180.

This Federal Register document discusses the background and events leading to this final rule amending the WPS; summarizes the public's comments on the provisions of the

proposed amendments published in the Federal Register of September 29, 1995 (60 FR 50686) (FRL–4969–5); provides EPA's response to these comments; and presents the Agency's final determination to amend the decontamination provisions of the WPS.

I. Statutory Authority

This rule is issued under the authority of section 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136w(a). Under FIFRA, EPA may register a pesticide if its use does not cause unreasonable adverse effects on the environment. FIFRA also directs the cancellation of any pesticide found to cause unreasonable adverse effects on the environment. FIFRA section 2(bb) defines unreasonable adverse effects on the environment to mean any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide. Thus, in deciding how to regulate a pesticide, FIFRA requires EPA to balance the risks to human health and the environment associated with pesticide exposure and the benefits of pesticide use to society and the economy.

II. Background

A. This Notice

In 1992, EPA revised the WPS (40 CFR parts 156 and 170) (57 FR 38102, August 21, 1992). The WPS is intended to reduce the risk of pesticide poisonings and injuries among agricultural workers who are exposed to pesticide residues, and to reduce the risk of pesticide poisonings and injuries among pesticide handlers who may face more hazardous levels of exposure. The 1992 WPS superseded a rule promulgated in 1974 and expanded the WPS scope not only to include workers performing hand labor operations in fields treated with pesticides, but also to include all other workers exposed to pesticide residues in or on farms, forests, nurseries, and greenhouses, as well as pesticide handlers who mix, load, apply, or otherwise handle pesticides. In general, the WPS contains requirements for pesticide safety training, notification of pesticide applications, decontamination supplies, emergency medical assistance, use of personal protective equipment, and restrictions on entry into treated areas during restricted entry intervals following pesticide application.

Section 170.150 of the 1992 WPS requires that a worker be provided with a ''decontamination site'' which consists of supplies (including water, soap, disposable towels) for washing off pesticide residues whenever that worker ''performs any activity in an area where, within the last 30 days, a pesticide has been applied or a restricted-entry interval has been in effect and contacts anything that has been treated with the pesticide.'' (As explained in Unit V. of this preamble, EPA is also making a technical amendment to the WPS rule to use the phrase ''decontamination supplies,'' instead of ''decontamination site.'' The phrase ''decontamination supplies'' will be used in the rest of this preamble.)

Decontamination supplies must consist of soap and single-use towels sufficient to meet workers' needs and enough water for routine washing and emergency eyeflushing. EPA recommends that at least 1 gallon of water be available per worker; see the WPS ''How to Comply'' manual. The decontamination supplies must be reasonably accessible to workers and not more than ¼ mile from where workers are working. Section 170.150 also specifies additional requirements regarding the general conditions and location of decontamination supplies, as well as requirements for these materials after early entry activities.

Since the WPS was issued in 1992, the National Association of State Departments of Agriculture and other stakeholders have expressed an interest in addressing practical concerns with the WPS. The Agency received many requests and comments in the form of letters, petitions, and conversations at individual and public meetings to address concerns with the WPS, including concerns specifically suggesting a change to the decontamination requirement. With regard to the decontamination requirement, several commodity and other groups stated their belief that the duration of the 30–day requirement is unnecessary because decontamination supplies must be provided even when there is no apparent risk, in their estimation.

On September 29, 1995, EPA proposed to amend the decontamination requirement by reducing the length of time that decontamination supplies are required following use of pesticides with restricted-entry intervals (REIs) of 4 hours or less. EPA proposed, for these lower toxicity pesticides, that the length of time be reduced from 30 days to a length of time between 1 and 15 days after the expiration of the REI. During the public comment period, EPA subsequently received more comments from its stakeholders, including growers, farmworker groups, state agencies, and private citizens. This action announces EPA's final decision to amend the decontamination requirement in the WPS.

B. Future Considerations

The requirement for maintaining decontamination supplies in the field for 30 days when workers are present was a risk-mitigation measure prompted by the risks to workers by some of the most acutely toxic pesticides. The requirement's length (30 days) was largely based on available data on pesticide-related poisonings from the 1980s. A combination of EPA regulatory actions during the past decade eliminating some of the most acutely toxic pesticides and the other worker protection requirements may mitigate risks sufficiently to prompt consideration of a reassessment, should relevant new data become available.

The Agency is committed to assessing new data to resolve questions about the appropriateness of the length of time associated with this requirement, for some or all pesticide products. The EPA registration and reregistration programs, as well as focused contract efforts, can be the sources of new data. EPA will monitor these data and, if appropriate, apply them toward re-evaluating the WPS requirement that decontamination supplies be maintained in the field for 30 days if workers are present.

III. Summary of This Final Rule Amendment

EPA is amending 40 CFR 170.150 to establish the length of time for which decontamination supplies are required at 7 days following the expiration of pesticide restricted-entry intervals (REIs) of 4 hours or less. Because such pesticides are relatively low in toxicity, and therefore may pose very little or no risk to workers, EPA is reducing the time from 30 days to 7 days following the end of the REI of any of these pesticides or a mix of such pesticides. This change will not apply for situations where REIs for two or more pesticides are in effect, unless all pesticides have REIs of 4 hours or less. EPA is retaining the 30–day decontamination requirement for pesticides with REIs of more than 4 hours and those pesticides without REIs. However, in order to clarify the meaning of the existing requirement, EPA has modified the language of 40 CFR 170.150(a)(1).

EPA is not amending other aspects of the decontamination requirement, including the provision on decontamination supplies for handlers, which is located in 40 CFR 170.250. EPA has made the risk-benefit finding to alter the length of the decontamination

requirement only for pesticide products with REIs of 4 hours or less, but not for other products.

In the Federal Register of May 3, 1995 (60 FR 21965) (FRL–4950–8), EPA issued PR Notice 95-3 listing active ingredients subject to the WPS rule which had been reviewed for toxicity and found to pose little or no risk to workers. Pesticide products containing these active ingredients would be eligible for a reduced REI of 4 hours. As explained more fully in the PR Notice, EPA examined each active ingredient for acute toxicity risk and other forms of toxicity-related risk, including cancer, birth defects, effects on the reproductive and nervous system and long-term harm to health, as well as data on reported field poisonings. Whenever EPA lacked information on a particular type of potential adverse effect, the Agency considered information on pesticide chemicals with similar molecular structures. The Agency will list an active ingredient as eligible for a reduced REI only if all of the information available indicates that it will be of low toxicity to humans, i.e., that it poses little or no risk to workers. A pesticide product will actually be assigned the 4-hour REI only if data on that particular pesticide formulation satisfy additional criteria indicating that the formulation is not acutely toxic. Only those pesticide products which either meet the criteria of PR Notice 95-3 or which have been reviewed on a case-by-case basis will have RELs that short, and all of those products pose little or no risk to workers.

Any end-use pesticide that has an approved 4-hour REI will have met or exceeded the standard for low or insignificant risk described in the May 3, 1995 Pesticide Regulatory (PR) Notice 95-3. For instance, pesticides approved for a 4-hour REI have a very low acute toxicity and have not been found to have other associated developmental, reproductive, neurotoxic, or carcinogenic effects. Additionally, none of their active ingredients is a cholinesterase inhibitor, and the Agency does not have any information about poisoning incidents (illness or injury reports) that are ''definitely'' or ''probably'' related to post-application exposures to the active ingredient.

In summary, in deciding to amend the decontamination requirement for low toxicity pesticides, EPA has weighed the risks of possible increased exposure to products with REIs of 4 hours or less against the benefits of reduced grower costs. EPA has concluded that the very low risk posed by these products do not justify the costs of maintaining decontamination supplies for more than 7 days after the expiration of the REI. Reducing the length of time decontamination supplies are required for the 4-hour REI products may also encourage the use of these low toxicity products, thereby lowering potential risk to workers. The Agency finds substantial justification for this amendment for the reasons summarized in this Unit and discussed in detail in the Response to Comments section below.

IV. Summary of Response to Comments

EPA received a total of 15 comments on the proposal to amend the requirements relating to the provision of decontamination supplies. Comments were received from States, commodity and industry groups, farmworker groups, and individuals.

A. Comments on the Requirement's Scope and Duration of Time

Comments

The Agency proposed to reduce the length of time for which decontamination supplies are required when established low toxicity pesticides are used. The proposal indicated EPA was considering a timeframe from 1 to 15 days and requested comment.

In their comments, farmworker groups were opposed to shortening the 30-day time period for any pesticides, including those with 4-hour REIs. One such group suggested, however, that if EPA shortened the time period for the decontamination requirement, the duration should not be less than 15 days. They stated that EPA's understanding of identified low-toxicity pesticides is inadequate. Further, they stated that, even in situations where there is no known risk from these pesticides, decontamination supplies are needed to address pesticide exposure resulting from drift, spills, and other accidents. Finally, some commenters noted that on small farms that are not required to have OSHA handwashing facilities, these supplies may be the only water source available for workers in case of an emergency.

On the other hand, some grower groups commented that EPA should not require that decontamination supplies be made available after the REI expires. Others supported reducing the duration that decontamination supplies are provided for all pesticides to a range of 1 to 15 days. These commenters stated that the current requirement is unnecessary and burdensome, given the low risk from pesticide exposure after the end of the REI and the high cost of supplying and transporting the supplies.

The California Department of Pesticide Regulation stated that, when EPA assigns permanent, chemical-specific REIs during pesticide reregistration, decontamination sites (supplies) should be required only during the REI. (EPA reregistration involves a comprehensive review of pesticides to ensure current scientific standards are met.) Thus, they argued, EPA should consider the generic 30–day period requirement as an interim requirement. State agricultural agencies in Georgia and Arizona recommended reducing the requirement to 7 days for all pesticides. Comments from the Michigan Department of Agriculture supported reducing the timeframe if it were limited to the low toxicity pesticides.

Agency Response

The purpose of the decontamination requirement is two-fold. First, the decontamination supplies allow a worker, whose skin or eyes have been exposed to pesticide residues, to wash off the residues quickly and thoroughly in or near the site where the exposure occurred in order to prevent adverse effects, including acute and chronic effects. Prompt action may dramatically reduce further exposure and can prevent or mitigate illness or injury. Second, the availability of decontamination supplies allows workers to engage in routine washing which has been demonstrated to reduce pesticide exposure (i.e., washing off hands before using the toilet, smoking or eating) and which is taught as part of the WPS training program required for all workers before they may enter any pesticide-treated areas.

In the 1992 WPS rule, EPA set the length of time that decontamination supplies must be available to workers at 30 days after the expiration of any REI at a treated site. In choosing to require the 30-day period, EPA relied on an analysis of pesticide poisoning incident data. Examination of these data indicated that poisoning episodes from re-entry to treated areas could continue up to and beyond 30 days after the end of the REI. Thus, the Agency concluded that there could be sufficient pesticide residues to cause poisoning episodes up to 30 days after the end of the REI, and that the availability of decontamination supplies was an inexpensive method of mitigating this potential risk (See 57 FR 38123). No information presented in public comments has justified any departure from the 1992 decision for chemicals other than the low toxicity pesticides addressed in PR Notice 95-3. Thus, this conclusion remains unchanged.

EPA disagrees with the comments suggesting that the requirement for

decontamination supplies should be eliminated for all pesticides after the REI has expired and should be shortened significantly for all pesticides. Some of these comments recommend, in effect, that EPA rely on the REI to address the risks of all potential exposures of workers entering pesticide-treated areas. REls, however, were not developed for that purpose. The Agency currently has two types of REIs: interim REIs established by the 1992 WPS rule (or by the Agency based on epidemiological information and/or preliminary adverse toxicological data) and chemical- and crop-specific REls established by EPA after case-by-case consideration of data. The WPS interim REls are based on the acute toxicity of the active ingredient in pesticides subject to the WPS. Acute toxicity (the capacity of a substance to cause toxic or adverse effects as a consequence of a single, short duration exposure) is a significant concern with respect to protection of agricultural workers, and the acute toxicity of an active ingredient is a suitable proxy for evaluating the potential for this type of risk under field conditions.

The WPS established interim REIs for pesticides of 12 to 72 hours, based on the level of acute toxicity displayed by the active ingredients in the product, when tested in established laboratory assays (See 57 FR 38110-38111; August 21, 1992). Workers are generally prohibited from entering treated sites during an REI; the more acutely toxic the active ingredient, the longer the REI. Because interim REIs established by the WPS or through other Agency actions do not reflect consideration of all potential factors or risks, however, EPA cannot conclude that they will protect against all potential worker exposures.

Chemical- and crop-specific REls are established after taking into account other factors, not considered when interim REls were created, which may influence the level of potential risk to workers. A number of factors affect the level of risk faced by a worker performing activities in or on a pesticide-treated area. In addition to the acute toxicity of the pesticide, the Agency considers the potential for other adverse effects, such as cancer, birth defects, damage to the reproductive or nervous systems arising from exposures of longer duration. Typically, these effects occur at much lower levels of exposure than do acute toxic effects. The Agency is also able to consider the level of pesticide residues remaining at a treated site, using information on the rate at which the residues decline following pesticide application. Finally, EPA is able to take into account the extent to which the residues are transferred to and enter into the human body as a consequence of the pattern of work activity an employee performs at a treated site. In fact, using more complete information during the chemical-by-chemical review conducted in the reregistration process, a number of interim REIs have been replaced by chemical or crop-specific REIs that are longer than the interim REIs set by the 1992 rule.

On the other hand, even permanent, product-specific REIs established during registration and reregistration are based on ''average'' conditions. They do not and cannot practically take into account differences due to temperature and humidity; rainfall and irrigation practices; degree of sunlight; crop type, height, and density; region-specific production practices or worker activity and length of exposure. Evidence indicates the importance of washing pesticides off as soon as possible after an exposure to mitigate adverse effects. Retaining decontamination requirements for a period of 30 days after the expiration of an REI for pesticides other than the low toxicity pesticides lessens the chances that workers will be harmed by pesticide residues and decreases their chronic exposures to pesticides.

If there were no requirement for making decontamination supplies available, the Agency would be able to reduce the potential for such risks by extending REIs. Such an approach, however would be more burdensome to agricultural producers than retaining the requirement for decontamination supplies. Longer REIs would be considerably more likely to interfere with agricultural operations. Therefore, EPA continues to believe that the risk mitigation from making decontamination supplies available to workers clearly justifies the additional costs of complying with this requirement.

Even in the ideal situation, where worker entry into pesticide-treated areas is based on on-site field tests, situations may arise where workers will be exposed to unacceptable levels of residues. These situations include mistakes in warnings about areas not yet safe to enter, ''hot spots'' within the treated areas from spills, application mistakes, etc. In addition, the establishment of a residue level that is ''safe'' for entry involves, at this time, only an analysis of exposure to a specific product on a specific occasion. The Agency is also concerned about acute and delayed health effect risks from the cumulative effect of multiple exposures to a single product and multiple exposures to multiple products. Since the opportunities for exposure are so variable, providing decontamination supplies for a period of 30 days after the REI for pesticides other than the low toxicity pesticides seems to be a prudent, low-cost measure that can reduce pesticide-related illnesses and injuries that may stem from such exposures.

Other commenters objected to shortening the time period even for the low- toxicity pesticides, because decontamination supplies could mitigate risks associated with unsafe exposures resulting from spills, drift, or most other accidents. Even in the face of application mistakes, such as spills, and insufficient entry warnings, EPA can lower the decontamination timeframe for pesticides that have passed EPA's screening process because of their low acute toxicity, an absence of evidence of worker poisonings after the REI, and lack of other toxicity concerns.

Further, while mitigating exposure to drift is one of the purposes of having decontamination supplies available for 30 days after the expiration of the REI, the primary purpose of the decontamination requirements is to mitigate potential adverse effects of exposure to pesticide residues remaining in the treated area after the REI has expired. In addition, because off-site drift can occur at any time and consist of low or high toxicity pesticides, it cannot be most effectively remedied by time-limited measures. If decontamination supplies were the sole means of addressing drift, the Agency would have to require that supplies always be available, regardless of the length of the REI or the toxicity of the pesticide. While EPA recognizes that having decontamination supplies available at all times would reduce the risk from drift, it would not reduce risk adequately to outweigh the costs of permanently maintaining decontamination supplies in all treated fields.

The most effective means of mitigating drift exposure is to prevent drift from occurring. Accordingly, the WPS requires that no pesticide be applied so as to contact, either directly or through drift, any worker or other person other than the person applying the pesticide. The Agency is also working to develop engineering and use controls to address further the problem of pesticide drift. With regard to pesticide spills, the WPS requires decontamination supplies during pesticide application, when spills are most likely to occur. Finally, reducing the duration of decontamination

supplies for pesticides with REIs of 4 hours or less will also encourage the use of low toxicity products, which may afford greater risk reduction than if pesticides with higher toxicity levels were used.

The costs of supplying and maintaining decontamination supplies (which consist of water, soap, and disposable towels) are relatively low. Supplies are generally not bulky and can be taken with the workers on foot, in a vehicle, or on a tractor. The requirement will be satisfied so long as the decontamination supplies are reasonably accessible to workers (within 1/4 mile or at the nearest point of vehicular access), and the water is of a quality and temperature that will not cause illness or injury when it contacts the skin or eyes or if it is swallowed. Although the costs of maintaining decontamination supplies are low, the risks posed by products with REI of 4 hours or less are negligible after the first 7 days of the decontamination period. Therefore, the costs of maintaining decontamination supplies for more than 7 days are not justified by the very low risk posed by these products.

EPA disagrees with those commenters who asserted that decontamination supplies should be required for all pesticides for 30 days following the expiration of the REI. Some comments objected to the proposed reduction for lower toxicity pesticides because they believe EPA did not have a full understanding of the potential risks of these products. Under PR Notice 95-3, both pesticide active ingredients and specific product formulations go through a careful screen to determine their eligibility for a reduced REI. The screen provided EPA with a good understanding of the nature of potential risks posed by these products.

The Agency notes that many of the products which have been identified under PR Notice 95-3 are biological pesticides, which are generally low in toxicity to humans. These products were not in wide use before the 1990s and were not specifically considered as part of the development of the 1992 WPS. In recent years, EPA has adopted a policy of encouraging the use of these products because they are inherently less risky than conventional chemical pesticides. Shortening the duration of the requirement for decontamination supplies is one way EPA can distinguish these lower toxicity pesticides from more risky pesticide products and can provide an incentive for pesticide users to choose these products.

In its proposal, EPA proposed to reduce the amount of time decontamination supplies would be required for certain lower toxicity pesticides, those with REIs of 4 hours or less, but did not specify the length of the shortened time period. The Agency noted that it was considering time periods in the range of 15 days to 1 day, and EPA specifically requested comment on this time period. In response, commenters suggested a range of timeframes, including 7 days for all pesticides. EPA has decided that decontamination supplies must be available for 7 days following the expiration of the REI of pesticides for which EPA has data to indicate a low level of toxicity. This timeframe represents a significant shortening of the requirement and corresponds to the midpoint of the range of times suggested between 1 and 15 by commenters. Although the Agency's data show that these pesticides pose a low risk, reducing the duration of decontamination supplies to 7 days after the REI expires still provides an additional safeguard from any possible adverse effects of exposure to these low toxicity pesticides.

In sum, the Agency concludes that it is appropriate to reduce the duration of the decontamination requirement for pesticides which have REIs of 4 hours or less, from 30 days to 7 days. This conclusion is based on its identification of a group of pesticide products which may pose little or no risk to agricultural workers. EPA has concluded that the low risks posed by these products do not justify the costs of maintaining decontamination supplies for more than 7 days after the expiration of the REI. The benefits of shortening the time period do not appear to be outweighed by any potential increase in risk. At the same time, EPA has decided to retain for other pesticides the requirement that decontamination supplies be available to workers for 30 days following expiration of the REI for pesticide treated areas.

B. Location of Decontamination Supplies

Comments

The American Farm Bureau stated that EPA should allow decontamination supplies to be located in an area under an REI provided that the site (supplies) is reasonably accessible to workers.

Agency Response

Section 170.150(c)(4) states that decontamination supplies may be placed in an area under an REI if workers are performing early entry activities permitted by § 170.112 involving contact with treated areas, and this location is necessary for the supplies to be reasonably accessible to workers. Early entry (entry by a worker into a treated area after a pesticide application but before the REI has expired) is allowed under certain conditions specified in the rule. Thus, the WPS allows for decontamination supplies to be placed in an area under an REI for use by those performing early entry activities under the rule, since these workers are already allowed access to the area. Placement of the decontamination supplies within a treated area is allowed if this choice of site is necessary for the supplies to be reasonably accessible to workers. The rule, however, does not allow agricultural workers, who are not performing early entry activities, into the area under the REI, and therefore supplies for these workers must be located outside the area under an REI.

C. Decontamination Requirement After Harvest

Comments

The American Farm Bureau commented that decontamination supplies should not be required after crops are harvested because there are few post-harvest, farm practices that bring workers into contact with treated surfaces. They also believe that there is such a small number of crops where contact with treated surfaces occurs, and that therefore, EPA should identify the specific crops that do require decontamination supplies after the REI expires.

Agency Response

The Agency agrees that the decontamination supplies should not be required when workers will not contact pesticide-treated surfaces at post-harvest times. 40 CFR 170.150(a) states that decontamination supplies are required when a worker ''performs any activity in an area where, within the last 30 days, a pesticide has been applied or a restricted-entry interval has been in effect and contacts anything that has been treated with a pesticide, including but not limited to, soil, water or surfaces of plants. . . .'' In those cases where there is no contact with pesticide-treated surfaces, as may be the situation when all treated surfaces have been completely removed during harvest, the rule already allows entry without requiring decontamination supplies.

In response to the request to identify certain crops for which decontamination supplies would be required, there are cultural activities for virtually all crops which involve contact with previously-treated surfaces, and activities in which there is no contact. Given this fact, it would be difficult for the Agency to determine at which times

decontamination supplies would be needed on the basis of the specific crop. Rather, EPA will continue to require these supplies when there is contact with pesticide-treated surfaces.

V. Technical Amendment

EPA is revising §§ 170.150 and 170. 250 to replace the words ''decontamination site'' with ''decontamination supplies.'' In the past and in public comments on the proposal, the phrase ''decontamination site'' has sometimes been misconstrued to mean a physical, stationary structure or trailer where supplies are kept. The WPS, however, only requires specific decontamination supplies be made available. These supplies must be reasonably accessible to and not more than ¼ mile from the workers. They may be kept in a backpack or decontamination kit in the field or in a van or truck. The text has been reformatted without changing the meaning of the provision.

VI. Public Docket

A record has been established for this rulemaking under docket number OPP-250108A. This record is available for public inspection from 8 a.m. to 4:30 p.m., Monday through Friday. The public record is located in Rm. 1132, Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway., Arlington, VA. Written requests should be mailed to: Public Response and Program Resources Branch (7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

VII. Statutory Review

As required by FIFRA section 25(a), this final rule was provided to the United States Department of Agriculture (USDA) and to Congress for review. During the development of this rule, EPA addressed all of USDA's concerns and comments through extensive informal consultations, and the final rule was presented formally to USDA for comment. The USDA had no comment on this final rule. The FIFRA Scientific Advisory Panel waived its review.

VIII. Regulatory Assessment Requirements

A. Executive Order 12866

Pursuant to Executive Order 12866 (58 FR 51735, October 4, 1993), it has been determined that this rule is not ''significant'' and is therefore not subject to OMB review. The Agency believes that the amendments associated with this action constitute regulatory relief, and therefore will not impose any additional costs. The analysis related to the costs of the original requirements were discussed in conjunction with their promulgation in 1992 as part of the Worker Protection Standards.

B. Executive Order 12898

Pursuant to Executive Order 12898 (59 FR 7629, February 16, 1994), entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*, the Agency has considered environmental justice related issues with regard to the potential impacts of this action on the environmental and health conditions in low-income and minority communities.

C. Unfunded Mandates Reform Act

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), this action does not result in the expenditure of $100 million or more by any State, local or tribal governments, or by anyone in the private sector, and will not result in any unfunded mandates as defined by Title II. The costs associated with this action are described in the Executive Order 12866 section above.

Under Executive Order 12875 (58 FR 58093, October 28, 1993), EPA must consult with representatives of affected State, local, and tribal governments before promulgating a discretionary regulation containing an unfunded mandate. This action does not contain any mandates on States, localities or tribes and is therefore not subject to the requirements of Executive Order 12875.

D. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Agency determined that this regulatory action does not impose any adverse economic impacts on small entities. I therefore certify that this regulatory action does not require a separate regulatory flexibility analysis. Information relating to this determination has been provided to the Chief Counsel for Advocacy of the Small Business Administration, and is included in the docket for this rulemaking. Any comments regarding the economic impacts that this regulatory action may impose on small entities should be submitted to the Agency at the address listed above.

E. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) of the Administrative Procedure Act (APA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Title II of Pub. L. 104-121, 110 Stat. 847), EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2) of the APA as amended.

F. Paperwork Reduction Act

The Office of Management and Budget (OMB) approved the information collection requirement related to Worker Protection Standards under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and assigned OMB control number 2070-0148 (EPA ICR No. 1759.01). The amendments contained in this rule do not increase the burden hours or costs associated with this requirement, or require any separate approval from OMB.

List of Subjects in 40 CFR Part 170

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

Dated: June 18, 1996.

Carol M. Browner,

Administrator.

Therefore, 40 CFR part 170 is amended as follows:

PART 170—[AMENDED]

1. The authority citation for part 170 continues to read as follows:

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

2. In § 170.150 by revising paragraphs (a), (b)(3), (c)(1), (c)(2)(ii), (c)(3), and (c)(4) to read as follows:

§ 170.150 Decontamination.

(a)(1) *Requirement*. The agricultural employer must provide decontamination supplies for workers in accordance with this section whenever:

(i) Any worker on the agricultural establishment is performing an activity in the area where a pesticide was applied or a restricted-entry interval (REI) was in effect within the last 30 days, and;

(ii) The worker contacts anything that has been treated with the pesticide, including, but not limited to soil, water, plants, plant surfaces, and plant parts.

(2) *Exception*. The 30–day time period established in paragraph (a)(1)(i) of this section shall not apply if the only pesticides used in the treated area are products with an REI of 4 hours or less on the label (but not a product without an REI on the label). When workers are in such treated areas, the agricultural employer shall provide decontamination supplies for not less

than 7 days following the expiration of any applicable REI.

(b) * * *

(3) The agricultural employer shall provide soap and single-use towels in quantities sufficient to meet worker's needs.

* * * * *

(c) *Location*. (1) The decontamination supplies shall be located together and be reasonably accessible to and not more than 1/4 mile from where workers are working.

(2) * * *

(ii) The agricultural employer may permit workers to use clean water from springs, streams, lakes, or other sources for decontamination at the remote work site, if such water is more accessible than the water located at the nearest place of vehicular access.

(3) The decontamination supplies shall not be maintained in an area being treated with pesticides.

(4) The decontamination supplies shall not be maintained in an area that is under a restricted-entry interval, unless the workers for whom the supplies are provided are performing early-entry activities permitted by § 170.112 and involving contact with treated surfaces and the decontamination supplies would otherwise not be reasonably accessible to those workers.

* * * * *

3. In § 170.250 by revising paragraphs (a), (b)(3) and (b)(4), the introductory text of (c), (c)(1), (c)(2), (c)(3)(ii), (c)(4) introductory text, and (c)(4)(i) to read as follows:

§ 170.250 Decontamination.

(a) *Requirement*. During any handling activity, the handler employer shall provide for handlers, in accordance with this section, decontamination supplies for washing off pesticides and pesticide residues.

(b) * * *

(3) The handler employer shall provide soap and single-use towels in quantities sufficient to meet handlers' needs.

(4) The handler employer shall provide one clean change of clothing, such as coveralls, for use in an emergency.

(c) *Location*. The decontamination supplies shall be located together and be reasonably accessible to and not more than ¼ mile from each handler during the handling activity.

(1) *Exception for mixing sites*. For mixing activities, decontamination supplies shall be at the mixing site.

(2) *Exception for pilots*. Decontamination supplies for a pilot who is applying pesticides aerially shall be in the airplaine or at the aircraft loading site.

(3) * * *

(ii) The handler employer may permit handlers to use clean water from springs, streams, lakes, or other sources for decontamination at the remote work site, if such water is more accessible than the water located at the nearest place of vehicular access.

(4) *Decontamination supplies in treated areas*. The decontamination supplies shall not be in an area being treated with pesticides or in an area under a restricted-entry interval, unless:

(i) The decontamination supplies are in the area where the handler is performing handling activities;

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