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August 18, 2014

Kathy Davis
Field and External Affairs Division
Office of Pesticide Programs
Environmental Protection Agency
1200 Pennsylvania Ave., NW.
Washington, DC 20460-0001

Subject: **Docket ID Number EPA-HQ-OPP-2011-0184**

Comments in Response to *Agricultural Worker Protection Standard Revisions: Pesticides*

The following comments are being submitted in response to the March 19, 2014 *Federal Register* notice regarding EPA's proposing updates and revisions to the existing worker protection regulation for pesticides and the May 14, 2014 *Federal Register* notice extending the comment period to August 18, 2014. These comments are being submitted on behalf of the Western Integrated Pest Management Center and provide input on of the proposed changes from the agriculture communities in Hawai'i and American Samoa.

Comments regarding some of the major sections of the *Agricultural Worker Protection Standard Revisions*, as described in the March 19, 2014 *Federal Register* notice, are listed below. (Headings in bold and italics refer to the sections with the same headings in the *Federal Register* notice.)

Training of Workers and Handlers

Shorten Retraining Interval for Workers and Handlers

- This change was not viewed as problematic. Some employers already train all appropriate workers and handlers each year. This practice helps them to accommodate turnover of workers and handlers and to assure all requirements are met.

Establish Recordkeeping Requirements To Verify Training for Workers and Handlers

- Some employers already have a training tracking system in place. However, modifications will be required, more details included and better assurances that each trained employee receives a copy of her or her record.
- The requirement to provide workers and handlers with a copy of his or her training record is regarded as a positive. This would facilitate employment changes for both workers and their subsequent employers.

Establish Trainer Qualifications

- The proposal says, “Certified applicators would no longer be automatically considered qualified to train workers.” Stakeholders state that this may not be reasonable. The licensed applicator or consultant should be considered to be the person who is the most knowledgeable about the chemicals in use. Certified applicators would themselves require additional training to continue to train workers. The availability and cost of EPA-approved training for trainers is not yet known.

Additional Requirements and Burdens for Trainers

- Concerns were expressed about the additional requirements that will be placed on trainers in small or remote island communities. Often the only trainers for such areas are extension and regulatory staff, who would have to incorporate their own training and assist growers to implement the changes on top of their existing duties.

Training Materials

- It is very important that stakeholders have training materials that are of high quality and easy for workers understand. Such materials would be more beneficial if they incorporated local crops and conditions which are likely to be encountered by the workers being trained. Therefore, such materials would likely be locally produced. There are concerns about availability of local resources to produce these materials—and for EPA to approve these materials in time to implement the revisions.

The materials would also need to be in a language the worker understands. (A stakeholder estimated most of the agricultural workers in Hawai'i speak one of 10 languages. Thus, training materials in 10 languages and approved trainers for each of the 10 languages would be required to accommodate workers in Hawai'i. While there is some overlap, these are not the same languages in which EPA has developed training materials.)

Notifications to Workers and Handlers

Posted Notification Timing & Oral Notification

- The change to require posting of notifications of use of products with an REI of more than 48 hours is regarded as redundant (considering existing requirements) and unnecessary. However, the impact of this change is considered to be great.

Hazard Communication

Pesticide-Specific Hazard Communication Materials

- This is regarded as a positive and not unduly burdensome. Additionally, after a training video or presentation, trainers might append pesticide-specific details—such as toxicity—of the chemicals normally used on the farm.

Pesticide Application Information—Location and Accessibility

- EPA's proposal to require the employer to maintain pesticide application information and make it accessible upon request, while eliminating the requirement for agricultural employers to display the pesticide application information at a central location, is regarded as a positive change. The information display was not effective (largely ignored). Application records must be available; this requirement will not be burdensome.

Pesticide Application Information and Pesticide-Specific Hazard Communication Materials—Retention of Records

- Retaining the application record, product label and Safety Data Sheet (SDS) for each application for two years after the expiration of the REI for the application is regarded as a positive (provided that the records can be maintained in computerized forms) and is even regarded as good farm practice. However, container labels—which may be very difficult (or even impossible) to copy—or SDSs may need to be located in the two years after the application (using the information contained in the application record). During a two-year period, these documents can change and original containers disposed of. (These events would be much less likely during the current retention period of 30 days.) From information on the application records, a label and SDS can be found on-line. These may not be the correct version for the product used at the time of application. A need for a reliable source for all labels and SDSs—even those which are outdated or have been superseded—was expressed.

Restrictions for Worker Entry into Treated Areas

Expansion of Entry-Restricted Areas

- A change to expand the entry-restricted area well beyond the treatment area alone is considered to be unworkable. This change would be particularly problematic for small and very small farms. (According to EPA's *Comparison of the Major New Proposed Protections to the Existing Protections*, the proposal is to "Prohibit entry into 25-100 foot buffer areas around the field during pesticide application. . . ." <http://www.epa.gov/oppfead1/safety/workers/proposed/comparisons-current-proposed-wps.pdf>.)

On farms, application sites are usually defined by a farm road. Workers in pickups and on tractors need to use the road during the period of application—when the applicator has already passed by or is working in a distant portion of the treatment area.

Workers, such as hand-harvest labor crews who are working on the opposite side of the road from the chemical application, currently do not work next to the road on the day an application is being made. However, processing, greenhouse or other facilities may be located in an area on the same property (single landowner) and part of the same landowner's operation (such as an "agricultural park"). There is a concern that activities at these facilities would need to cease, even if these activities were not being conducted on part of the farm on which the pesticide is being applied, but were within the expanded entry-restricted area.

Decontamination

Clarify the Quantity of Water Required for Decontamination

- One (1) gallon of water for routine washing for workers and 3 gallons for handler emergency decontamination, is considered reasonable amounts of water for workers or handlers who have been exposed to pesticides.

Eliminate the Substitution of Natural Waters for Decontamination Supplies

- The restriction on the use of "natural water" seems very unnecessary and regarded as possibly hazardous for workers in a serious contamination event.

Personal Protective Equipment*Respirators: Fit Testing, Training, and Medical Evaluation*

- Stakeholders have questions and concerns about the qualifications that will be required of persons who will administer the respirator fit testing.

Exemptions and Exceptions*Revise the Exception to the Requirement for Workers To Be Fully Trained Before Entering Pesticide-Treated Areas*

- The proposed change would allow agricultural employers to postpone providing full pesticide training for up to 2 days after the worker begins work in WPS-covered areas. Currently, WPS regulations allow a 5-day “grace period” before full training is required.

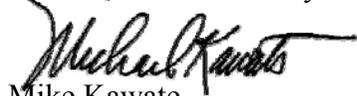
This change is regarded as impractical; many agricultural workers have a 1-week “trial period” to determine if the job for which they were hired is suitable for their abilities and characteristics. Good training material will facilitate earlier training. However, until workers have a certain level of job experience, the training will not be time well-spent. Furthermore, it may be difficult to secure the services of a trainer who speaks the appropriate language, in a short time window.

Pesticide mixers and handlers are not included; such employees should receive early training.

It was noted that, in general, larger employers may have the staff and resources to implement the changes. Many small farmers have neither the people nor the resources and will have difficulty meeting the new requirements on their own, and will require assistance.

This information has been provided by extension staff of the College of Tropical Agriculture and Human Resources of the University of Hawai'i at Mānoa and American Samoa Community College, a representative of Hawai'i's macadamia nut industry, and an agricultural chemical vendor. It should also be noted that the proposed changes have generated much interest; in addition to the comments summarized, above, Hawai'i stakeholders have submitted other opinions and comments to the docket, either directly or indirectly, via participation in a survey by the Western IPM Center.

Comments submitted by:



Mike Kawate
Pesticide Registration Specialist
Voice: 808-956-6008
mike@hpirs.stjohn.hawaii.edu



Cathy Tarutani
Educational Specialist
Voice: 808-956-2004
cathy@hpirs.stjohn.hawaii.edu