RE: Docket ID: EPA-HQ-OPP-2011-0184
Pesticides: Agricultural Worker Protection Standard Revisions

Draft Document for Public Comment

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California Department of Public Health (CDPH), Occupational Health Branch (OHB)


OHB prevents occupational injury and illness through a non-regulatory program of public health surveillance, investigation, technical assistance, research, and education. OHB programs conduct surveillance for a variety of work-related injuries and illnesses including occupational pesticide illness. California leads the nation in the number of pounds of pesticide applied, and each year pesticides cause illness in hundreds of workers. California physicians are required to report all suspected work-related injury or illness, including any case of suspected pesticide poisoning. The Occupational Pesticide Illness Prevention Program (OPIPP) is funded by CDPH and the National Institute for Occupational Safety and Health (NIOSH) to collect and examine these reports to learn more about occupational pesticide poisoning and how to prevent it. Our California pesticide surveillance data from 1998 to 2012 includes 1,455 cases of pesticide illness involving agricultural workers.

We support many aspects of the USEPA proposal to strengthen the Worker Protection Standard (WPS) and to safeguard farmworkers from harmful exposures to pesticides. There are several areas that we believe could be strengthened in order to better protect farmworkers and prevent occupational injury and illness. CDPH supports the implementation of the updated Worker Protection Standard with the additional elements we suggest below.

Training for Workers and Handlers (Section VII)

This section requires that employers give establishment-specific information on pesticides applied, emergency contact information, and location of decontamination materials. We support all of the proposed changes. This rule will help medical professionals treat injured workers as the workers will be
more likely to be familiar with the pesticides to which they were exposed – information that is often lacking in current reports of pesticide-related illness.

We support expanding the content of the required training for workers and handlers, underscoring the importance of including the proposed topics of worker rights, emergency assistance, and ways to minimize occupational exposures or pesticide “take home” exposures. Additionally, we suggest that the USEPA emphasize training regarding the possible reproductive health effects of pesticide exposure. Trainers should be required to refresh their pesticide knowledge at least every five years as new pesticide products and application techniques are developed and hazards change over time. We also support USEPA’s proposal that training under 40 CFR part 171 include a requirement for expanded training on the WPS in order to better protect handlers and other workers.

We believe that the annual pesticide training will help to prevent exposure to pesticides and subsequent pesticide-related illness by refreshing important pesticide safety protocols. It is unlikely that workers can retain detailed training messages over a five-year period. Annual safety training is common practice in other industries and should also be applied to agriculture.

In addition, we propose a centralized database that contains worker and training information as this would have benefits for both regulators and pesticide handlers. Regulators would be able to search the database after a pesticide incident to determine if a handler was correctly trained. If the handler was not trained, regulatory actions would commence. If the handler was properly trained and the incident still occurred, it may signal that training needs to be adjusted. A database would allow handlers the ability to change employers without having to be retrained, as the new employer could confirm that training had already been completed by searching the database.

We support the elimination of a grace period for worker training. Any training grace period severely undermines the intent of the WPS. An untrained worker is more vulnerable to pesticide overexposure and should not be permitted to work. It is often the newest worker who is the most vulnerable to injury and death. Indeed, “No worker's first day on the job should be their last day of their life.” (Dr. David Michaels, Assistant Secretary of Labor for Occupational Safety and Health, Bay Area Insider November 16, 2013).

We support the establishment of a minimum age of 18 rather than the proposed minimum age limit of 16 for pesticide handlers and early-entry workers. Children younger than 18 are still developing both physically and mentally, and high levels of exposure to pesticides could have life-long health effects. Furthermore, most minors do not have the maturity to follow all label instructions or take the necessary precautions to ensure the safety of other workers. Children working in other industries are prohibited from engaging in high hazard tasks, and the same should be true for children working around pesticides.

**Hazard Communication (Section IX)**

CDPH believes that requiring employers to maintain and provide access to the proposed pesticide-specific hazard information could prevent exposures and lessen the severity of exposures by giving workers information both about protecting themselves and recognizing the presence of chemicals in the workplace. Furthermore, in addition to the Safety Data Sheet (SDS) and pesticide label, and in order to meet the
Hazard Communication Standard (HCS), information should be provided in a manner that employees understand. As explained by OSHA (https://www.osha.gov/html/faq-hazcom.html), "[t]he training provisions of the HCS are not satisfied solely by giving employee the data sheets to read. An employer's training program is to be a forum for explaining to employees not only the hazards of the chemicals in their work area, but also how to use the information generated in the hazard communication program. This can be accomplished in many ways (audiovisuals, classroom instruction, interactive video), and should include an opportunity for employees to ask questions to ensure that they understand the information presented to them... Furthermore, the training must be comprehensible. If the employees receive job instructions in a language other than English, then the training and information to be conveyed under the HCS will also need to be conducted in a foreign language."

The proposed revisions would require agricultural employers to make the pesticide application information (as well as the proposed pesticide-specific hazard information) available no later than the end of the day of the pesticide application when workers are on the agricultural establishment that day. By "make available," the Agency means that the agricultural employer must, at a minimum, have the materials in a place where the workers, upon request, can have access to view them. We believe that this does not unduly burden the applicator or employer. While we agree that the SDS and label for the specific pesticide products to which workers may be exposed should be made available to the workers, these should be provided prior to the workers being potentially exposed to the pesticide products, e.g., at the beginning and not the end of the day of the pesticide application. Workers need to know the possible symptoms of overexposure (ahead of time), so that they are in a position to recognize and report any adverse effects, including those that may occur during the shift. In addition to training that covers general health and safety measures and general health effects, workers should be trained on the hazards of the specific chemicals to which they may be exposed. Training should be provided that covers items that are required for workers in all other industry sectors as spelled out in the HCS [CFR 1910.1200, h(3)] such as:

(i) Methods and observations that may be used to detect the presence or release of a hazardous chemical in the work area; (ii) The physical, health, simple asphyxiation, combustible dust, and pyrophoric gas hazards, as well as hazards not otherwise classified, of the chemicals in the work area; (iii) The measures employees can take to protect themselves from these hazards, including specific procedures the employer has implemented to protect employees from exposure to hazardous chemicals, such as appropriate work practices, emergency procedures, and personal protective equipment to be used; and, (iv) The details of the hazard communication program developed by the employer, including an explanation of the labels received on shipped containers and the workplace labeling system used by their employer; the safety data sheet, including the order of information and how employees can obtain and use the appropriate hazard information.

Methods and observations that may be used to detect the presence of a chemical could both prevent exposures and lessen the severity of exposures. In addition, placing the onus on the worker to request the SDS and label information is too large a burden. Rather, the SDSs and labels should be made readily accessible in the work area. Workers may be reluctant to request SDSs for fear of retaliation or job loss. Or they may be unable to ask because of language barriers. Pesticide application information should continue to be displayed in a central location. This can be readily accomplished by placing a binder containing this information in the work area.
USEPA proposes to require employers to retain and make available for two years, from the date of the end of the last applicable Restricted Entry Interval (REI), pesticide application information and related pesticide-specific hazard communication information that includes the SDSs and product labeling for pesticides that require WPS compliance. USEPA expects the extended recordkeeping period would ensure that application information is maintained for a sufficient period of time to follow up in the event of health problems that might be related to pesticide exposure, or for investigation of a suspected pesticide misuse. We believe that two years is an insufficient length of time, especially given the potential for long-term health effects from chronic pesticide exposure. We believe that records should be kept for the length of employment plus 30 years, the requirement for exposure and medical record retention under OSHA regulations.

**Handler Restrictions (Section XI)**

We support the USEPA proposal that handlers cease application if they observe any person other than a trained and properly equipped handler present in the treated or entry-restricted area. This “cease application” statement will reduce pesticide exposure and pesticide-related illness; CDPH contributed data to a recent study in which the sixth most common contributing factor responsible for illness among non-handler farmworkers was “non-handler in treated area during application.”

We support the minimum age of 18 rather than the proposed age of 16 for pesticide handlers. As USEPA states in the proposed rule document, “children generally lack the experience and judgment to avoid or prevent unnecessary exposure.” USEPA provides the data to support this change. We do not support the exception for handlers working on an establishment owned by an immediate family member. Development status does not differ if the handler is working on their family farm; permitting adolescents under 18 to handle pesticides risks injury and illness not only to the handler but to other workers.

**Restrictions for Worker Entry into Treated Areas (Section XII)**

CDPH has contributed data to the SENSOR-pesticide program publication demonstrating that off-target drift is the leading cause of reported agricultural worker pesticide exposure. As a result of this research, we believe that entry-restricted areas must be established to reduce pesticide exposure - not just among agricultural workers but also among workers at neighboring establishments. We also support the elimination of a grace period for worker training, as this would permit untrained workers to work.

Prior to workers entering treated areas, employers should also be required to provide workers with health effect information about the specific pesticide applied. This would allow workers to recognize adverse health effects of pesticide exposure and to remove themselves from a hazardous situation if needed.

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Employers should also be required to document the date and time of early entry so that investigators can determine if workers became ill during the REI. This information could be important in developing future regulation and label changes.

Display of Basic Pesticide Safety Information (Section XIII)

CDPH supports the USEPA proposal that employers must arrange transportation for workers within 30 minutes of learning of an exposure. We also support the requirement that the employer provide the worker or treating medical provider with the SDS and pesticide label (rather than waiting for the information to be requested). It is often challenging for a healthcare provider to recognize, evaluate, and treat potential pesticide-related injury and illness. The USEPA could further aid clinicians by continuing to support training for healthcare providers and providing technical assistance to improve recognition and management of pesticide-related illness and injury.

We strongly believe that the USEPA should implement a nationwide medical monitoring program for pesticide handlers who mix, load, or apply Toxicity Category I or II organophosphates or N-methyl carbamates. A cholinesterase monitoring program has existed for 40 years in California and has played a significant role in reducing the use of and employee exposure to these pesticides. Medical monitoring is an important element of health and safety programs in other industries and should also be incorporated into the agricultural sector.

Personal Protective Equipment (Section XVI)

The existing WPS requires employers to provide “chemical-resistant” personal protective equipment (PPE), but leaves the identification and definition of chemical resistance to the manufacturer of the PPE. USEPA should require that PPE must be identified by the manufacturer as resistant specifically to the chemical(s) to which the worker will be exposed. In addition, mixtures of chemicals may have greater penetration through protective clothing materials than any chemical alone. One permeating chemical may pull another with it through the material, and therefore all chemicals in a formulation must be considered when choosing PPE.

We support the USEPA proposal to adopt the California standards for closed systems for mixing and loading pesticides. In addition, we recommend that USEPA require closed systems for more hazardous pesticides. We also support the USEPA proposal to require employers to make contaminated PPE unusable before it is disposed of, and encourage USEPA to specify that the PPE should be rendered unusable for any purpose.

We agree with the USEPA proposal to require handler employers to comply with the respirator fit testing, training, and medical evaluation requirements set by OSHA. This will likely result in fewer incidents of exposure and improvements to the health of respirator-wearing handlers covered by the WPS. However, these requirements should also apply to dust or mist filtering masks that are often used by handlers. Medical evaluation, fit-testing, and training should be required for all types of dust/mist filtering respirators. In addition, the proposed rule should also adopt a requirement for a Respiratory Protection Program, as required by OSHA (29 CFR 1910.134), to address in detail how respirators are properly
selected, cleaned, stored, repaired, and replaced. Furthermore, we disagree with USEPA’s decision to exclude dust or mist filtering masks, since a majority of pesticides with label requirements for handlers to wear respirators only require dust/mist filtering respirators.

In conclusion, CDPH supports the implementation of the updated Worker Protection Standard with the additional elements we suggest above. We appreciate the opportunity to comment and look forward to discussing and developing these ideas further with our USEPA colleagues.

Sincerely,

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