

Agrichemicals

WPS – Information Exchange Between Commercial Handlers and Growers



Ag Center

Helping Agriculture Comply with
Environmental Requirements

F O C U S O N

When the Pesticide Is Not Applied as Scheduled

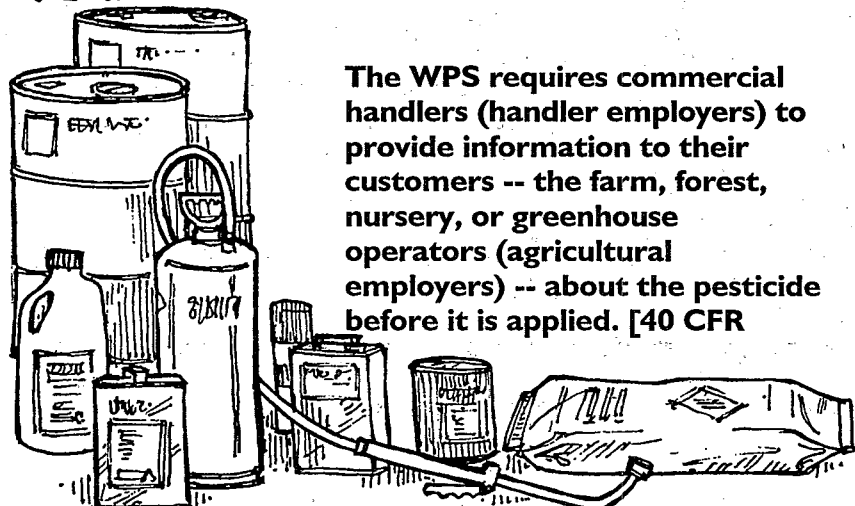
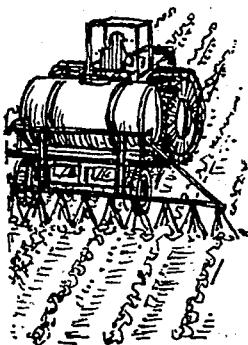
The Agricultural Worker Protection Standard (WPS) is a regulation issued by the U.S. Environmental Protection Agency in 1992 and amended in 1995. It covers pesticides that are used in the production of agricultural plants on farms, forests, nurseries, and greenhouses. The WPS requires you to take steps to reduce the risk of pesticide-related illness and injury if you (1) use such pesticides, or (2) employ workers or pesticide handlers who are exposed to such pesticides.

This fact sheet will help you understand how to comply with WPS requirements concerning the information that commercial handlers must provide to their customers when a pesticide application does not take place as scheduled. These questions were submitted to the Agency by people seeking clarification on this part of the regulation, and have been answered by EPA's Office of Compliance.

The WPS requires commercial handlers (handler employers) to provide information to their customers -- the farm, forest, nursery, or greenhouse operators (agricultural employers) -- about the pesticide before it is applied. [40 CFR

section 170.224]. What provisions apply if the pesticide cannot be applied as scheduled?

The WPS requires the commercial handler to provide specific information to the grower about pesticide applications on the agricultural establishment before the application has taken place.





Advance notification of pesticide applications gives growers the information they need to protect their employees.

This is so the grower can, in turn, provide appropriate protection to his/her workers and family. The Agency is aware, however, that some commercial handlers may on occasion not be able to perform pesticide applications at a previously scheduled time.

The "How To Comply" manual provided some flexibility on this issue, noting that "if the pesticide is not applied as scheduled, the agricultural employer must be informed of the corrected time and date of the application. Make the correction before the application takes place, or as soon as practicable thereafter." Questions have arisen concerning the notification requirements if applications do not take place as scheduled, including when and how the employer must be notified of the change.

The WPS places certain requirements upon growers (agricultural employers). One of the most important requirements involves keeping workers out of treated areas during applications and while the restricted entry interval (REI) remains in effect. Growers also must provide workers with (among other things) information, protective equipment, and decontamination supplies when they enter treated fields within 30 days of expiration of the REI. The requirement

for commercial handlers to notify growers before an application takes place must be viewed in light of its central purpose: to provide growers with information they may need in order to protect their workers.

The obligation of growers to assure that workers remain out of treated areas during applications and while the REI remains in effect, and to assure that proper protections are provided when workers enter treated areas within 30 days of expiration of the REI, is not affected by the notification provision. The obligation of the grower continues whether or not notification of an application occurs. The grower should take whatever steps are necessary to assure that he/she is informed of an application before workers might enter treated areas.

Obviously, notification before application is the best way to assure that the grower has the necessary information to protect the agricultural employees. For this reason, the WPS requires that notification take place before applications. Commercial handlers are liable under the WPS if they fail to provide such notification.

EPA recognizes that an application sometimes does not take place when

scheduled, and that communication between commercial handler and grower may be difficult to accomplish. The Agency is therefore willing to allow some rescheduled applications to go forward without requiring prior notification. This flexibility is available only when:

- an application has been previously scheduled (including day, date, and time) and agreed upon by the commercial handler and grower,
- the prior notification required by the WPS has been provided, and
- the pre-arranged application subsequently does not take place as scheduled.

Commercial handlers and growers must keep in mind that growers are still liable if their employees enter fields during the REI, or within 30 days of expiration of the REI if any applicable WPS requirements are not met. Notification must occur in one of two ways. Notification can be received by the grower before workers could be exposed to pesticide residues resulting from the application in violation of the WPS. Otherwise, the commercial handler must notify the grower with a form of notification previously agreed upon by the commercial handler and grower, which was reasonably calculated to get information to the grower before workers could be exposed to residues in violation of the WPS.

EPA strongly recommends that commercial handlers and growers work out in advance between themselves:

- how notification of regularly scheduled applications should be accomplished,

- under what circumstances applications may take place without prior notification if previously scheduled applications do not occur on time, and
- how notification of rescheduled applications should be accomplished.

For more information

To get more facts about compliance, contact the Ag Center by phone, fax, or mail. Call the toll-free number to ask compliance questions or order publications. At the Center's web site, www.epa.gov/agriculture, you can explore compliance information and order or download publications. For a complete publications list, request document 10001, "Ag Center Publications."

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