



U.S. ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF INSPECTOR GENERAL

Ensuring the safety of chemicals

EPA's June 2018 Issuance of the Delayed Notice of Availability of Farm Worker Protection Training Materials Will Reduce Risks of Injury and Illness

Report No. 18-P-0238

August 30, 2018



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Abbreviations

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| EPA | U.S. Environmental Protection Agency |
| FIFRA | Federal Insecticide, Fungicide, and Rodenticide Act |
| NOA | Notice of Availability |
| OIG | Office of Inspector General |
| OPP | Office of Pesticide Programs |
| PERC | Pesticide Educational Resources Collaborative |
| WPS | Worker Protection Standard |

Cover Image: Migrant worker picks peaches. (U.S. Department of Defense)

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At a Glance

Why We Did This Project

The U.S. Environmental Protection Agency's (EPA's) Office of Inspector General (OIG) conducted this audit to determine how the lack of a Notice of Availability (NOA) of required Agricultural Worker Protection Standard (WPS) training materials affected implementation of the revised rule.

The EPA established the WPS in 1974, expanded it in 1992, and revised it in 2015. Compliance with most of the 2015 revisions was required by January 2, 2017; compliance with all other 2015 revisions—including expanded training—was required by January 1, 2018. Per the 2015 rule, the EPA was to publish a NOA in the Federal Register to inform stakeholders when expanded training materials were available. Employers were then to include this material in their WPS training programs within 180 days of the NOA's publication. The EPA's Office of Pesticide Programs is responsible for regulatory activities associated with the Agricultural WPS.

This report addresses the following:

- *Ensuring the safety of chemicals.*

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EPA's June 2018 Issuance of the Delayed Notice of Availability of Farm Worker Protection Training Materials Will Reduce Risks of Injury and Illness

What We Found

The EPA did not publish a NOA when expanded training materials for the 2015 revised Agricultural WPS were available. As a result, although there were expanded training materials available, the EPA allowed employers to continue to use the "old" pesticide safety training materials. These "old" training materials did not include the revised 2015 WPS requirements, which were designed to reduce the risk of injury and illness from pesticide exposure.

Over 2 million agricultural workers and pesticide handlers are protected by the WPS. Revisions to the standard, including expanded training, are intended to reduce exposure to pesticides and provide enhanced protection to these workers, handlers and their families.

In addition, in a notice of proposed rulemaking published December 21, 2017, the agency announced its intention to further revise the WPS. In this notice, the EPA said it would not issue a NOA for the expanded training materials until the additional rulemaking process was completed. However, the EPA also said that the original compliance dates for the revised standard would remain in effect.

On June 22, 2018, after the start of this audit, the EPA revised its position and published a NOA for the expanded 2015 revised training materials. The Office of Pesticide Programs' website was also updated to reference the NOA. By publishing the NOA, the EPA is advancing its mission to provide agricultural workers, handlers and employers with the most recent training materials to help mitigate the risk of pesticide exposure.

Since the EPA has already acted to address the findings in this report, the OIG makes no recommendations.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

THE INSPECTOR GENERAL

August 30, 2018

MEMORANDUM

SUBJECT: EPA's June 2018 Issuance of the Delayed Notice of Availability of Farm Worker Protection Training Materials Will Reduce Risks of Injury and Illness
Report No. 18-P-0238

FROM: Arthur A. Elkins Jr.

A handwritten signature in black ink, appearing to read "Arthur A. Elkins Jr.", is written over the printed name.

TO: Charlotte Bertrand, Acting Principal Deputy Assistant Administrator
Office of Chemical Safety and Pollution Prevention

This is our report on the subject audit conducted by the Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA). The project number for this audit was OA&E-FY18-0190. This report represents the opinion of the OIG and does not necessarily represent the final EPA position.

The office responsible for the issues in this report is the EPA's Office of Pesticide Programs, within the Office of Chemical Safety and Pollution Prevention.

You are not required to respond to this report because this report contains no recommendations. However, if you submit a response, it will be posted on the OIG's website, along with our memorandum commenting on your response. Your response should be provided as an Adobe PDF file that complies with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended. The final response should not contain data that you do not want to be released to the public; if your response contains such data, you should identify the data for redaction or removal along with corresponding justification.

We will post this report to our website at www.epa.gov/oig.

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Purpose

The U.S. Environmental Protection Agency's (EPA's) Office of Inspector General (OIG) conducted this audit to determine how the lack of a Notice of Availability (NOA) of required Agricultural Worker Protection Standard (WPS) training materials affected implementation of the revised rule.

Background

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizes the EPA to take measures to protect agricultural workers,¹ pesticide handlers,² bystanders and the environment from pesticide exposure. The WPS is a key part of the EPA's strategy³ for reducing occupational exposure to agricultural pesticides, with a focus on lowering the risk of pesticide poisoning and injury among agricultural workers and pesticide handlers. The EPA established the WPS in 1974, expanded it in 1992, and revised it in late 2015. Compliance with most of the 2015 revisions was required by January 2, 2017; compliance with all other revisions was required by January 1, 2018.

The revised WPS requires employers to provide training programs on the expanded pesticide safety content to agricultural workers and handlers. The revised WPS directs employers to provide this expanded training to their workers within 180 days after the EPA published a NOA in the Federal Register. The expanded training is to include all the topics⁴ specified in the revised rule.

The EPA worked with the Pesticide Educational Resources Collaborative (PERC) through a cooperative agreement to develop the expanded WPS training materials. However, the new training provisions did not take effect when the EPA-approved training materials became available because the agency did not publish the required NOA.

On December 21, 2017, the EPA issued a notice of proposed rulemaking to further revise certain requirements in the Agricultural WPS. The notice announced that the compliance dates in the revised 2015 WPS remained in effect, but it also stated that the EPA would not issue a NOA concerning the revised training materials until the rulemaking process was completed. Although there were new training materials available for the expanded content, the EPA stated that its "old" pre-2015 revised pesticide safety training for workers and handlers could continue to be used. This direction was provided even though the "old"

¹ People involved in the production of agricultural plants.

² People who mix, load or apply crop pesticides.

³ Per EPA OIG Report No. [18-P-0080](#), the Office of Pesticide Programs provides funding to support "education, outreach, training, technical assistance and evaluation activities" for pesticide development and implementation.

⁴ Revised requirements encompass providing expanded training on pesticide safety, pesticide safety and application and hazard information, decontamination supplies and emergency medical assistance, and notifications to workers of restrictions during pesticide applications and when entering pesticide-treated areas.

training did not incorporate the revised requirements designed to further reduce the risk of injury and illness from pesticide exposure.

Human Health Risks

According to the EPA's Office of Pesticide Programs (OPP) website, the WPS offers occupational protections to over 2 million agricultural workers and pesticide handlers, who work at over 600 thousand agricultural establishments (e.g., farms, forests, nurseries and greenhouses). The 2015 WPS revisions are intended to decrease pesticide exposure incidents among farmworkers and their family members. Fewer incidents means a healthier workforce, which helps avoid lost wages, medical bills, and absences from work and school. However, without training on the expanded pesticide safety content required by the revised WPS, the more protective standards cannot be fully implemented.

Prior Report

The OIG previously reported on the EPA's Agricultural WPS in Report No. [18-P-0080](#), *EPA Needs to Evaluate the Impact of the Revised Agricultural Worker Protection Standard on Pesticide Exposure Incidents*, published February 15, 2018. In that report, the OIG said that the EPA had policies and procedures in place to implement the revised Agricultural WPS. Further, the agency provided training to regional staff, state inspectors and program leads. However, the OIG found that management controls to implement the revised WPS were not fully adequate as of January 2, 2017, when compliance with most of the revised rule was required. Specifically, the OIG found that essential training and implementation materials were not available by January 2017. Additionally, the OIG found that the EPA did not have the ability to collect agricultural pesticide exposure incident data to measure the impact of the revised WPS rule among target populations. The OIG recommended that the agency develop a methodology to evaluate the impact of the revised standard on pesticide exposure incidents among the WPS target populations. The agency disagreed with this recommendation; resolution efforts are still in progress.

Responsible Office

The OPP, within the Office of Chemical Safety and Pollution Prevention, is responsible for administering FIFRA and for all regulatory activities associated with the Agricultural WPS covered in this document.

Scope and Methodology

We conducted our work from May 2018 through August 2018. We conducted this audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and

conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

The scope of this audit focused on the impact of the EPA's lack of a NOA for required training materials on the implementation of the revised 2015 WPS. We reviewed the revised 2015 WPS, the OPP's website and relevant training materials. We spoke with staff from the OPP and the Office of Enforcement and Compliance Assurance. During our interviews, we obtained information about the status of the EPA's NOA for the revised WPS materials, including information regarding what materials were available.

Results

After the start of this audit,⁵ the EPA published a NOA on June 22, 2018, notifying its stakeholders through the Federal Register that the expanded WPS training materials were available. The OPP's website was updated to state the following:

EPA published a Federal Register notice stating the pesticide safety training materials with the expanded content required by the 2015 FIFRA WPS are available for use. The training materials with expanded content have been available at the PERC and were developed through an EPA cooperative agreement. EPA also approved training materials developed by other organizations, some of which are available on PERC's website. Updated training materials must be used 180 days after the publication of the notice in the Federal Register.

By publishing the NOA, the EPA is advancing its mission to provide agricultural workers, handlers and employers with the most recent training materials to help mitigate the risk of pesticide exposure. Since the EPA has already acted to address the issue noted, the OIG makes no recommendations.

Agency Response and OIG Analysis

The EPA was provided an opportunity to comment on the discussion document for this report. The agency provided no comments regarding our findings. We incorporated the agency's technical edits as appropriate.

⁵ The OIG issued a project notification to the EPA on May 2, 2018.

Distribution

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