

WPS Early Entry Exceptions

Learn how to comply with the WPS Early Entry Exception Requirements

Why are early entry exceptions so important?

These protections are important to prevent and/or reduce farm worker occupational pesticide exposure to areas recently treated with agricultural pesticides and that are under a restricted entry interval.

Topics covered:

- Early Entry Restrictions
- REI
- Early Entry Worker Employer Responsibilities
- Family Establishment VS Early Entry Compliance

The Worker Protection Standard (WPS), is a federal regulation developed by the US Environmental Protection Agency (EPA) and adopted into the Code of Federal Regulations back in 1992. This set of rules are designed to provide basic protections, pesticide safety information and mitigation measures to reduce the risk of illness or injury resulting from workers' and handlers' occupational exposure to pesticides used in the production of commercial plants on farms, forests, greenhouses and nurseries and also from the accidental exposure of worker and other persons to such pesticides. As a result WPS protections prohibit routine entry into treated areas under a Restricted Entry Interval (REI), except under certain situations called "Early Entry Exceptions".

What are Early Entry Restrictions?

These are general restrictions that must be followed in an agricultural establishment where the agricultural employer must not allow or direct any worker to enter or remain in the treated area before the REI specified on the pesticide label has expired; except under a few limited exceptions that will be further discussed.

What is an REI?

An REI is the time after the end of a pesticide application during which entry into the treated area is restricted. When an agricultural worker enters a treated area under an REI, such entry is called an "early entry". REIs for each pesticide are found on the pesticide label under the "Agricultural Use Requirement Section" and most REIs range between 4 to 72 hours, however some REIs can last even longer periods.

Every pesticide REI length is different based on:

- The amount of time required for the risk to be reduced to a safe level
- Type of crop and task
- Environmental factors
- Crop use and method of application
- State and local regulations

Although, entry is not permitted during an REI, there are certain exceptions that allow agricultural workers to enter treated areas before the REI expiration time. These are called "**Early Entry Restrictions**" and are defined under 40 CFR Part 170.112. The early entry



exceptions included in the final rule are:

- Entry for activities with no contact
- Entry for short-term activities
- Entry for agricultural emergencies
- Exceptions requiring agency approval (Administrative Exceptions)

Under the Administrative Exception process EPA has approved several types of exceptions in response to petitions from the agricultural community. Certain exceptions have been approved because EPA believes the benefits of the exception balances the:

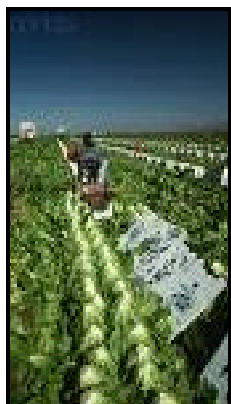
- Potential risk of worker exposure and,
- Significant economic impact which could be incurred if growers are not allowed to perform these necessary tasks.

Valid exceptions are:

1. Limited Contact Exception
2. Irrigation Tasks Exception

Early Entry Exceptions are conditioned and limited to the following factors:

- Contact with treated surfaces and hand labor allowance
- What is the work time period limit allowed per worker in a 24 hours period
- Whether an unforeseen need with potential significant loss is needed to justify the exception
- Personal Protective Equipment (PPE) required for early entry activities
- Time of earliest entry permitted after the application time
- Whether early entry is prohibited on double notification pesticides and
- Whether workers must be notified about the early entry being used



Understanding the WPS

Hand labor definition

Per the WPS definition (40 CFR Section 170.3) hand labor means *any agricultural activity performed by hand or with hand tools that causes a worker to have substantial contact with surfaces (such as plants, plant parts or soil) that may contain pesticide residues*. Some examples are: harvesting, detasseling, sucker removal, pruning, disbudding, and packing produce into containers in the field among others. Please note that this definition excludes the following activities: operating, moving or repairing irrigation or watering equipment, or performing crop advisor tasks.

These activities have been excluded from the hand labor definition by EPA, because the Agency didn't want to prevent irrigation/watering activities to occur in areas during an REI if **NEEDED**. However, it is highly recommended that agricultural employers make every effort to schedule pesticide applications and worker tasks that will avoid the necessity of early entry of agricultural workers into treated areas under an REI.

Early Entry Workers

Do you know what early entry workers are? Early entry workers are agricultural workers required to go into treated areas after the application is completed but before the REI has expired. It's important to understand, that a trained handler doing early entry work is considered, during the time performing early entry work, an "early entry worker" as well.

Basic Agricultural Employer’s Responsibilities:

Before an early entry worker performs an early entry task to a treated area under an REI, the agricultural employer must:

1. Provide any protections required on the pesticide labeling for early entry tasks and,
2. Provide training and specific instructions related to:

- **TRAINING:** Agricultural employers must train early entry workers as a WPS worker prior to any early entry tasks. Remember the 5-day grace period doesn’t apply to early entry workers.

- **PPE USE SPECIFIC INSTRUCTIONS:** Agricultural employers must instruct early entry workers in a manner they can understand on:

- How to put on, use and take off early entry PPE
- About the importance of washing thoroughly after removing PPE (decontamination practices)
- Heat stress prevention, recognition and management (i.e. give correct first aid for heat illness)
- Information and instructions on the labeling of the pesticide(s) to which the REI applies including:
 - ⇒ *Human hazard statement and precautions*
 - ⇒ *First Aid*
 - ⇒ *Signs and symptoms of poisoning*
 - ⇒ *PPE required for early entry and*
 - ⇒ *Any other precautions or instructions related to safe use or early entry*

In addition, agricultural employers must provide instructions related to cleaning, maintaining and disposing of PPE, and provide instructions for people who clean and launder PPE. (For more information

refer to “How to Comply Manual”, p. 56; EPA /735-B-066-002) .

Lastly, agricultural employers must provide all required protections for all agricultural workers such as:

- Information at a central location
- Emergency assistance
- Restrictions during applications
- Notice about applications
- Decontamination Supplies

Early Entry Exception Situations; Conditions and Limitations

Entry for activities with no contact:

Under this early entry exception, entry is permitted for activities that *do not* require contact with treated surfaces and that are not classified as “*hand labor*” (Refer to hand labor definition on page 2). There is no time limit per worker in a 24 hours period to perform these early entry activities.

The use of PPE is not required (this is the only early entry exception that *does not* require the use of PPE) however, **“Avoiding contact by using PPE doesn’t qualify as an early entry with no contact!”**

When this exception is being used, entry is permitted after the end of the application until any label inhalation exposure level or WPS ventilation criteria (See 40 CFR 170.(c) (3)) has been met. Examples of an early entry activity with no contact include: mechanical harvesting and entering areas under an REI in an enclosed cab tractor.

Short Term Exception:

This exception allows early entry workers to perform activities that includes contact with treated surfaces,

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and requires the use of early entry PPE however, hand labor is **PROHIBITED!**

When this exception is being used, early entry workers are *limited* to working no more than *1 hour* per worker per day (24 hours period) and entry into areas under an REI is permitted only after the first *4 hours* after the end of the application time, and until any label inhalation exposure level or WPS ventilation criteria has been met.



Finally, this exception allows agricultural employers to have early entry workers perform activities such as: operating, moving, or repairing irrigation equipment not used to apply pesticides. Remember that these activities *are excluded* from the “WPS Hand Labor” definition, hence are not classified as hand labor activities.

Limited Contact Exception: (Approved under Administrative Exception process)

This exception was approved to perform limited contact tasks such as: opening windows or vents from the inside of a greenhouse, replacing electrical fuses for pumps, unloading beehives for pollinating crops, performing frost protection measures, removing equipment, and removing livestock from crop areas among others. These are tasks that if delayed would cause significant economic loss, and that result in *minimal* contact with pesticide treated surfaces. Under this exception early entry workers are limited to perform early entry tasks, for up to 8 hours in a day (24 hours period) per worker .

Early entry workers are allowed to enter areas under an REI to perform early entry activities, after the first 4 hours after the end of the pesticide

application and until applicable label inhalation exposure level or WPS ventilation criteria has been met. Contact with treated surfaces is limited to:

- Feet,
- Lower legs,
- Hands and,
- Forearms

It also, requires the use of early entry PPE specified on the label. In addition, this exception is prohibited on double notification pesticides and workers are required to be notified when this exception is being used.

Irrigation Task Exception (Approved under Administrative Exception process)

The conditions for this early entry exception are very similar to the limited contact exception but that the type of tasks allowed for this exception are for *irrigation purposes only*. This exception allows contact with treated surfaces, but it is limited to feet, lower arms, hands and forearms and requires the use of early entry PPE.

There is a time limit of 8 hours per worker per day (24 hours period) to perform irrigation activities that are unforeseen and if delayed would cause significant economic loss. As well as the limited contact exception, this exception is prohibited on double notification pesticides and requires agricultural employers to notify workers when this notification is being used. An example of an irrigation early entry situation is when a grower depends on irrigation contractors and only has a few hours notice before water arrives.

Agricultural Emergency Exception

This is an exception that was included in the original WPS rule, and occurs when there are a sudden occurrence or set of circumstances which the agricultural employer *couldn't have anticipated*, has *no control* and *requires* entry into a treated area during an

REI, when no alternative practices would prevent or mitigate a substantial economic loss.



"A **substantial economic loss** is a loss in profitability that is greater than that which would be expected based on the experience and fluctuations of crop yields in previous years."

Some examples of agricultural emergency situations are: tornadoes, a frost and flooding among others. In Florida, the Florida Department of Agriculture and Consumer Services Commissioner responsible for declaring an Agricultural Emergency.

When an early entry into a treated area under an REI is performed as an Agricultural Emergency, there must be a need to perform tasks that if delayed could cause potential of significant loss. There are several activities that are

allowed for instance, contact with treated surfaces and hand labor is *permitted* and early entry PPE must be used for these activities. Besides, entry to areas under an REI to perform these early entry activities is permitted, after the first 4 hours after the end of the application and the label inhalation exposure level or WPS ventilation criteria has been met. Under this exception, there is no time limit to do early entry work per worker in a day (24 hours period).

Family Establishments VS Early Entry Provisions

Agricultural owners are not required to follow all of the Early Entry Restrictions such as: providing training and instructions, decontamination supplies, and specific duties related to the care of PPE and management of its use. However, if a member of their immediate family enters a treated area during an REI, the agricultural owner must:

- Comply with REI provisions
- Provide early entry PPE

- Obey worker time limit per 24 hours period limitation that applies to some exceptions
- Comply with the time of earliest entry after the end of the application
- Follow any other restriction specified on the label for early entry

Immediate family includes: spouse, children, stepchildren, foster children, parents, stepparents, foster parents, brothers, and sisters).

For more information see How to Comply Manual page 72-73 and 40 CFR Part 170.104.

References:

1. 40 Code of Federal Regulations Part 170 "Worker Protection Standard", Revised as of July 1, 2008.
2. How to Comply with the Worker Protection Standard for Agricultural Pesticides, What Employers Need to Know, Revised September 2005. <http://www.epa.gov/agriculture/htc.html>)
3. Part 170 - Worker Protection Standard; <http://www.epa.gov/pesticides/safety/workers/PART170.htm>
4. Worker Protection Program Fact Sheet: Exception for Irrigation Activities; <http://www.epa.gov/pesticides/safety/workers/irrigati.htm>
5. Exception for Limited Contact Activities; <http://www.epa.gov/pesticides/safety/workers/limited.htm>

For more information contact us at:

Florida Department of Agriculture and Consumer Services
Agricultural Worker Safety Program

Sonia I. Cotto Febo

14101 NW HWY 441 Alachua Regional Service Center Suite 200,
Alachua, FL 32615

Ph. No.: (386) 418-5523

E-mail address: wps@freshfromflorida.com

<http://www.flaes.org/complimonitoring/workersafety/index.html>

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