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## **Chapter II.**

### **Section 1. Summary of Effective Dates**

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## Introduction

The WPS implementation schedule is designed to implement the most crucial provisions of the standard as quickly as possible. Additionally, it will allow time for EPA and cooperating organizations to develop and distribute training and instructional materials. This section summarizes the effective dates for both registrants and users.

## Registrants' Implementation Schedule

EPA has established the following schedule for registrants to make the WPS-required alterations to their pesticide product labels. \*

<b>Compliance Date</b>	<b>Alterations to Pesticide Product Labels</b>
April 21, 1993	<ul style="list-style-type: none"> <li>• No products bearing the WPS-required statements may be sold or distributed before April 21, 1993.</li> <li>• During routine inspections after April 21, 1993, the inspector should verify that labels are in compliance.</li> </ul>
April 21, 1994	<ul style="list-style-type: none"> <li>• All affected products sold or distributed by registrants after April 21, 1994 must bear revised labeling with the WPS-required statements, or with labeling options provided in PR Notice 93-11.</li> <li>• During registrant inspections after April 21, 1994, inspectors should verify that product labels are in compliance.</li> </ul>
October 23, 1995	<ul style="list-style-type: none"> <li>• All affected products sold or distributed by anyone after October 23, 1995 must bear the revised labeling with the WPS-required statements.</li> <li>• During marketplace inspections after October 23, 1995, inspectors should verify that product labels are in compliance.</li> </ul>
October 23, 1996	<ul style="list-style-type: none"> <li>• All products within the scope of the WPS must bear final printed WPS replacement labeling.</li> </ul>

\* Please reference Appendix F, PR-Notice 93-11, for more specific information on registrant labeling options.

## PR Notice 93-7 and 93-11

EPA issued PR Notice (PRN) 93-7 to pesticide registrants in April 1993. This PRN and the detailed instructions in the Guidance Package gave registrants specific instructions for making WPS-required label changes. In August, 1993, the EPA issued PRN 93-11 and an attached Guidance Package which provided additional information to pesticide registrants about meeting the requirements of PRN 93-7 and the WPS, and meeting the April 21, 1994 compliance deadline.

Inspections should be conducted by State, Tribal, and Regional personnel to ensure that all affected products sold or distributed by the registrant, any supplementally registered distributor, or by any

repackager under the Agency's Bulk Repackaging Policy, bear one of the following types of WPS labeling:

- Full EPA-accepted final labeling
- Interim labeling
- Generic supplemental WPS labeling

Interim labeling consists of a sticker plus product-specific replacement labeling. Stickers on products would require compliance with a replacement label. The replacement label should accompany the stickered product at every stage of distribution. Once a product has been correctly interim-labeled, it may be sold or distributed by anyone without time limit.

Registrants selling or distributing products without WPS labeling elected must comply with the "release-for-shipment" option described in PR Notice 93-11. The "release-for-shipment" option allows registrants to release a product for shipment before January 1, 1994. When these products are sold or distributed after April 21, 1994, however, the registrant must notify EPA, notify purchasers, and offer to relabel or recall product that does not bear new labeling by October 23, 1995, and make available Generic WPS Supplemental Labeling for distribution when the product is sold.

Appendix F contains copies of PRNs 93-7 and 93-11.

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**PR Notice 95-5**

After October 23, 1995, all products within the scope of this notice were required to bear WPS PR Notice complying labeling when they are stocked, distributed, or sold. To meet this deadline, the EPA issued PR Notice 95-5 to retailers and distributors of agricultural pesticides to provide guidance on how to bring all applicable product labels into compliance with WPS requirements so that such products could be sold and distributed after October 23, 1996.

When inspections are conducted by state, tribal, and regional personnel, inspectors need first to determine whether products have WPS required labeling. All WPS compliant labeling will contain an Agricultural Use Requirements box on the label. No further action is required if such a box exists on a label. If the box is not on the label, an inspector must then determine whether the product is within the scope of the WPS, and therefore, requires WPS labeling. In some cases, an inspector may be able to quickly identify a product that requires WPS labeling because other containers of the same product, that have been produced more recently, will bear the following:

- Labeling with an Agricultural Use Requirements box that refers to the WPS, or
- Stickers referring to supplemental replacement labeling which contains such an Agricultural Use Requirements box.

Products accompanied only by generic supplemental labeling as outlined in PR Notice 93-11 are not considered labeled in compliance with the WPS provisions after October 23, 1995. Products that do bear complying WPS labeling include those relabeled in accordance with Supplement D of PR Notice 93-11 (by using a sticker or similar modification to an existing label and full product-specific labeling referenced by the sticker).

To determine whether any product is within the scope of the WPS, refer to Attachment 2 of PR Notice 95-5, included as Attachment G, or contact the registrant of the product.

Products that have been relabeled are in compliance with this PR Notice if they bear one of the following types of WPS labeling:

- Final printed WPS-complying replacement labeling,
- Supplemental product-specific labeling, in one of two formats:
  - A single product supplement that contains labeling information for only the specific product the end-user is buying, or
  - A multi-product supplement that contains labeling information for all products for a specific registrant.

If supplemental product-specific labeling is used, a “STOP sticker” must be applied only to those products that bear a label that has not been revised to comply with complete WPS requirements.

The regulations described in PR Notice 95-5 permit products to be sold or distributed with supplemental labeling only until October 23, 1996. After this date only products with final printed WPS-complying labels may be sold or distributed.

Orphaned or canceled products may be sold after October 23, 1995 provided they are labeled with a “STOP sticker” and generic supplemental labeling that is provided when the product is being offered for sale to the end-user of the product. Requirements for generic supplemental labeling are provided in Appendix G.

Dormant products (products where no quantity has been produced and distributed after April 21, 1994 and for which the registrant has elected to defer labeling amendments) must not be sold after October 23, 1995. For these products a registrant may:

- Relabel with product-specific labeling to include the WPS requirements,
- Relabel with a non-WPS label after amending the product registration to remove any WPS uses, or
- Voluntarily cancel the registration of the product and follow all of the requirements for generic labeling.

### **Pesticide Users' Compliance Schedule**

EPA is implementing the Worker Protection Standard for pesticide users in two phases:

- compliance with product-specific WPS requirements
- compliance with all WPS requirements

<b>Compliance Date</b>	<b>WPS Requirements</b>
Not allowed to appear on labels before April 21, 1993	Product-specific WPS requirements will be enforceable when they appear on pesticide labels (no sooner than April 21, 1993). Product-specific requirements include: <ul style="list-style-type: none"> <li>• using label-specific personal protective equipment (PPE),</li> <li>• obeying label-specific restrictions on entry to treated areas during restricted-entry intervals (REIs), and</li> <li>• obeying the requirement on some labels to provide oral warnings <u>and</u> treated-area posting.</li> </ul>
On or after April 15, 1994	All WPS requirements will be enforceable on and after April 15, 1994 when a product is being used that references the WPS. In addition to the product-specific requirements listed above, other WPS requirements include: <ul style="list-style-type: none"> <li>• providing decontamination supplies,</li> <li>• training workers and handlers,</li> <li>• providing certain notification information,</li> <li>• cleaning, inspecting, and maintaining PPE, and</li> <li>• providing emergency assistance.</li> </ul>

Accelerated provisions. The implementation of the Standard is to be phased over a two year period. After April 21, 1993 agricultural pesticides may begin to have statements referencing the Worker Protection Standard. As soon as a pesticide with statements referencing the WPS in the "Agricultural Use Requirements" portion of the label is purchased, users must comply with at least some parts of the WPS.

After April 15, 1994, users must comply with all of the WPS requirements.

Beginning April 21, 1993, users must comply with product-specific requirements when statements referencing the WPS appear on the product label.

- Personal Protective Equipment (PPE) -- All users must wear the PPE required on the pesticide labeling for the task being performed.
- Double Notification -- Employers must provide oral warnings to workers AND post warning signs at entrances to treated areas when the pesticide labeling requires double notification.
- Restricted-Entry Intervals -- Employers and employees must follow the restricted-entry intervals specified on the product label, or must satisfy requirements of the few narrow exceptions allowed by the revised WPS.

**EXEMPTIONS:** Prior to April 15, 1994, users were **not** required to comply with some WPS provisions. These provisions include:

- information at a central location, including a WPS safety poster, location of emergency medical facility, and listing of recent pesticide applications
- pesticide safety training
- decontamination sites
- employer information exchange between growers and commercial pesticide applicators
- emergency assistance, including transportation to medical care and information to medical personnel or employees
- notice of applications by oral warnings to workers or posting treated areas
- monitoring of handlers who are using highly toxic pesticides
- specific information for handlers, including labeling information and safe operation of application equipment
- duties related to personal protective equipment: including providing, cleaning, and maintaining PPE; preventing heat illness; and exceptions to PPE

- some of the duties related to early entry, including training and instruction, decontamination sites, and providing, cleaning, and maintaining PPE

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## **Chapter II.**

### **Section 2. Worker Protection**

#### **Inspection Strategy**

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## Introduction

The goal of the Compliance Monitoring Strategy for worker protection is to achieve compliance through a mix of tools to ensure that the registrants/producers, dealers/distributors, and users adhere to the requirements set forth in the Worker Protection Standard. This inspection strategy recommends the use of activities which should help prevent violations from occurring (i.e., provision of compliance assistance) as well as traditional inspection activities designed to correct and deter violations.

In addition, the goal of the Inspection Strategy is to offer guidance for States/Tribes to engage in activities which would perhaps offer a greater potential for risk reduction and pollution prevention. The risk based inspection targeting approach discussed in this document offers an alternative, **simply for consideration by the States/Tribes**, for targeting use and producer establishment inspections based on factors more closely associated with exposure and a greater potential for risk.

Compliance with the regulations will be determined through inspections of registrants and producing establishments, distributors, dealers, retailers and users of agricultural pesticides. The details of each of these inspections is covered in separate chapters in this manual. The purpose of this particular chapter is twofold:

- To provide an overview of the worker protection inspection strategy with regard to expectations for the provision of compliance assistance, and the effective compliance dates associated with each of the aforementioned inspections.
- To provide an overview of an alternative approach for targeting use and producer establishment inspections based on a combination of risk factors.

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## Compliance Assistance

Inspectors should take advantage of routine inspections conducted under the cooperative agreements to introduce the regulated community to the provisions of the final rule before these requirements take effect. Compliance assistance through inspections, in addition to other methods of notification used by the Regions, States, Territories, and Tribes, is essential to ensure compliance with the worker protection requirements. Inspectors should also ensure compliance with the existing worker protection requirements on labels.

Compliance activities should focus on outreach to the affected community (i.e., distributors, dealers, agricultural employers, handler employers, workers and handlers). Specifically, during routine inspections affected by the WPS, inspectors should impress on the regulated community the need to begin development of a program to meet the requirements of the rule if they have not already done so.

During these routine inspections, inspectors should provide information to the regulated community which will help them understand and comply with the rule. It is recommended that the individuals being inspected receive a Compliance Assistance Packet, which could include:

- fact sheets
- a summary of the rule
- the pamphlets for workers and handlers on their requirements of the rule
- PPE guidance brochures

Once the effective dates have passed, compliance assistance should still be provided at least at the end of, or following, the completion of both routine and targeted inspections in order to inform the regulated community of the WPS provisions, as well as to clarify requirements. The closing conference for an inspection provides an opportunity for the inspector to help raise the level of awareness concerning the revised Worker Protection Standard (WPS) as well as to promote future compliance through provision of the compliance assistance packet.

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## **Routine Inspections**

Inspectors should verify compliance with the WPS as part of both routine and targeted inspections. During routine inspections of registrants, producers, distributors and dealers, inspectors should check for required labeling on products, and provide compliance assistance as necessary. When conducting routine use inspections, inspectors should ensure that the regulated community is aware of the worker protection labeling requirements and users are following the label directions. Inspectors should also provide compliance assistance.

The following paragraphs simply provide an overview of the effective dates for compliance associated with each type of routine inspection. Separate chapters are provided in this manual detailing the requirements which must be checked for each type of inspection and providing specialized inspection checklists.

## **Routine Registrant/ Producer Establishment Inspections**

Registrants/producers, including supplemental registrants, have until April 21, 1994, to make labeling changes, except as provided in PR notice 93-11. During routine inspections before and after this date, inspectors should check compliance with labeling requirements for products subject to the regulations. Stop Sale, Use, or Removal Orders (SSUROs) should be issued when products distributed or sold by a registrant/ producer do not bear revised labeling after April 21, 1994.

Products with the revised labeling must have all the required elements (i.e., proper PPE statements, restricted entry intervals, etc. as discussed in other chapters of this manual). Questions regarding the adequacy of any revised labeling should be discussed with the appropriate EPA Regional office.

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**Routine Marketplace/ Dealer Inspections**

After October 23, 1995, all products sold or distributed by any person must bear revised labeling. During routine inspections of marketplaces and dealers, inspectors should monitor for compliance with labeling requirements.

After October 23, 1996, products (other than orphaned or cancelled products) stickered under PR Notice 95-5 cannot be sold unless they are relabeled with final WPS-complying labeling or the interim WPS-complying labeling described in PR Notice 93-11. During routine inspections of marketplaces and dealers, inspectors should monitor for compliance with labeling requirements.

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**Routine Use Inspections**

After April 15, 1994, part 170 requirements are to be followed when products with revised labeling are used. Use inspections are conducted to monitor compliance with the amended labeling as well as the specific requirements of 40 CFR part 170 revised in August, 1992, May, 1995, and July, 1996.

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**Core vs Comprehensive Questions For Use Inspections**

For worker protection use inspections, two checklists have been developed, a Farms/Greenhouses/Nurseries/Forests "Core" checklist for **Routine** inspections and a Farms/Greenhouses/Nurseries/Forests Comprehensive checklist for **Comprehensive** inspections. These checklists are provided in Appendix D.

The questions in the Core checklist address essential worker protection provisions which should be addressed in every Routine use inspection to ensure compliance with the basic components of the WPS. The questions on the comprehensive checklist should be addressed if the inspector is conducting a comprehensive worker protection inspection. EPA recommends that a comprehensive worker protection inspection be conducted if the inspection was targeted specifically to ensure compliance with the WPS (a "for cause" inspection) or if the inspector suspects non-compliance with the WPS based on the answers to the CORE questions.

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**Targeted Inspections**

States, tribes, and territories should verify compliance with the WPS through both routine inspections and inspections specifically targeted to

focus on worker protection activities (hereafter referred to as targeted inspections).

Obviously, in order to complete targeted inspections, the first step is to have in place a mechanism for targeting worker protection inspections. OCM's Compliance Branch has prepared, for consideration by the States/Tribes, a risk-based approach for targeting worker protection inspections.

This is simply a **recommended** approach for targeting worker protection inspections. Use of the particular risk-based matrix discussed in this guidance (and provided in Appendix B) is not required, but rather is provided as an **optional** strategy in developing WPS targeting. The matrix provides another alternative for targeting worker protection inspections. In addition a state may revise the national risk-based matrix, in order to incorporate specific data available within that state.

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### **Overview of Risk-Based Targeting Approach**

A risk-based (R-B) matrix could be used by each state, for example, at the beginning of each quarter (or other appropriate time frame) when the state needs to select targets for worker protection inspections from a broad universe of potential sites.

The risk-based (R-B) matrix would be used within the office by the individual(s) selected to target inspections. Using the R-B matrix, a list of 40 potential inspection sites, for example, could be pared down to 20 sites and prioritized based on factors associated with a greater potential for risk. Each potential site could be run through a risk-based matrix and be assigned a priority level for inspection.

The goal of using a risk-based matrix is to place potential inspection sites into one of three categories, based on high, medium, and low priority risk potential.

The sites in the high priority category (and the medium category depending on the number of inspections which need to be completed) could then be prioritized using other criteria.

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### **Specific Factors to Consider When Developing a Risk-Based (R-B) Targeting Approach**

A number of factors should be taken into consideration by state and regional personnel when developing a worker protection risk-based targeting system for use, marketplace, and producer establishment inspections. These factors include information concerning:

- product toxicity
- crop grown
- production activity
- worker exposure
- historical problems with product

- previous compliance problems at the site
- the number of workers employed
- site type

The significance and type of product toxicity will vary, depending on whether the inspection target audience is for affected workers or pesticide handlers. The toxicity of the product's active ingredient will have a greater impact on workers, whereas the toxicity of the end-use product will have a greater impact on handlers. The type of crop grown and harvest method will help indicate the amount of hand labor involved in harvest activities, and the level of exposure. The degree of worker exposure may also be affected by the total foliage area associated with a particular crop; with a higher degree of exposure presented by crops such as citrus fruits, and sugarcane.

Incidents caused by use of a particular product or active ingredient, such as those which may be documented in a state's illness investigation database, can also help prioritize risk-based inspections. Civil violations or notices of noncompliance previously issued against a site, in particular for misuse violations at farm sites, can also be an important factor. The number of workers employed and the type of farm can also indicate the degree of worker exposure. Greenhouses and nurseries, which require more hand-labor, can pose greater worker exposure conditions than those on forests and farms. In addition, the larger the number of workers employed at these establishments, the greater the potential for a larger number of workers to be exposed.

Other risk-based targeting factors which regions and states should take into consideration include:

- volume and number of pesticides produced/used at site
- level of PPE required (chemical suits, respirators)
- restricted-entry interval (REI) length
- worker communication, language barriers

Since many states and regional offices already have a pesticide data-base inspection targeting system in place, it is recommended that state and regional offices:

- incorporate worker protection-specific factors into their scheme based on available information
- tailor targeting scheme to meet particular needs and local concerns

Office supervisors and field inspectors can share knowledge and past experiences when determining which sites need to be prioritized for

investigation. In addition, a random sampling and inspection of low and medium priority sites should also be conducted. A region or state may also want to consider when the site was last inspected. Regardless of how a state or region develops its risk-based targeting approach, the system should be firmly established, and documented, in order to ensure consistent and equitable implementation. Please refer to Appendix B for specific Risk-Based Targeting Matrices and Examples.