



# How to Comply With the 2015 Revised Worker Protection Standard For Agricultural Pesticides

## What Owners and Employers Need To Know





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# How to Comply with the 2015 Revised Worker Protection Standard for Agricultural Pesticides: What Owners and Employers Need to Know

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# HOW TO COMPLY WITH THE 2015 REVISED WORKER PROTECTION STANDARD FOR AGRICULTURAL PESTICIDES

## What Owners and Employers Need To Know





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## QUICK REFERENCE GUIDE TO THE WORKER PROTECTION STANDARD (WPS) AS REVISED IN 2015

The WPS is a federal regulation designed to protect agricultural workers (people employed in the production of agricultural plants) and pesticide handlers (people mixing, loading, or applying pesticides or doing certain tasks involving direct contact with pesticides). Each section links to the Code of Federal Regulations (40 CFR Part 170) for more information on the revised WPS. ([www.ecfr.gov](http://www.ecfr.gov))

The guide summarizes the maximum requirements under the revised WPS. It does not include exemptions and exceptions that may allow you to do less. See the referenced sections below. Exemptions (general) [170.303 \(b\)](#) and [170.601](#)

Exceptions for **workers** [170.401 \(b\)](#) and [170.409 \(a\)\(2\)](#)

Exceptions for early-entry **workers** during a restricted-entry interval [170.603](#)

Exceptions for **handlers** [170.501 \(b\)](#)

Exceptions to PPE required on pesticide labels [170.607](#)

### Employer Responsibilities for Supervisors and Labor Contractors

Employers must provide sufficient information to supervisors and/or labor contractors to ensure compliance with the revised WPS. Specify:

- The tasks supervisors/labor contractors must do, and
- The information they must provide to workers/handlers.

Employers are liable for a penalty under FIFRA if a supervisor or labor contractor acting for them fails to comply with the revised WPS requirements. [170.309 \(d\)](#), [170.313 \(d\)](#), [170.317 \(c\)](#)

## Duties for ALL Employers

These requirements apply to agricultural employers and commercial pesticide handler employers except the pesticide safety, application and hazard information requirements apply only to agricultural employers.

### Anti-Retaliation

Employers must not retaliate against a worker or handler who attempts to comply with the WPS, files a complaint, or provides information in an investigation of alleged WPS noncompliance. [170.315](#)

### Minimum Age Requirements

1. Ensure that early-entry workers and all handlers are at least 18 years old. [170.309 \(c\)](#), and [170.313 \(c\)](#)

### Pesticide Safety, Application and Hazard Information

An agricultural employer must display or make certain information available on the establishment. Commercial pesticide handler employers do not have to comply with information display requirements.

1. Display or make available all of the information listed in #2 together in an easily accessible ("central") location on the agricultural establishment. [170.311 \(a\)\(5\)](#) and [170.311 \(b\)\(2\)](#)
2. The information includes:
  - EPA WPS safety poster or equivalent information, which must include some additional information by January 2, 2018, and must be kept current. [170.311 \(a\)](#)
  - Application information that includes:
    - o Product name, EPA registration number, and active ingredient
    - o Crop or site treated, location and description of the treated area
    - o Date, start and end times of the application, and duration of restricted-entry interval (REI). [170.311 \(b\)\(1\)](#)
  - A copy of the safety data sheet (SDS) for the formulated product for each WPS-labeled pesticide applied. [170.309](#) and [170.311](#)

3. In addition, display the EPA WPS safety poster (or equivalent) where decontamination supplies are located at permanent sites and where decontamination supplies are provided for 11 or more workers. [170.311 \(a\)\(5\)](#)

4. Allow workers and handlers unrestricted access to all of the information and keep all of the displayed information current and legible. [170.311 \(a\)\(6\)-\(7\)](#) and [170.311 \(b\)\(9\)-\(14\)](#)
5. Display the EPA WPS safety poster or equivalent information before an application takes place and for 30 days after the REI expires. [170.309 \(h\)](#)

6. Display the SDS and application information within 24 hours of the application and before workers enter treated areas. This information must be displayed for 30 days after the REI expires and kept in records on the agricultural establishment until 2 years after the REI expires. [170.309 \(h\)&\(i\)](#) and [170.311 \(b\)\(5\)-\(6\)](#)
7. Provide the SDS and application information upon request of a worker, handler, designated representative or medical personnel, within 15 days. [170.311 \(b\)\(7\)&\(9\)](#)

### Pesticide Safety Training

Ensure that **workers** are trained before performing tasks in a pesticide treated area (REI in effect within the last 30 days). [170.401 \(a\)](#). Ensure that **handlers** are trained before performing any handler activity. [170.501 \(a\)](#). There is no grace period for worker or handler training.

1. Train workers and handlers annually. [170.401 \(a\)](#) and [170.501 \(a\)](#)
2. Present training using EPA-approved materials either orally from written materials or audio-visually. After January 2, 2018, the training must cover additional topics. [170.401 \(c\)](#) and [170.501 \(c\)](#)
3. Trainers must be certified applicators or have completed an EPA-approved train-the-trainer program or be designated by the State or Tribal pesticide enforcement agency. [170.401 \(c\)\(4\)](#) and [170.501 \(c\)\(4\)](#)
4. Training must be delivered in a manner the employees can understand, and the trainer must be present and respond to questions. [170.401 \(c\)\(1\)](#) and [170.501 \(c\)\(1\)](#)
5. Maintain training records on the establishment for two years from the training date for each worker and handler required to be trained on the agricultural establishment. [170.401 \(d\)](#) and [170.501 \(d\)](#)

Continued on next column

Separate from the pesticide safety training, employers must tell workers and handlers where to find the following on the worksite: EPA WPS safety poster (or equivalent), application information, SDSs and decontamination supplies. [170.403](#) and [170.503 \(b\)](#)

### Decontamination Supplies

1. Establish accessible decontamination supplies located together within 1/4 mile of all **workers** (when required [170.411 \(c\)](#)) and **handlers**. [170.411](#) and [170.509](#)
  - 1 gallon of water per worker and 3 gallons of water per handler at the beginning of each work period for routine and emergency decontamination.
  - Plenty of soap and single-use towels. Note: hand sanitizers and wet towelettes are insufficient. [170.411 \(b\)\(2\)](#) and [170.509 \(b\)\(2\)](#)
  - A clean coverall (or other clean change of clothes) for handlers
2. Provide water that is safe and cool enough for washing, eye-flushing, and drinking. Do not use water that is also used for mixing pesticides unless steps are taken to ensure safety. [170.411 \(b\)\(1\)](#)
3. Provide **handlers** with decontamination supplies where personal protective equipment (PPE) is removed at the end of a task. [170.509 \(a\)](#)
4. Provide **handlers** with decontamination supplies at each mixing and loading site. [170.509 \(c\)\(1\)](#)
5. When a product requires protective eyewear for **handlers**, and/or when using a closed system under pressure, provide the following in mixing and loading areas: a system that can deliver gently running water at 0.4 gallons per minute for at least 15 minutes or 6 gallons of water in containers suitable for providing a gentle eye-flush for about 15 minutes. [170.509 \(d\)\(1\)](#)
6. When applying a product that requires protective eyewear, provide 1 pint of water per **handler** in portable containers that are immediately available to each handler. [170.509 \(d\)\(2\)](#)
7. Do not put **worker** decontamination supplies in areas being treated or under an REI. [170.411 \(d\)](#)
8. For **handlers**, decontamination supplies must be kept outside the treated area, or any area under an REI, unless they are protected from contamination in closed containers. [170.509 \(c\)\(1\)&\(3\)](#)

### Employer Information Exchange

1. Before any application, commercial pesticide handler employers must make sure the owner/operator of an agricultural establishment where a pesticide will be applied, is aware of:
    - Location and description of area to be treated,
    - Date of application, estimated start time and estimated end time of the application,
    - Product name, EPA registration number, active ingredient(s), and REI,
    - Whether the product label requires both oral warnings and treated area posting,
    - All other safety requirements on labeling for workers or other people. [170.313 \(i\)](#)
  2. Owners/operators of agricultural establishments must make sure any commercial pesticide handler employer they hire is aware of:
    - Specific location and description of any treated areas where an REI is in effect that the commercial handler may be in or walk within 1/4 mile of, and,
    - Restrictions on entering those areas. [170.309 \(k\)](#)
- The commercial pesticide employer must pass this information along to the handler doing the work. [170.313 \(h\)](#)

### Emergency Assistance

If there is reason to believe a worker or handler has been exposed to pesticides, during or within 72 hours of employment, and needs emergency medical treatment, employers must do the following:

1. Promptly make transportation available to an appropriate emergency medical facility.
2. Promptly provide to the treating medical personnel, information related to each pesticide product to which the person may have been exposed:
  - Safety Data Sheet
  - Product name, EPA registration number, and active ingredient(s).
  - Description of how the pesticide was used on the agricultural establishment.
  - Circumstances that could have resulted in exposure to the pesticide. [170.309 \(f\)](#)

This is a summary of the requirements. It does not contain all the information to comply with the revised WPS. Refer to the regulations where indicated for complete details.

## Additional Duties for Worker Employers

These requirements apply to agricultural employers who employ workers.

### Restrictions During Applications [170.405 \(a\)-\(b\)](#)

During pesticide applications, keep workers and everyone other than appropriately trained and equipped handlers out of the treated area (for all types of applications) and out of:

1. The application exclusion zone (AEZ) for outdoor production, or
2. A specified area that varies by the type of application until the ventilation criteria are met for enclosed space production.

### Restricted-Entry Intervals (REIs) [170.309 \(i\)](#) and [170.407](#)

Do not direct or allow any worker to enter or remain in the treated area until the REI has expired and all posted warning signs are removed or covered. Read the exceptions in [170.603](#).

### Notice About Applications [170.409 \(a\)](#)

1. Orally warn workers and post treated areas if required by the pesticide labeling.
2. If not, post warning signs if the REI is **greater than**:
  - 48 hours for outdoor production or
  - 4 hours for enclosed space production.
3. For all other applications, **either** orally warn workers or post warning signs.

### Posted Warning Signs [170.409 \(b\)](#)

1. Post legible 14" x 16" WPS-design warning signs no more than 24 hours prior to an application; keep posted during REI; remove or cover before workers enter and within 3 days after the end of the REI. [170.409 \(b\)\(1\)-\(3\)](#)
2. Post signs so they can be seen at all reasonably expected entrances to treated areas. [170.409 \(b\)\(3\)\(ii\)](#)
3. Warning signs must be smaller than 14" x 16" under certain conditions. All warning signs must meet specific requirements. [170.409 \(b\)](#)

### Oral Warnings [170.409 \(c\)](#)

1. Before each application, tell workers who are on the establishment (in a manner they can understand):
  - Location and description of treated area,
  - Date and times entry is restricted
  - AEZ, REI, and not to enter during REI.
2. Workers who enter the establishment after application starts must receive the same warning at the start of their work period.

## Additional Agricultural Employer Duties

Before allowing persons not directly employed by the establishment to clean, repair, or adjust pesticide application equipment, provide the following information:

1. The equipment may be contaminated with pesticides.
2. The potentially harmful effects of pesticide exposure.
3. How to handle equipment to limit exposure to pesticides.
4. How to wash themselves and/or their clothes to remove and prevent exposure to pesticide residues. [170.309 \(g\)](#) and [170.313 \(i\)](#)

## Additional Duties for Handler Employers

These requirements apply to commercial pesticide handler employers and agricultural employers who employ handlers.

### Application Restrictions and Monitoring [170.505](#)

1. Do not allow handlers to apply a pesticide so that it contacts, directly or through drift, anyone other than appropriately trained and equipped handlers.
2. Handlers must suspend applications when anyone other than appropriately trained and equipped handlers enter the application exclusion zone (AEZ). This goes into effect on January 2, 2018. [170.505 \(b\)](#)
3. When anyone is handling a highly toxic pesticide with a skull and crossbones, maintain sight or voice contact every two hours.
4. Make sure a trained handler equipped with labeling-specific PPE maintains constant voice or visual contact with any handler in an enclosed-space production site (e.g., greenhouses, high tunnels, indoor grow houses) while applying a fumigant.

### Specific Instructions for Handlers

1. Before handlers do any handling task, inform them, in a manner they can understand, of all pesticide labeling instructions for safe use. [170.503 \(a\)\(1\)](#)
2. Ensure that the handler has access to product labeling during the entire handling task. [170.503 \(a\)\(2\)](#)

### Equipment Safety

1. Inspect pesticide handling equipment before each day of use, and repair or replace as needed. [170.309 \(i\)](#) and [170.313 \(g\)](#)
2. Allow only appropriately trained and equipped handlers to repair, clean, or adjust pesticide equipment that contains pesticides or residues, unless they are not employed on the establishment. [170.309 \(g\)](#) and [170.507 \(a\)](#) See Additional Agricultural Employer Duties for information regarding non-employed persons.

### Personal Protective Equipment (PPE) Handlers Must Use

1. Provide handlers with the PPE required by the pesticide labeling, and be sure it is: [170.507 \(b\)](#)
  - Clean and in operating condition. [170.507 \(b\)](#)
  - Worn and used according to the manufacturer's instructions, [170.507 \(c\)](#)
  - Inspected before each day of use, [170.507 \(c\)\(2\)](#)
  - Repaired or replaced as needed. [170.507 \(c\)\(2\)](#)
2. When a respirator is required by product labeling, provide handlers with:
  - A medical evaluation to ensure the handler is physically able to safely wear the respirator,
  - Training in respirator use, and
  - A fit test to ensure the respirator fits correctly.
3. Keep records on the establishment of these items for two years. [170.507 \(b\)\(10\)](#)
4. Take steps to avoid heat-related illness when labeling requires the use of PPE for a handler activity. [170.507 \(e\)](#)
5. Provide handlers a pesticide-free area for:
  - Storing personal clothing not in use,
  - Putting on PPE at start of task,
  - Taking off PPE at end of task. [170.507 \(d\)\(9\)](#)
6. Do not allow used PPE to be taken home. [170.507 \(d\)\(10\)](#)

### Care of PPE

1. Store and wash used PPE separately from other clothing and laundry. [170.507 \(d\)\(3\)](#)
2. If PPE will be reused, clean it before each day of reuse, according to the instructions from the PPE manufacturer unless the pesticide labeling specifies other requirements. If there are no other instructions, wash in detergent and hot water. [170.507 \(d\)\(1\)](#)
3. Dry the clean PPE before storing. [170.507 \(d\)\(4\)](#)
4. Store clean PPE away from personal clothing and apart from pesticide-contaminated areas. [170.507 \(d\)\(5\)](#)

### Replacing Respirator Purifying Elements

1. Replace particulate filters or filtering facepiece respirators when any following condition is met:
  - When breathing becomes difficult,
  - When the filter is damaged or torn,
  - When the respirator label or pesticide label requires it,
  - After 8 total hours of use, in the absence of any other instructions or indications of service life. [170.507 \(d\)\(6\)](#)
2. Replace vapor-removing cartridges/canisters when any following condition is met:
  - When odor/taste/irritation is noticed,
  - When the respirator label or pesticide label requires it (whichever is shorter),
  - When breathing resistance becomes excessive,
  - After 8 total hours of use, in the absence of any other instructions or indications of service life. [170.507 \(d\)\(7\)](#)

### Disposal of PPE

1. Discard, do not clean, coveralls and other absorbent materials that are heavily contaminated with pesticide having a signal word "DANGER" or "WARNING." When discarding PPE, ensure that it is unusable as apparel or made unavailable for further use.
2. Follow federal, state, and local laws when disposing of PPE that cannot be cleaned correctly. [170.507 \(d\)\(2\)](#)

### Instructions for People Who Clean PPE [170.507 \(d\)\(8\)](#)

- The handler employer must inform people who clean or launder PPE:
1. That PPE may be contaminated with pesticides,
  2. Of the potential for harmful effects of exposure to pesticides,
  3. How to protect themselves when handling PPE,
  4. How to clean PPE correctly, and
  5. Decontamination procedures to follow after handling contaminated PPE.



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# PREAMBLE

## WHY IS THE INFORMATION IN THIS MANUAL IMPORTANT?

It is a violation of federal law to use a pesticide product in a manner inconsistent with its labeling. When you use a pesticide product with labeling that refers to the Worker Protection Standard (WPS), you must comply with the requirements of the federal WPS (Code of Federal Regulations (CFR), Title 40, Part 170). If you do not comply with the WPS requirements, you will be using a pesticide product in a manner inconsistent with its labeling and will be in violation of federal law.

This manual provides information to help you comply with the requirements of the federal WPS for agricultural pesticides as originally published in 1992, amended in 1995, 1996 and 2004, and revised in 2015. The U.S. Environmental Protection Agency (EPA) may issue additional guidance about the WPS and may amend the WPS in the future. Check with your state or tribal agency responsible for pesticide enforcement for further information and current amendments.

This updated manual, “How to Comply With the 2015 Revised Worker Protection Standard for Agricultural Pesticides,” EPA 735-B-16-001 supersedes the EPA 735-B-05-002 manual and all previous versions. Changes to the Worker Protection Standard have made the 2005 version obsolete. Any continued use of outdated manuals may lead an employer to be out of compliance with this regulation.

## DO YOU NEED TO READ THIS MANUAL?

The WPS may apply to you if you use a WPS-labeled pesticide product on an agricultural establishment in the production of agricultural plants and you are any one of the following:

- The owner or a person responsible for the management of an agricultural establishment that employs workers or handlers.
- The owner of a family-owned agricultural establishment where you and/or your immediate family members are the only people who work on the establishment.
- The owner or a person responsible for the management of a commercial (for-hire) pesticide handling establishment.
- A pesticide handler.
- A crop advisor.

## THIS WPS “HOW TO COMPLY” MANUAL WILL:

- Help you determine whether you need to comply with the WPS.
- Give you detailed information on how to comply with the WPS requirements, including exemptions, exceptions, restrictions, options and examples.
- Provide you with a “Quick Reference Guide” — a simplified route to compliance that focuses on the basic WPS requirements (excluding exemptions, exceptions, etc.).
- Explain how important definitions affect your WPS responsibilities.
- Provide other special notes to help you better understand the WPS requirements and how they apply to you.

## ORGANIZATION OF THE “HOW TO COMPLY” MANUAL

This WPS How to Comply Manual is organized based upon the WPS responsibilities for each type of employer. There are three primary types of employers that are responsible for WPS compliance; agricultural employer of workers, agricultural employer of pesticide handlers, and the commercial pesticide handler employer (employers of for-hire pesticide handlers or crop advisors). Most likely, users of this manual will not need to read all of the chapters as it would be unlikely for a person to meet all three categories of a WPS employer.

Each section contains a reference to the Code of Federal Regulations ([40 CFR Part 170](#)) for more information on the revised WPS. ([www.ecfr.gov](http://www.ecfr.gov))

**Read Chapter 1** to help you determine which type of employer you are and what pesticide uses are covered by the WPS and which ones are not.

The following chart identifies the chapters in this manual that include relevant information for each type of WPS employer:

| <b>WPS Employer Type</b>                                    | <b>Most Relevant Chapters</b> |
|---|-------------------------------|
| Agricultural Employer of Workers                            | Chapters 2 & 3                |
| Agricultural Employer of Handlers                           | Chapters 2 & 4                |
| Commercial Pesticide Handler Employer                       | Chapters 4 & 5                |
| Crop Advisors   | Chapter 6                     |
| Owner of an Agricultural Establishment and Immediate Family | Chapter 6                     |

**Chapter 7** applies to everyone subject to this federal regulation and provides information on WPS compliance.

The appendices provide a wide range of definitions, checklists, procedures and resources to provide assistance with WPS compliance.

## **ADDITIONAL WORKER PROTECTION REQUIREMENTS**

Some states, tribes, or local governments with jurisdiction over pesticide enforcement may have additional worker protection requirements beyond the requirements described in this federal manual. Check with these agencies to obtain the information you need to comply with all applicable state, tribal, or local requirements.

## **REPRODUCTION OF THE MANUAL**

This manual may be reproduced, but if this manual is altered it may no longer provide the information employers need to comply with the requirements of the federal Worker Protection Standard.

## **MATERIAL APPENDED TO THE MANUAL**

States, tribes, or local governments with jurisdiction over pesticide enforcement may elect to append additional worker protection requirements to this federal manual. These additions may only be appended at the end of this federal manual. Any additional material should be clearly identified as state, tribal, or local requirements.





# INTRODUCTION TO THE WORKER PROTECTION STANDARD

## WHAT IS THE WORKER PROTECTION STANDARD?

The Worker Protection Standard (WPS) is a regulation originally issued by the U.S. Environmental Protection Agency (EPA) in 1992 and most recently revised in 2015. This regulation is primarily intended to reduce the risks of illness or injury to workers and handlers resulting from occupational exposures to pesticides used in the production of agricultural plants on agricultural establishments (i.e., farms, forests, nurseries and enclosed space production facilities, such as greenhouses). Workers are generally those who perform hand-labor tasks in pesticide-treated crops, such as harvesting, thinning, and pruning. Handlers are usually those that are in direct contact with pesticides such as mixing, loading or applying pesticides.

The WPS requires agricultural employers and commercial pesticide handler employers to provide specific information and protections to workers, handlers and other persons when WPS-labeled pesticide products are used on agricultural establishments in the production of agricultural plants. It also requires owners of agricultural establishments to provide certain protections for themselves and their immediate family, requires handlers to wear the labeling-specified clothing and personal protective equipment when performing handler activities, and to take measures to protect workers and other persons during pesticide applications.

## WHY DID THE WPS REGULATION CHANGE IN 2015?

The 2015 revisions to the WPS regulation strengthened elements of the existing rule to better protect workers and handlers from occupational exposure to pesticides and reduce the numbers of potentially preventable pesticide incidents and illnesses. The 2015 revisions also ensure workers and handlers receive workplace protections comparable to those that are already provided to workers in other industries, while still considering the unique needs of agricultural operations.

Fewer pesticide exposure incidents are the anticipated result of having stronger protections for the nation's 2 million agricultural workers and their families. This results in a healthier and more productive workforce. For employees, this means fewer pesticide exposures, and fewer lost wages, medical bills, and absences from work and school.

## WHAT CHANGED IN THE WPS?

The 2015 revisions to the Worker Protection Standard cover many different topic areas. The major revisions include:

- Annual mandatory training to inform workers and handlers about the required protections afforded to them.
- Expanded training that includes instructions to reduce take-home exposure from pesticides on work clothing and other safety topics.
- Anyone under 18 years old are prohibited from being a pesticide handler or doing early-entry work during a restricted-entry interval (REI).
- Expanded mandatory posting of no-entry signs for outdoor production (e.g., farms, forests and nurseries) if the REI is greater than 48 hours.
- New application exclusion zones (AEZ) up to 100 feet surrounding pesticide application equipment intended to protect workers and others from pesticide exposure during pesticide applications.
- Providing more than one way for workers and handlers to gain access to pesticide application information and safety data sheets – centrally-posted or by requesting records themselves, through medical personnel or through a designated representative.
- If a respirator is required by the labeling, the employer must provide the handler with a medical evaluation, fit testing, and respirator training in compliance with the Occupational Safety and Health Administration's (OSHA's) Respiratory Protection Standard.
- Mandatory record-keeping to improve states' ability to follow up on pesticide violations and enforce compliance. Records of application-specific pesticide information, safety data sheets (SDS), worker/handler pesticide safety training and respirator medical evaluations, fit testing and respirator training must be kept for 2 years.
- Anti-retaliation provisions that are comparable to the U.S. Department of Labor.
- If protective eyewear is required by the labeling, the employer must provide water for emergency eye flushing for handlers at pesticide mixing/loading sites.
- Expanded definition of immediate family and criteria for agricultural establishments that are eligible for the exemption for owners and their immediate families.
- Replaced the term "greenhouse" with "enclosed space production", which includes greenhouses, mushroom houses, hoop houses, high tunnels, and grow houses.

## IMPLEMENTATION DATES OF THE NEW WPS REQUIREMENTS

### Effective January 2, 2017:

- ❖ Annual mandatory training for workers and handlers.
- ❖ No grace period to train workers (there has never been a grace period to train handlers).
- ❖ Recordkeeping of handler and worker training.
- ❖ Minimum age requirement of 18 years old for pesticide handlers or early-entry workers entering into a treated site before the REI has expired.
- ❖ Expanded mandatory posting of no-entry signs for outdoor production (e.g., farms, forests and nurseries) if the REI is greater than 48 hours.
- ❖ Recordkeeping and posting of pesticide application information and hazard information (i.e., SDS).
- ❖ Anti-retaliation protections strengthened.
- ❖ Requirements for medical evaluation, fit testing and specific training for use of respirators and the associated recordkeeping.
- ❖ Provide specific amounts of water to be used for routine decontamination.
- ❖ Provide water for emergency eye flushing for handlers at mixing/loading sites if protective eyewear is required by the pesticide product labeling.
- ❖ Continued exemption for owners and their immediate family with an expanded definition of immediate family.
- ❖ During pesticide applications, agricultural employers must keep workers and other persons out of the AEZ surrounding the pesticide application equipment within the establishment's property boundary.

### Effective January 2, 2018

- ❖ Expanded training content for workers and handlers (January 2, 2018 or within 6 months of EPA making training materials available but not before January 2, 2018). Refer to Appendix B: Worker Protection Standard Criteria for worker and handler training content.
- ❖ The expanded content that must be included in the pesticide safety information display (safety posters). Refer to page 23.
- ❖ Suspending applications. The requirement for handlers to suspend applications if anyone, other than a trained and equipped handler involved with the application, is in the AEZ which can extend beyond the establishment's property boundary.

**Until these 2015 revised WPS requirements become enforceable, the 1995 WPS regulations (subparts A, B and C of 40 CFR part 170) remain in effect.**

## WHO DOES THE WPS PROTECT?

The WPS requires employers to take steps to protect primarily two types of agricultural employees: workers and handlers. In addition, the WPS provides certain protections for “other persons” during pesticide applications (e.g., non-worker/handler employees, family members, customers, government officials and any bystanders).

### Workers

A worker is anyone who is:

1. Employed (including self-employed) in exchange for a salary or wages or other monetary compensation, **and**
2. Doing tasks directly related to the production of agricultural plants on an agricultural establishment such as harvesting, weeding, carrying nursery stock, repotting plants, pruning or watering.

### Handlers

A handler is anyone who is:

1. Employed (including self-employed) in exchange for a salary or wages or other monetary compensation by an agricultural establishment or a commercial pesticide handling establishment that uses pesticides in the production of agricultural plants, **and**
2. Doing any of the following tasks:
  - Mixing, loading, transferring, applying or disposing of pesticides,
  - Handling opened containers of pesticides; emptying, triple-rinsing, or cleaning pesticide containers according to pesticide product labeling instructions; or disposing of pesticide containers that have not been cleaned,
  - Acting as a flagger,
  - Cleaning, adjusting, handling or repairing the parts of mixing, loading, or application equipment that may contain pesticide residues,
  - Assisting with the application of pesticides, including incorporating the pesticide into the soil after the application has occurred, or dipping plant cuttings in rooting hormones that are registered pesticides,
  - Entering a greenhouse or other enclosed space after application and before the inhalation exposure level listed on the pesticide product labeling has been reached or any ventilation criteria established by WPS (Chapter 3, Table 1. Entry Restrictions During Enclosed Space Production Pesticide Applications) or on the pesticide product labeling has been met to:
    - Operate ventilation equipment,
    - Adjust or remove coverings, such as tarps used in fumigation, or
    - Check air pesticide concentration levels,

- Entering a treated area outdoors after application of any soil fumigant to adjust or remove soil coverings, such as tarps, or
- Performing tasks as a crop advisor:
  - During any pesticide application,
  - During any restricted-entry interval, or
  - Before any inhalation exposure level listed on the pesticide product labeling has been reached or any ventilation criteria established by WPS (Chapter 3, Table 1. Entry Restrictions During Enclosed Space Production Pesticide Applications) or on the pesticide product labeling has been met.

Examples:

You **are** a handler if you are loading unopened water-soluble packets into a mixing tank (because you are mixing and loading the pesticide).

You **are not** a handler if you:

- Purchase pesticides and transport them unopened to an establishment.
- Carry containers that have never been opened into a pesticide storage facility.
- Transport containers that have never been opened to the site where they are to be mixed, loaded, or applied.

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*A person is not a handler if he or she only handles pesticide containers that have never been opened or have been emptied and cleaned according to instructions on the pesticide product labeling.*

Handlers who are currently certified as applicators of restricted-use pesticides must be given all of the WPS handler protections, except that they do not need to receive WPS training.

## Crop Advisors

A crop advisor may be a worker or handler under the WPS depending on when the crop advising task is done. A crop advisor is defined as any person who is assessing pest numbers, damage, pesticide distribution, or the status or requirements of agricultural plants.

- If crop advising tasks are done during a pesticide application or while the REI is in effect, the crop advisor is a handler under WPS.
- If crop advising tasks are done after the REI has expired, but is within the 30 days of the expiration of the REI, the crop advisor is a worker under WPS.

See Chapter 6: Exemption and Exceptions for additional requirement for crop advisors.

## WHAT ARE THE BASIC PRINCIPLES OF THE WPS?

The WPS is based on a foundation of three basic principles to enhance protections provided to agricultural workers, pesticide handlers and other persons.

### INFORM

To ensure employees will be informed about exposure to pesticides, the WPS requires:

- **Pesticide safety training** — for workers and handlers.
- **Pesticide safety information** — basic safety concepts (on the poster or otherwise displayed) available at the central location and some decontamination sites.
- **Pesticide application and hazard information (SDS) and access to the information** — centrally-located pesticide application information and safety data sheets (SDS) in an area accessible to workers and handlers. This information must be kept for 2 years on the establishment and must be provided to the employee, medical personnel or the employee's designated representative upon request.
- **Notify workers about treated areas** — posting signs or providing oral notification to avoid inadvertent pesticide exposures.
- **Information exchange** — between commercial pesticide handler employers and agricultural employers.

### PROTECT

To ensure employees will be protected from exposures to pesticides, the WPS requires employers to:

- **Exclude workers and others from areas being treated with pesticides.**
- **Exclude workers and others from the application exclusion zone (AEZ)** within the boundaries of the agricultural establishment during pesticide applications.
- **Exclude workers from areas that remain under a restricted-entry interval (REI),** with narrow exceptions.
- **Ensure a pesticide handler or an early-entry worker** (one that enters a treated site prior to the expiration of the REI) be a minimum of 18 years old.
- **Prohibit handlers** from applying a pesticide in a way that will expose workers or other persons.
- **Protect handlers during handling tasks** including monitoring while handling highly toxic pesticides.
- **Provide, maintain and ensure the correct use of personal protective equipment (PPE)** including enhanced protections for the use of respirators.
- **Protect early-entry workers** who are doing permitted tasks in treated areas during a REI, including special instructions and duties related to correct use of PPE.

**In addition, the WPS requires handlers to:**

- **Apply pesticides** in a way that will not expose workers or other persons.
- **Suspend applications** if anyone, other than a trained and equipped handler involved with the application, is in the AEZ during a pesticide application (which may be outside the establishment's property boundary).
- **Wear PPE** specified on the pesticide product labeling.

**MITIGATE**

To address pesticide exposures that employees may experience, the WPS requires employers to provide:

- **Decontamination supplies** — specific amounts of water for workers and handlers along with soap and towels for routine washing and emergency decontamination.
- **Eyewash water** — for handlers using pesticides requiring protective eyewear.
- **Emergency assistance** — making transportation available to a medical care facility if an agricultural worker or handler may have been poisoned or injured by a pesticide, and providing information about the pesticide(s) to which the person may have been exposed to.





## CHAPTER 1

# DETERMINING YOUR WPS RESPONSIBILITIES

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All WPS requirements are effective January 2, 2017 unless identified for a delayed implementation of January 2, 2018.



## DOES THE WPS APPLY TO YOU?

The WPS applies to you if you **use a WPS-labeled pesticide product** (that contains an AGRICULTURAL USE REQUIREMENTS box under DIRECTIONS FOR USE) on an “agricultural establishment” directly related to the production of an “agricultural plant.” If you also **employ workers or handlers** (directly or through a labor contractor), you will have additional WPS responsibilities. In the WPS, employers of workers or handlers are referred to as “agricultural employers” or “commercial pesticide handler employers” depending on the situation.

**Employers** are responsible for making sure that workers and handlers receive the protections required by the pesticide labeling and the WPS. The term “employ” and “agricultural employer” have special meanings in the WPS — you are an employer even though you are self-employed or use only members of your own family to do the work on your establishment. **You are also considered the employer when you hire workers or handlers through a labor contractor. However, an owner or agricultural employer who hires handlers through a commercial pesticide handler employer is not considered the handler employer for those handlers.**

*The WPS applies to you if:*

|  |   |
|--|---|
| <p><b>You own or operate an agricultural establishment directly related to the production of an agricultural plant.</b></p>  | <p>Even if you are the owner of a farm, forest, nursery, or an enclosed space production facility (e.g., greenhouse, grow house, hoop house, high tunnel) and you or members of your “immediate” family do all the work, you are a “WPS employer” and must comply with some of the requirements described in this manual.</p> |
| <p><b>You hire or contract for the services of agricultural workers to do tasks related to the production of agricultural plants on an agricultural establishment.</b></p> | <p>This includes hiring labor contractors and others who contract with growers to supply workers or handlers to work on your agricultural establishment. <b><i>The labor contractor can be assigned WPS responsibilities but is not responsible for your WPS compliance.</i></b></p>  |
| <p><b>You employ researchers who help produce agricultural plants.</b></p>   | <p>There is an exemption from the WPS requirements when conducting research on unregistered pesticides. This exemption DOES NOT include research on unregistered uses of a registered pesticide product or maintenance pesticide applications applied to agricultural plants subject to research.</p>                         |

|  |  |
|--|--|
| <p><b>You operate a business in which you (or people you employ) apply pesticides that are used for the production of an agricultural plant.</b></p> | <p>Commercial pesticide handlers and their employees are included in the WPS even if some of the pesticide handling tasks (mixing, loading, disposal, etc.) take place somewhere other than the agricultural establishment that is the treatment site. An example would be mixing/loading at the commercial handling establishment or an airport hangar.</p> |
| <p><b>You operate a business in which you (or people you employ) perform tasks as a crop advisor on any agricultural establishment.</b></p>          | <p>“Crop advisor” means any person who is assessing pest numbers or damage, pesticide distribution, or the status, condition, or requirements of agricultural plants. Examples include crop consultants and field scouts. For a description of WPS provisions for certified and non-certified crop advisors, see Chapter 6: Exemptions and Exceptions.</p>   |
| <p><b>You are a pesticide handler who applies WPS-labeled pesticide products on an agricultural establishment.</b></p>                               | <p>Handlers have several specific responsibilities under WPS separate from employers of handlers that deal with the actual application of the pesticide and wearing PPE.</p>   |

**Under the WPS, you may be one or several of the above.**

**Know where you stand!**

While handler employers have primary responsibility for compliance with most WPS requirements, pesticide handlers *DO* have several specific responsibilities under the WPS including the requirement to wear the label-required personal protective equipment when handling pesticides and to follow measures to protect workers and other persons during pesticide applications.

## WHO HAS WPS RESPONSIBILITIES?

The WPS requires agricultural employers and commercial pesticide handler employers to provide the protections required by this rule.

- An **agricultural employer or commercial pesticide handler employer** must provide WPS protections to their worker or handler employees.
- **Certain WPS protections must also be provided to agricultural establishment owners or their immediate family members** regardless of whether or not other workers or handlers are employed on the establishment.
- In addition, **handlers** have several specific responsibilities under the WPS.

In summary, you have WPS responsibilities if you are:

**An agricultural employer** – any person who is an owner of, or is responsible for the management or condition of an agricultural establishment, and who employs any worker or handler.

**A commercial pesticide handler employer** – any person, other than an agricultural employer, who employs any handler to perform handler activities on an agricultural establishment. A labor contractor who does not provide pesticide application services or supervise the performance of handler activities, but merely employs laborers who perform handler activities at the direction of an agricultural or handler employer, **is not a commercial pesticide handler employer**.

**A handler** – any person, including a self-employed person, who is employed by an agricultural employer or commercial pesticide handler employer and performs certain activities including but not limited to mixing, loading or applying pesticides. See the Introduction (page 4) for a full list of handler activities.

## ARE YOU A “WORKER” EMPLOYER, A “HANDLER” EMPLOYER OR BOTH?

The kinds of tasks your employees do, determine whether you are a “worker” employer, a “handler” employer or both.

What activities employees perform will determine whether or not you (as their employer) must comply with the WPS and if so, which requirements apply to your situation. You need to provide all of the protections that apply to the type of employee you have. See page 4 to determine if your employees are “workers” (including “early-entry workers”) or “handlers.”

- The same employee may be a worker at times and a handler at other times, depending on the type of task being performed.
- You may be both a worker employer and a handler employer depending on the tasks that you and your employees do.
- “Early-entry workers” are also “workers” under the WPS.
- You and your “immediate family” may be exempt from most of the WPS but not all. Make sure you know the WPS requirements you and your family must comply with. See Chapter 6: Exemptions and Exceptions.
- Both general-use pesticides and restricted-use pesticides are covered by the WPS.

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*Hint: Training employees as handlers provides flexibility by ensuring they have met the training requirements for “workers” and “handlers.”*

*Farms, forests and nurseries could operate as outdoor production or enclosed space production, depending on the situation. Enclosed space production includes greenhouses, mushroom houses, hoop houses, high tunnels and grow houses.*

## WHICH ESTABLISHMENTS ARE COVERED BY THE WPS?

The majority of establishments covered by the WPS include traditional crop-producing agricultural establishments that are farms, forest operations or nurseries involved in either outdoor or enclosed space production and employ workers or handlers. The WPS also covers family owned agricultural operations where family members are the only persons who work on the establishment.

The WPS applies to any establishment involved in growing, maintaining or producing agricultural plants (includes, but is not limited to, grains, fruits and vegetables; wood fiber or timber products; flowering and foliage plants and trees; seedlings and transplants; and turf grass produced for sod) for commercial and/or research or experimental purposes. Commercial production includes production of plants for sale, trade or in-house use on the establishment or another facility.

This means the following facilities or operations that are not generally recognized as traditional agricultural production establishments may be considered an agricultural establishment for the purposes of the WPS and are covered by the rule if they use WPS-labeled pesticide products:

- Nurseries, garden centers or other similar operations where nursery and ornamental bedding plants are maintained for sale (retail or wholesale).
- Dairy farms that produce hay for feed for their cattle.
- Golf course establishments that also produce sod and/or ornamentals in one area on their facility/establishment for transplanting into the golf course portion of the facility.
- Public park operations/facilities and/or privately-held ornamental garden operations/facilities that produce ornamental plants in one area on their establishment for transplanting into the permanent park or ornamental planting portion of the facility.
- Theme park operations (e.g., Disney World, Universal Studios, Sea World, etc.), hotels, and/or other entertainment operations that produce ornamental plants in one area on their establishment for transplanting into the permanent theme park grounds or ornamental planting portions of the facility.
- Prisons that have “prison farms” where agricultural plants are produced and the prisoners are employed as workers and handlers.
- University extension agricultural research facilities that conduct research on agricultural plants.
- Educational classes or vocational agriculture programs where agricultural plants are produced as part of a class or program, students act as workers and/or handlers, and students receive monetary compensation such as a stipend, or free or reduced tuition.
- Pine straw harvesting/production operations.
- Government owned or managed agricultural operations.

The WPS also applies to any establishment operating as a commercial (for-hire) pesticide handling establishment that applies WPS-labeled pesticide products on agricultural establishments or provides crop advising services for an agricultural establishment.

## WHICH PESTICIDE USES ARE COVERED BY THE WPS?

170.303(a)

Most pesticide uses involved in the indoor or outdoor production of agricultural plants on an agricultural establishment are covered by the WPS. This includes pesticides used on plants and pesticides used on the soil or planting medium the plants are (or will be) grown in. Both general-use and restricted-use pesticides are covered by the WPS. A pesticide product is covered by the WPS if the following statement is in the Directions for Use section on the product labeling:

### AGRICULTURAL USE REQUIREMENTS

**Use this product only in accordance with its labeling and with the Worker Protection Standard, 40 CFR 170. This standard contains requirements for the protection of agricultural workers on farms, forests, nurseries, and greenhouses, and handlers of agricultural pesticides. It contains requirements for training, decontamination, notification, and emergency assistance. It also contains specific instructions and exceptions pertaining to the statements on this label about personal protective equipment, restricted-entry intervals and notification of workers.**

*Example of WPS-labeled pesticide product statement.*

When a pesticide product with labeling that refers to the WPS is used on an agricultural establishment directly related to the production of an agricultural plant, WPS requirements must be complied with. Although some protective requirements for workers and handlers (PPE, REI, etc.) are clearly identified on the pesticide product label, other WPS requirements are referred to through the following statement on the label: **It is violation of federal law to use a pesticide product in a manner inconsistent with its labeling.**

## WHICH PESTICIDE USES ARE NOT COVERED BY THE WPS? 170.303(b)

Some pesticide uses are not covered by the WPS, even when the “AGRICULTURAL USE REQUIREMENTS” section is on the labeling. For example, if the pesticide labeling bears an “AGRICULTURAL USE REQUIREMENTS” section, but the product can also be applied to rights-of-way, the rights-of-way use is not covered by the WPS.

The WPS does not apply when a pesticide product label requires compliance with the WPS and is applied on an agricultural establishment in the following circumstances:

- As part of government-sponsored public pest control programs over which the owner, agricultural employer and handler employer have no control (e.g., mosquito abatement and Mediterranean fruit fly eradication).
- On plants other than agricultural plants, which may include plants in home fruit and vegetable gardens, home greenhouses, and permanent plantings for ornamental purposes (e.g., plants that are in ornamental gardens, parks, public or private landscaping, lawns or other grounds that are intended only for aesthetic purposes or climatic modification).
- For control of vertebrate pests such as rodents, **unless directly related to the production of an agricultural plant.**
- As an attractant or repellent in traps.
- On the harvested portions of agricultural plants or on harvested timber.
- For research uses of unregistered pesticides.
- On pasture or rangeland where the forage will not be harvested for hay or for any use.
- In a manner not directly related to the production of agricultural plants, including, but not limited to, livestock pest control (e.g., pesticide applications on livestock or other animals, or in or about animal premises), structural pest control and control of vegetation in non-crop areas.

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*Hay production is a WPS use (including as feed for your own animals). Hay incidentally harvested from rights-of-ways is not a WPS use.*



## WHAT IF THE LABELING CONFLICTS WITH THE WPS?

### Labeling overrides WPS 170.303(c)

If the pesticide product labeling contains specific instructions or requirements that conflict with the requirements of the Worker Protection Standard, **follow the instructions or requirements on the labeling**, except as allowed in the:

- WPS exemptions for crop advisors and owners of agricultural establishments and their immediate families.
- WPS exceptions to PPE requirements specified on pesticide product labeling.
- WPS exceptions for entry by workers during restricted-entry intervals (early-entry workers).

For example, some pesticide product labeling may:

- Prohibit any early-entry activity, including short-term and emergency tasks.
- Allow an early-entry activity that the WPS does not allow.
- Require the use of personal protective equipment even if closed systems are used for mixing and loading.
- Establish a different area that people must be kept out of during and after a pesticide application, such as the soil fumigant requirements.
- Require emergency eye flushing water in additional situations for products that are eye irritants.

### Exceptions to labeling statements

The WPS allows certain exceptions to three specific pesticide labeling requirements: **personal protective equipment (Chapter 4)**, **restricted-entry intervals (Chapter 3)**, and **double notification (Chapter 3)** (which is the requirement on some labeling for both oral warnings and posting treated areas). The Agricultural Use Requirements box on the pesticide product labeling contains the WPS exceptions.



## CHAPTER 2

# REQUIREMENTS FOR AGRICULTURAL EMPLOYERS OF WORKERS OR HANDLERS

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The topics covered in this chapter apply to agricultural employers of workers and handlers. Some WPS protections employers must provide are nearly the same whether their employees are workers or handlers. Additional responsibilities for agricultural employers of workers are covered in Chapter 3. Chapter 4 covers additional responsibilities for employers of handlers. If both workers and handlers are employed, it will be necessary to read Chapters 2, 3 and 4.

**All WPS requirements are effective January 2, 2017 unless identified for a delayed implementation of January 2, 2018.**



## GENERAL RESPONSIBILITIES OF AGRICULTURAL EMPLOYERS

The WPS requires agricultural employers to implement many provisions to protect workers and handlers. The general responsibilities for agricultural employers are listed below with additional requirements presented further in this chapter.

### Agricultural employers must:

- Ensure all pesticides are used consistent with the pesticide product label at all times, including following the WPS requirements when applicable. 170.309(a)
- Provide each worker and handler the protections required by the WPS. 170.309(b)
- Verify that each handler, or worker that conducts early-entry tasks, is at least 18 years old. 170.309(c)
- Ensure that employees do not clean, repair, or adjust pesticide application equipment without completing WPS handler training. 170.309(g)
- Do not allow other persons (not employed by the agricultural establishment) to clean, repair, or adjust pesticide application equipment until they are told:
  - That the equipment may be contaminated with pesticides.
  - The potentially harmful effects of pesticide exposure.
  - How they are to handle the equipment to limit exposure to pesticides.
  - How to wash themselves and/or their clothes to prevent or remove pesticide residues. 170.309(g)
- Provide records or other information required by the WPS for inspection to an employee of EPA or any duly authorized representative of a Federal, State or Tribal agency responsible for pesticide enforcement. 170.309(m)

*The minimum age of 18 years old applies to all handlers and early-entry workers at agricultural establishments including research facilities, universities, or governmental entities. The only exemption from the minimum age is for owners of agricultural establishments and their immediate family.*

## RESPONSIBILITIES OF AGRICULTURAL EMPLOYERS TO PROVIDE INSTRUCTIONS TO SUPERVISORS 170.309(d) & (e)

If an agricultural employer employs supervisors of workers or handlers, or hires workers or handlers through a labor contractor, the agricultural employer must provide sufficient instructions to the supervisors and/or labor contractors to ensure that workers and handlers receive all required WPS protections. The instructions must specify which tasks the labor contractors and/or supervisors are responsible for in order to comply with the WPS.

The agricultural employer must also require labor contractors and anyone who supervises any workers or handlers to provide sufficient information and directions to each worker and handler to ensure that they can comply with the WPS provisions applicable to their duties and tasks as a worker or handler.

Agricultural employers and their supervisors must clearly understand each of the responsibilities for complying with the WPS and ensure that they are implemented.

*Even if the agricultural employer assigns a supervising employee or labor contractor to carry out the duties required by the WPS, the agricultural employer is ultimately responsible for making sure that all those duties are performed.*

## INFORMATION DISPLAYED AT A CENTRAL LOCATION (CENTRAL POSTING)

**Agricultural employers** must display certain information, described below, at a central location whenever any worker or handler they employ is on their agricultural establishment **and**, within the past 30 days, a WPS-labeled pesticide product has been applied or a restricted-entry interval (REI) for such pesticide has been in effect. 170.309(h)

*The requirement to display information is not applicable to commercial pesticide handler employers.*

### What information must be displayed?

170.311(a)&(b)

- **Pesticide safety information** can be a poster developed by EPA, or an equivalent way of providing the required WPS pesticide safety concepts (see page 23).
- **Pesticide application information** including:
  - Name of the pesticide applied,
  - Active ingredient(s),
  - EPA registration number,
  - REI,
  - Crop or site treated,
  - Location and description of the treated area(s), and
  - Date(s) and times application started and ended.
- **Hazard information** consists of a copy of the OSHA Safety Data Sheet (SDS) for each pesticide product.



*The new pesticide information that must be included as of January 2, 2017 is:*

- *Include the crop or site treated along with the location and description of the treated area.*
- *Include the time and date the pesticide application started and ended instead of the "time and date the pesticide is to be applied."*

*The SDS can be kept electronically, however the workers and handlers must have a way to have unrestricted access to the information at all times during their work hours and must be trained on how to access it.*

### Where must the information be displayed? 170.311(a)(5) and 170.311(b)(2)&(3)

Pesticide safety, application, and hazard information must be displayed at a central location on an agricultural establishment that is readily accessible at all times during normal work hours and can be easily seen and read by workers and handlers. Usually this is a location where employees congregate such as where they check in or out of work, change clothes, eat, etc.

In addition, only pesticide safety information must be displayed at:

- Any permanent decontamination site, and
- Any location where decontamination supplies are required in quantities for 11 or more workers.

*The pesticide application and hazard information do not have to be displayed at decontamination sites, **only** the pesticide safety information.*

## When must the information be displayed? 170.309(h) & (l) and 170.311(b)(5)

Display pesticide safety information:

**IMPORTANT:** Workers are not permitted to enter any area where a pesticide has been applied or an REI has been in effect until the required pesticide application and hazard information for each pesticide product applied to that area is displayed at the central location, the REI has expired, and all treated area warning signs have been removed or covered. 170.309(l)

- Whenever any worker or handler employee is on the agricultural establishment, and
- When, within the past 30 days, a WPS-labeled pesticide product has been applied or a restricted-entry interval (REI) for such pesticide has been in effect.

Display pesticide application and hazard information:

- Within 24 hours after the end of the application if workers or handlers are on the agricultural establishment.

Continue to display the pesticide application and hazard information when workers or handlers are on the establishment until:

- At least 30 days after the REI expires, or
- At least 30 days after the end of the application, if there is no REI for the pesticide, or
- Workers and handlers are no longer on the establishment - if it is less than 30 days after the end of the last applicable REI.

## Other employer responsibilities

Employers should inform workers and handlers of any changes to the emergency medical facility information.

- Inform workers and handlers where the pesticide safety, application and hazard information is located. 170.403 & 170.503
- Allow workers and handlers unrestricted access to the posted information. 170.311(a)(6) & (b)(3)
- Ensure the pesticide safety information and pesticide application information remains legible the entire time they are posted. 170.311(a)(7) & (b)(4)
- Update the emergency medical facility information listed with the poster within 24 hours of obtaining new information. 170.311(a)(4)

## Criteria for pesticide safety information

Pesticide safety information covers specific concepts that reinforce pesticide safety. These topics must be conveyed in a manner that workers and handlers can understand. All of these points may be on one poster or any alternate display format that conveys the required information. 170.311(a)(2) & 170.311(a)(3)

**Before January 2, 2018**, the existing pesticide safety information does not change. The content of the safety information may contain either the information consistent with the EPA pesticide safety poster based on the 1995 WPS or the information required by the 2015 revised WPS.

**After January 2, 2018**, the pesticide safety information must include all of the points listed below:

- Avoid getting on the skin or into the body any pesticides that may be on or in plants, soil, irrigation water, tractors, and other equipment, on used personal protective equipment, or drifting from nearby applications.
- Wash before eating, drinking, using chewing gum or tobacco, or using the toilet.
- Wear work clothing that protects the body from pesticide residues (long-sleeved shirts, long pants, shoes and socks, and a hat or scarf).
- Wash or shower with soap and water, shampoo hair, and put on clean clothes after work.
- Wash work clothes separately from other clothes before wearing them again.
- If pesticides are spilled or sprayed on the body use decontamination supplies to wash immediately, or rinse off in the nearest clean water, including springs, streams, lakes or other sources if more readily available than decontamination supplies, and as soon as possible, wash or shower with soap and water, shampoo hair, and change into clean clothes.
- Follow directions about keeping out of treated areas and application exclusion zones.
- Instructions to employees to seek medical attention as soon as possible if they believe they have been poisoned, injured, or made ill by pesticides.
- The name, address, and telephone number of a nearby operating medical care facility capable of providing emergency medical treatment. This information must be clearly identified as emergency medical contact information on the display.
- The name, address, and telephone number of the state or tribal pesticide regulatory agency.

*EPA will develop updated pesticide safety posters with the revised content. Agricultural employers may use the EPA safety posters or display the information in an alternate format that meets the WPS requirements.*

*The agricultural employer must update the pesticide safety information display within 24 hours of notice of any changes to the emergency medical facility information.*

## RECORDKEEPING: PESTICIDE APPLICATION AND HAZARD INFORMATION

If the pesticide application and hazard information is required to be displayed, the agricultural employer must keep a record of the pesticide application and hazard information on the establishment for 2 years from the expiration date of the REI of the pesticide applied. 170.311(b)(6)

Pesticide records must contain:

- Name of the pesticide applied,
- Active ingredient,
- EPA registration number,
- REI,
- Crop or site treated,
- Location and description of the treated area(s),
- Date(s) and times application started and ended, and
- Safety Data Sheet of the pesticide applied.

***Pesticide records must be maintained for any covered use of a WPS-labeled pesticide for either general-use or restricted-use pesticides (even if state or tribal laws do not require pesticide recordkeeping).***



## REQUESTS FOR RECORDS OF PESTICIDE APPLICATION AND HAZARD INFORMATION

The pesticide application and hazard information that must be provided is limited to the 2-year record retention requirement. Information must be provided within 15 days of the request. 170.311(b)(7)

**Workers and handlers** may request a copy of, or access to, the pesticide application information and hazard information if:

- The person is, or was employed as a worker or handler by the establishment during the period when the information was to be displayed and maintained, and
- The request is made orally or in writing.

**Treating medical personnel** or a person acting under their supervision, may request access to, or a copy of pesticide application and hazard information for the diagnosis or treatment of a worker or handler who was employed on the agricultural establishment during the period that the information was required to be displayed. This request can be made orally or in writing. The information must be provided promptly after receiving the request. 170.311(b)(8)

**A designated representative** may request access to, or a copy of pesticide application and/or hazard information for a worker or handler. The request must be made in writing and contain the following information:

- The name of the worker or handler being represented.
- A description of the specific information being requested including:
  - Dates of employment of the worker or handler,
  - The date(s) for which the records are requested,
  - Type of work conducted by the worker or handler during the period for which the records are requested, and
  - The specific application and hazard information requested.
- A written statement clearly designating the representative to obtain this information on the worker's or handler's behalf, with the worker's or handler's printed name and signature, the date of the designation, and the printed name and contact information for the designated representative.
- Where to send the information, if the information is to be sent.

Upon receiving a written request from a designated representative, complete with all of the required information, the agricultural employer must provide a copy of, or access to the requested information within 15 days. 170.311(b)(9)

If a record has been previously provided without cost to a worker or handler or their designated representative, a reasonable fee may be charged for duplicate records but the fee may not include any non-discriminatory costs (no overhead charges). 170.311(b)(9)

*There is a separate WPS provision that requires the agricultural employer to provide certain information to treating medical personnel if a worker or handler has been exposed to a pesticide on the agricultural establishment and needs emergency medical treatment. See the section on Emergency Assistance for more details.*

## EMERGENCY ASSISTANCE 170.309(f)

The agricultural employer must provide transportation and emergency information promptly for their workers after learning of the possible poisoning or injury if:



Employers can “make transportation available” by:

- Taking the employee to the medical care facility, or
- Calling an emergency vehicle, such as an ambulance, or
- Making sure the employee has a ride to the medical care facility with someone else.

- There is reason to believe that a worker or handler experienced a potential pesticide exposure during his or her employment on their employer’s agricultural establishment, or
- They show symptoms similar to those associated with acute exposure to pesticides during or within 72 hours after his or her employment on the agricultural establishment, and needs emergency medical treatment.

### Provide emergency transportation 170.309(f)(1)

Make emergency transportation available to take that person from the agricultural establishment (including any worker housing area on the establishment) to a medical care facility capable of providing emergency medical treatment to a person exposed to pesticides.

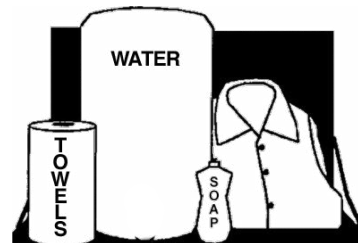
### Provide emergency information 170.309(f)(2)

Provide all of the following information to the treating medical personnel:

- Copies of the applicable SDS, the pesticide product name, EPA registration number and active ingredient(s) for each pesticide product to which the person may have been exposed.
- Type of application or how the pesticide was used on the agricultural establishment.
- The circumstances that could have resulted in exposure to the pesticide.

## DECONTAMINATION SUPPLIES FOR WORKERS & HANDLERS

To prevent, or mitigate pesticide exposures, the agricultural employer is required to provide supplies to each worker or handler (including early-entry workers) for routine washing to remove pesticide residues, emergency decontamination, and immediate eye flushing in certain situations. What supplies must be provided, when, where, and for how long are covered in Chapter 3 for workers and Chapter 4 for handlers.



## PESTICIDE SAFETY TRAINING

All workers and handlers employed by an agricultural employer must receive annual WPS training as a worker or as a handler (except as provided for in the exemptions or exceptions). Employees must receive WPS training before they perform any worker or handler task on the establishment. Presented below are the training requirements for both workers and handlers. Additional information on worker training is in Chapter 3 and on handler training in Chapter 4.



**The following are key requirements for training workers and handlers:**

- **There is no grace period for WPS training!** The agricultural employer must ensure that WPS training is completed within the last 12 months before:
  - Any worker enters a treated area on an agricultural establishment where, within the last 30 days, a WPS-labeled pesticide product has been used or a REI for such pesticide has been in effect.
  - Any handler conducts any handling task.
- Workers and handlers are exempt from WPS training if they are currently:
  - Certified as an applicator of restricted-use pesticides.
  - Certified as a crop advisor by a program acknowledged as appropriate in writing by EPA, or a State or Tribal agency responsible for pesticide enforcement. 170.401(b)
- Additionally, a worker is exempt from WPS worker training if they have been trained as a WPS handler within the last 12 months.
- Only qualified trainers may provide WPS training.
- Train workers and handlers annually.
- Provide training in a manner that the workers or handlers can understand, using a translator if necessary.
- Present training using EPA-approved materials either orally from written materials or audio-visually.
- Keep records of worker or handler training for 2 years.
- Make training records available to employees upon request.
- All training requirements are effective January 2, 2017 EXCEPT the expanded training content which is effective January 2, 2018.

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*Owners of agricultural establishments and their immediate families and certified crop advisors are exempt from WPS training requirements. See Chapter 6: Exemptions and Exceptions.*

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*Valid currently certified applicators and certified crop advisors are exempt from WPS worker and handler training. Any worker who has been trained as a handler does not need to receive worker training.*

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*EPA does NOT supply or issue WPS training verification cards.*

## What topics must the training cover?

Worker and handler training content effective January 2, 2018 is itemized on page 23. Until January 2, 2018, WPS safety training content remains the same as in the 1995 rule although ***all training materials used after January 2, 2017 must be approved by EPA.***

The designated representative (DR) **CANNOT** request a copy of a training record on behalf of a worker/handler. The DR only has the right to access the application info and the SDS.

*The expanded content of training topics is the only requirement of worker and handler training that has a delayed implementation date of January 2, 2018 (or no more than 6 months after EPA has published the availability of the training materials but not before January 2, 2018). Both workers and handlers will have to be trained on the same 23 topics with handlers requiring an additional 13 topics (total of 36 topics). Refer to Training Criteria for Workers and Handlers in Appendix B for information on specific training topics.*

## How often must workers and handlers be trained?

An attendance roster of the WPS training with all of the training record information meets the recordkeeping requirement.

Once every 12 months (annually), counting from the end of the month in which the previous training was completed. 170.401(a) & 170.501(a)

## Training records 170.401(d) & 170.501(d)

Training records for each worker and handler must be kept on the establishment for 2 years from the date of training. The training record must include:

- The worker's or handler's printed name and signature,
- The date of training,
- Trainer's name,
- Evidence of the trainer's qualification to train,
- Employer's name, and
- Information to identify which EPA-approved training materials were used for the training (i.e., the EPA document number or EPA approval number for the materials).

If a worker or handler was trained at another establishment, you may get a copy of the training record and keep as your record of training. If no record is provided, you must provide WPS training and maintain the training record.

WPS trainers are not required to provide each person trained with a copy of the training record. However, they must provide the record if the trained employee requests it. Individual training record forms or other methods of maintaining the required training information may be developed and used to meet this requirement.

**Who qualifies to be a WPS trainer?** 170.401(c)(4) & 170.501(c)(4)

**The person who conducts *worker* training must:**

- Currently be a certified applicator of restricted-use pesticides (in any category of certification), or
- Currently be designated as a trainer of certified pesticide applicators, handlers or workers by the EPA or the state, or tribal agency having jurisdiction, or
- Have completed an EPA-approved pesticide safety train-the-trainer program for trainers of workers.

*WPS trained handlers may NOT train workers unless they meet one of the qualifications for conducting worker training.*

**The person who conducts *handler* training must:**

- Currently be a certified applicator of restricted-use pesticides (in any category of certification), or
- Currently be designated as a trainer of certified pesticide applicators or handlers by a state, federal, or tribal agency having jurisdiction, or
- Have completed an EPA-approved pesticide safety train-the-trainer program for trainers of handlers.

*WPS training materials produced by EPA will bear the official EPA logo and have an EPA publication number. WPS training materials developed by others and approved by EPA will bear an EPA approval number and an EPA statement of approval for use for WPS training.*

**How is training to be conducted?** 170.401(c)(1) & 170.501(c)(1)

Trainers of workers or handlers must:

- Use EPA-approved training materials,
- Present the training orally from written materials or audio visually,
- Present the information in a manner that the trainees can understand, using a translator if necessary,
- Be present at all times during the training to respond to trainees' questions, and
- Ensure training quality by providing an environment conducive to training that is reasonably free of distractions.

*Anyone who trains workers must use non-technical terms. Example: Instead of referring to a symptom of heat exhaustion as hyperthermia, say that the body is getting too hot and you could get very sick and maybe die if action is not taken immediately.*

## ESTABLISHMENT-SPECIFIC INFORMATION 170.403 and 170.503(b)

Workers and handlers must receive establishment-specific information in addition to general pesticide safety training.

The agricultural employer must provide information specific to their agricultural establishment to workers and handlers when they first enter the establishment and before beginning WPS tasks in areas where, within the last 30 days, a WPS-labeled pesticide product has been applied or a REI for such pesticide has been in effect.

The agricultural employer must inform workers and handlers, in a manner they understand, about the location of the following on the establishment:

- Pesticide safety information,
- Pesticide application and hazard information, and
- Decontamination supplies.

If a worker/handler is WPS trained at farm A and later in the summer starts to work for farm B (and the agricultural employer of farm B obtains the worker's/handler's training records), the farm B agricultural employer only needs to provide the worker/handler with the establishment-specific information which requires no recordkeeping.

Establishment-specific information must be provided even if the worker or handler has already received the annual pesticide safety training on another agricultural establishment and verification of such training is provided to the agricultural employer. Recordkeeping is NOT required for providing this information.

*Providing establishment-specific information is not a requirement for commercial pesticide handler employers.*

## EMPLOYER INFORMATION EXCHANGE

Whenever a handler, including crop advisors, of a commercial pesticide handler employer (CPHE) conducts pesticide handling tasks on an agricultural establishment, the agricultural employer must provide the CPHE with specific information about treated areas on the establishment they will be working on.



*This exchange of information can be accomplished through electronic media, telephone or other means.*

Conversely, the CPHE (employer of the for-hire/custom applicators or crop advisors) must provide the agricultural employer, as their customer and the operator of the agricultural establishment, with certain information about a pesticide product before applying it on the establishment.

### **Information provided to the commercial pesticide handler employer (CPHE) from an agricultural employer** 170.309(k)

The operator of an agricultural establishment must inform the hired CPHE of the following:

- The specific location and description of any treated areas on the agricultural establishment under a REI that the handler may be in (or walk within 1/4 mile of), and
- Any restrictions on entering those areas.

The CPHE must inform their handler of the information provided by the agricultural employer. 170.313(h)

### **Information provided to an agricultural employer from a commercial pesticide handler employer (CPHE)** 170.313(i) & (j)

To allow an agricultural employer to inform workers on the establishment about a pesticide application that is, or will be performed, the CPHE must inform the agricultural employer of the following:

- Specific location and description of the area(s) on the agricultural establishment that are to be treated with a pesticide,
- Date and start and estimated end times of the application,
- Pesticide product name, EPA registration number, and active ingredient(s),
- REI for the pesticide product,
- Whether the pesticide product labeling requires posting, oral notification or both, and
- Any other specific requirements on the pesticide product labeling concerning protection of workers and other persons during or after application.



*It is important for agricultural employers to make arrangements with the CPHE on how they will receive the required pesticide application information so they can take the necessary steps to protect workers and other persons on the establishment during pesticide applications, provide notification of pesticide applications to workers, and provide the application and hazard information at the central display site.*

### **What if the information changes?**

The agricultural employer must be provided with updated information PRIOR to the application when there are any changes to:

- The location to be treated,
- REI,
- Method of notification,
- Labeling requirements to protect workers/other persons, or
- The start time if it will be earlier than estimated.

If the pesticide product information changes or there are other changes to the date, start and end time, the CPHE must provide the updated information to the agricultural employer within 2 hours after completing the application.

Changes to the estimated application end time of less than one hour do not need to be reported to the agricultural employer.



## RETALIATION AGAINST EMPLOYEES IS PROHIBITED

The agricultural employer, their supervisors or others cannot intimidate, threaten, coerce, discriminate against, prevent, discourage, or fire any worker or handler from complying or attempting to comply with the WPS. Additionally, the agricultural employer cannot retaliate in any manner if any worker or handler:

- Refuses to participate in any activity that the worker or handler reasonably believes to be in violation of the WPS,
- Has, or is about to report WPS noncompliance to appropriate authorities for enforcement of WPS provisions, or
- Agrees to provide information to the EPA or any duly authorized representative of a Federal, State or Tribal government about WPS compliance, or assists or participates in any manner in an investigation, proceeding, or hearing concerning WPS compliance.

***Retaliation is a serious violation of federal law*** (170.315)

*For example: If the employer or supervisor refuses to provide PPE or tells an early-entry worker to enter a treated field during the REI without providing specific information and PPE, and the employee files a complaint to authorities, the employer may not fire or threaten that person in any manner or allow any acts of retaliation by any employee.*

## EMPLOYER RESPONSIBILITIES FOR WPS VIOLATIONS

### **Penalties for noncompliance** 170.317

Agricultural employers of workers and handlers can be subject to civil and criminal penalties if they do not comply with the federal WPS including all revisions to this rule. Failure to comply is a pesticide misuse violation since the WPS is referenced on applicable pesticide product labeling. Failure to comply with distinct requirements of the WPS can result in independently assessable charges, even if the violative acts occurred during one pesticide application. See Chapter 7: Compliance with the Worker Protection Standard.

### **Employer responsibilities for supervisors or labor contractors assigned to carry out WPS requirements**

The Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) includes provisions that hold owners and agricultural employers liable for a WPS penalty if another person employed by or acting for them including labor contractors, farm managers and/or other supervisors, fails to comply with any WPS requirements. The term “acting for” includes both employment and contractual relationships.



# CHAPTER 3

## ADDITIONAL WORKER EMPLOYER REQUIREMENTS

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**All WPS requirements are effective January 2, 2017 unless identified for a delayed implementation of January 2, 2018.**

Chapter 2: Requirements for Agricultural Employers of Workers or Handlers presented the WPS protections agricultural employers must provide to workers and handlers. This chapter describes the additional protections that agricultural employers are required to provide to their workers.



## TRAINING AGRICULTURAL WORKERS

Owners of agricultural establishments and their immediate families are exempt from worker training requirements of the WPS. See Chapter 6: Exemptions and Exceptions. In addition, certified crop advisors (acknowledged as appropriate in writing by the EPA, or a State or Tribal agency responsible for pesticide enforcement) and currently certified applicators are exempt from worker and handler training. Any worker who is trained as a handler does not need to receive worker training.



### Review key requirements of worker training 170.401

The annual training requirements for workers and handlers are presented in Chapter 2: Requirements for Agricultural Employers of Workers or Handlers. The following is a review of the key requirements of WPS training for workers:

- **There is no grace period for WPS training!** Before any worker enters a treated area on an agricultural establishment where, within the last 30 days, a WPS-labeled pesticide product has been used or a REI for such pesticide has been in effect, the agricultural employer must ensure that each worker has completed WPS training within the last 12 months, unless the worker is currently:
  - Certified as an applicator of restricted-use pesticides,
  - Trained as a WPS handler within the last 12 months, or
  - Certified as a crop advisor by a program acknowledged as appropriate in writing by EPA, or a State or Tribal agency responsible for pesticide enforcement. 170.401(b)
- Train workers every 12 months. 170.401(a)
- Only qualified trainers (described in Chapter 2) may provide training and must be present during the entire training program to respond to questions. 170.401(c)(1) & (4)
- Provide training in a language or manner the workers can understand, such as using a translator. 170.401(c)(1)
- Present training using EPA-approved materials either orally from written materials or audio-visually. 170.401(c)(1)
- Keep training records for 2 years. 170.401(d)(1)
- Provide training records to worker employees upon request. 170.401(d)(2)
- All training requirements are effective January 2, 2017 EXCEPT the expanded training content, which is effective six months after EPA announces the availability of training materials, **but not earlier than January 2, 2018.** 170.401(c)(3)

## AGRICULTURAL EMPLOYER REQUIREMENTS DURING PESTICIDE APPLICATIONS <sup>170.405</sup>

The WPS includes several provisions to prevent workers, unprotected handlers and other persons from pesticide exposure during applications. Some of these requirements are for agricultural employers and are described in the following sections of this chapter. Chapter 4: Additional Handler Employer Requirements covers other requirements specifically for handler employers and/or handlers.



*No one other than an appropriately trained and equipped handler involved in the application may be in the AEZ during an application of WPS-labeled pesticide products.*

### Entry restrictions for outdoor production - application exclusion zone (AEZ)

The “Application Exclusion Zone” or AEZ is a zone or area surrounding pesticide application equipment that exists **only during** outdoor production pesticide applications. When applications of WPS-labeled pesticide products are in progress on their establishments, agricultural employers must not allow or direct any worker or other person, to enter or to remain in the treated area or the AEZ that is within the boundaries of the establishment. <sup>170.405(a)(2)</sup>

After the application is complete, the AEZ no longer exists and the treated area is subject to the REI specified on the pesticide product labeling and to the relevant WPS restrictions after applications. <sup>170.405(a)(2) & (3)</sup>

The requirement for the agricultural employer to keep persons out of the AEZ only applies within the boundaries of the establishment because the agricultural employer cannot be expected to control persons off the establishment. There is a WPS provision to suspend applications (discussed in Chapter 4: Additional Handler Employer Requirements) that does apply beyond the boundaries of the establishment because the handler (applicator) and handler employer do have control over the pesticide application.

***Remember: If the pesticide product labeling contains specific instructions or requirements that conflict with the requirements of the Worker Protection Standard, follow the instructions or requirements on the labeling.***

*Basically, the AEZ requires that agricultural employers keep workers and other persons a specified distance away from the pesticide application equipment when pesticide applications are taking place.*

*Effective January 2, 2017:*

- *The agricultural employer must not allow any workers or other persons in the AEZ that is within the boundaries of the agricultural establishment when the application is occurring.*

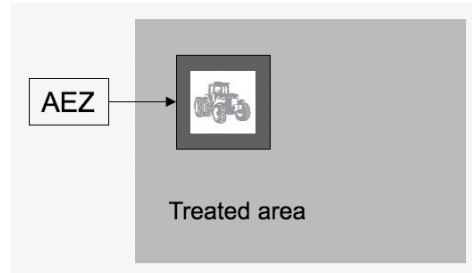
*Effective January 2, 2018:*

- *Handlers must suspend pesticide applications if any person enters or is in the AEZ.*

Measure the AEZ starting from each dispersion point or nozzle on the pesticide application equipment and extend horizontally in all directions.

## Measuring the application exclusion zone (AEZ)

Measure the AEZ from the application equipment horizontally in all directions. The AEZ moves with the application equipment like a halo around the application equipment. **Once the application is over, the AEZ does not exist.**



## Size of the application exclusion zone (AEZ)

The size of the AEZ is determined by the application method and spray quality.

Spray quality (defined by the American Society of Agricultural and Biological Engineers Standard S-572.1) considers several factors including the nozzle design, system pressure, and speed of the application equipment. The eight spray quality categories (referenced in nozzle charts) include:

- Smaller than medium:
  - Extra fine (XF)
  - Very fine (VF)
  - Fine (F)
- Medium or larger:
  - Medium (M)
  - Coarse (C)
  - Very coarse (VC)
  - Extra coarse (XC)
  - Ultra coarse (UC)

**The AEZ must be a minimum of 100 feet** when the pesticide is applied:

- By air (fixed wing or helicopter),
- By air blast,
- As a spray using a spray quality smaller than medium (i.e., fine, very fine or extra fine), or
- As a fumigant, smoke, mist, or fog.

Situations where no AEZ is required include applications of granular pesticides, soil-incorporated pesticides (not fumigants); pre-plant, at-plant, and spot-spray pesticide applications as long as they are less than 12 inches from the soil and use a medium or larger spray quality.

**The AEZ must be a minimum of 25 feet** when the pesticide is:

- NOT applied in a manner that would require a 100 foot AEZ, and
- Sprayed from a height of greater than 12 inches from the planting medium (soil) using a spray quality of medium or larger (i.e., medium, coarse, very coarse, extra coarse and ultra-coarse).

**No AEZ** is required when the pesticide is applied in a manner other than those covered above (i.e., less than 12 inches from the soil with medium or larger spray quality).

**Entry restrictions - enclosed space production**

Enclosed space production pesticide applications also have precautions and restrictions during applications of WPS-labeled pesticide products.

During pesticide applications in enclosed space production areas, the agricultural employer must not allow or direct any worker or other person, other than an appropriately trained and equipped handler involved in the application, to enter or to remain in specific areas for specified times and/or conditions. 170.405(b)(1)

The following table (Table 1. Entry Restrictions During Enclosed Space Production Pesticide Applications) identifies the entry restrictions when applying pesticides for enclosed space production to ensure workers and other persons are not exposed to the pesticide(s) being applied. The restrictions depend on the types of pesticides or application methods used.

**Table 1. Entry Restrictions During Enclosed Space Production Pesticide Applications (ventilation criteria)**

| A. When a pesticide is applied:   | B. Workers and other persons, other than appropriately trained and equipped handlers, are prohibited in:   | C. Until:                          | D. After the expiration of time specified in column C, the area subject to the restricted-entry interval is: |
|---|--|------------------------------------|--|
| (1) As a fumigant.  | Entire enclosed space plus any adjacent structure or area that cannot be sealed off from the treated area. | *The ventilation criteria are met. | No post-application entry restrictions required after criteria in column C are met.                          |
| (2) As a smoke, mist, or fog, or as a spray using a spray quality of smaller than medium.   | Entire enclosed space.   | *The ventilation criteria are met. | Entire enclosed space.   |
| (3) Not as in (1) or (2), and for which a respirator is required for application by the pesticide product labeling.   | Entire enclosed space.   | *The ventilation criteria are met. | Treated area.  |
| (4) Not as in (1), (2) or (3), and: <ul style="list-style-type: none"> <li>• from a height of greater than 12 inches from the planting medium, or</li> <li>• as a spray using a spray quality of medium or larger.</li> </ul> | Treated area plus 25 feet in all directions of the treated area, but not outside the enclosed space.       | Application is complete.           | Treated area.  |
| (5) Otherwise.  | Treated area.  | Application is complete.           | Treated area.  |

\* When column C of the Table specifies that ventilation criteria must be met, ventilation must continue until the air concentration is measured to be equal to or less than the inhalation exposure level required by the labeling. If no inhalation exposure level is listed on the labeling, ventilation is complete when one of the following conditions is met:

- i. Ten air exchanges are completed.
- ii. Two hours of ventilation using fans or other mechanical ventilating systems.
- iii. Four hours of ventilation using vents, windows, or other passive ventilation.
- iv. Eleven hours with no ventilation followed by one hour of mechanical ventilation.
- v. Eleven hours with no ventilation followed by two hours of passive ventilation.
- vi. Twenty-four hours with no ventilation.

*Measuring air exchanges requires specific equipment. If you do not have that equipment, rely on other options based on time, mechanical ventilation (such as fans) and/or passive ventilation.*



## AGRICULTURAL EMPLOYER REQUIREMENTS AFTER PESTICIDE APPLICATIONS 170.407 & 170.309(l)



After any WPS pesticide application is made on an agricultural establishment, the agricultural employer must not allow or direct any worker to enter or to remain in the treated area during the REI specified on the pesticide product labeling.

When two or more pesticides are applied to a treated area at the same time, the enforceable REI is the longest of all applicable REIs.

### Worker entry restrictions after pesticide application is complete – outdoor production

When an application of a WPS-labeled pesticide product to an area of outdoor production is complete, the agricultural employer must keep any worker out of the treated area:

- Until the REI specified on the pesticide product labeling has expired,
- All treated area warning signs have been removed or covered, and
- The applicable pesticide application information and safety data sheet is displayed at the central location.

### Worker entry restrictions after pesticide application is complete – enclosed space production 170.407(b)

After the application of a WPS-labeled pesticide product to an area of enclosed space production, the agricultural employer must keep any worker out of the area specified in column D of Table 1. Entry Restrictions During Enclosed Space Production Pesticide Applications until:

- The REI specified on the pesticide product labeling has expired,
- All treated area warning signs have been removed or covered, and
- The pesticide application information and safety data sheet is displayed at the central location.

*The agricultural employer's responsibilities with respect to the REI are limited to keeping workers – but not other persons – out of the treated area. However, there may be other factors – such as liability or state/local restrictions – for agricultural employers to want to keep “other persons” out of treated areas during the REI.*

*Do not allow any workers to enter a treated area until:*

- *The REI has expired,*
- *All no-entry warning signs that have been posted are removed or covered, and*
- *The application information and hazard information is posted.*

## NOTIFICATION OF ENTRY RESTRICTIONS 170.409

To inform workers of where pesticide applications have taken place on an agricultural establishment and of the entry restrictions for each situation, the agricultural employer must notify workers of restrictions to keep workers out of a treated area for a specified period of time. There are different ways to notify workers (oral, posting, and double notification) and different situations when to use one method or another.

### When is worker notification of entry restrictions required?

#### **Double notification** 170.409(a)(1)(i)

Some pesticide products have a labeling statement that requires both the posting of warning signs to treated areas **AND** oral notification to workers. This is known as double notification. The agricultural employer must notify workers **BOTH** orally and by posting when labeling requires double notification. Any pesticide product labeling that requires double notification must be followed as it is more stringent than the WPS notification requirements.

#### **Post warning signs:**

##### **Outdoor production areas – with REIs greater than 48 hours** 170.409(a)(1)(ii)

If a pesticide is applied to an outdoor production area and the product labeling requires a REI greater than 48 hours, then workers must be notified of the application by posting warning signs.

##### **Enclosed space production areas – REIs greater than 4 hours** 170.409(a)(1)(iv)

If a pesticide is applied to an enclosed space production area and the product labeling requires a REI greater than 4 hours, then workers must be notified of the application by posting warning signs.

#### **Post warning signs or give oral warning to workers:**

##### **Outdoor production areas – with REIs equal to or less than 48 hours**

170.409(a)(1)(iii)

If a pesticide is applied to an outdoor production area and the product labeling requires a REI equal to or less than 48 hours, then workers must be notified of the application by either posting warning signs or giving them an oral warning.

Double notification can apply to outdoor production and enclosed space production areas.

**Enclosed space production areas – REIs equal to or less than 4 hours**

170.409(a)(1)(v)

If a pesticide is applied to an enclosed space production area and the product labeling requires a REI equal to or less than 4 hours, then workers must be notified of the application by either posting warning signs or giving them an oral warning.

Below is a summary of the posting and notification requirements for pesticide products with labeling that do not require double notification.

**Table 2. Posting and Notification Requirements for Pesticide Products without Double Notification**

| Treated Site   | Restricted-Entry Interval (REI) | Post Warning Sign | Post Warning Sign or Oral Notification |
|----------------|---------------------------------|-------------------|--|
| Outdoor        | >48 hours                       | X                 |  |
| Outdoor        | ≤48 hours                       |                   | X                                      |
| Enclosed Space | >4 hours                        | X                 |  |
| Enclosed Space | ≤4 hours                        |                   | X                                      |

**When is worker notification of entry restrictions not required?** 170.409(a)(2)  
**Notification of a worker** is not required (oral or posted warning signs) if the agricultural employer can ensure to meet one of the following:

- **For Enclosed Space Production:** The worker will not enter any part of the entire enclosed structure or space from the beginning of the application until the end of any REI.
- **For Outdoor Production:** The worker will not enter, work in, remain in, or pass on foot through the treated area or any area within 1/4 mile of the treated area on the agricultural employer’s establishment, from the beginning of the application until the end of any REI.
- **For Enclosed Space Production or Outdoor Production:** The worker was involved in the application of the pesticide as a handler, and is fully aware of the location of the treated area, timing of the entry restrictions and restrictions on entering that area.

**Oral notification** 170.409(c)

Oral notification of the entry restrictions of a pesticide application provided to workers on an agricultural establishment must be in a language or manner that the workers can understand.

The oral warning must be given to the worker:

- Before the application begins if a worker will be on the agricultural establishment at the time of the application.
- At the beginning of the worker’s work period if a worker arrives while an application is taking place or a REI for a pesticide application is in effect.

The oral warning must include:

- The location(s) and description of any treated area(s) subject to the entry restrictions either during or after the application,
- The dates and times when entry is restricted, and
- Instructions not to enter the treated area or an AEZ during an application and that entry to the treated area is not allowed until the REI has ended and all posted warning signs are removed or covered. Early-entry workers are allowed to enter a treated site under a REI only under specific conditions (see page 49).

### **Posted warning signs** 170.409(b)(1)

Posted warning signs advising workers of entry restrictions into treated areas must meet all of the criteria regarding the content, size, timing and location of posted warning signs.

- Worker entry into treated areas is not allowed while the signs are posted – even if the REI has expired - unless under special “early-entry” provisions (see page 49).
- If there are several contiguous areas that are treated with pesticides on a rotating or sequential basis, the entire area may be posted. However, workers are prohibited from the entire posted area except for those that meet the criteria and conditions as early-entry workers.

### **When is the warning sign to be posted or taken down?** 170.409(b)(1)

- Post warning signs prior to but no earlier than 24 hours before the scheduled application of the pesticide.
- Warning signs are to remain posted throughout the application and any REI.
- Remove or cover warning signs within three days after the end of the REI (or end of the application if there is no REI). Signs may remain posted only if the posted area is treated as if it were under a REI by:
  - Instructing any workers on the agricultural establishment that may come within 1/4 mile of the treated area not to enter the treated area, and
  - Ensuring workers do not enter the treated area, other than permitted early-entry activities.

*All posted signs must remain visible and legible during the time they are required to be posted.*

**What must be on the warning sign?** 170.409(b)(2)

The warning sign must have:

- A white background,
- The words “DANGER” and “PELIGRO”, “PESTICIDES” and “PESTICIDAS” at the top of the sign,
- The words “KEEP OUT” and “NO ENTRE” at the bottom of the sign,
- All letters clearly legible, and
- A circle containing an upraised hand on the left and a stern face on the right must be near the center of the sign. The inside of the circle must be red with the hand and a large portion of the face must be in white. The length of the hand must be at least twice the height of the smallest letters. The length of the face must be only slightly smaller than the hand.



*Additional information such as the name of the pesticide and the date of application may be added to the warning sign if it does not detract from the size and appearance or change the meaning of the information.*

**What size should the sign be?** 170.409(b)(3)

The standard sign must be at least 14 inches by 16 inches with letters one inch high.

The WPS allows smaller warning signs to be used to provide flexibility in situations where a smaller sign is more appropriate or practical, such as where the treated area is too small to accommodate the larger sign. Smaller warning signs may be used as long as the following conditions are met:

If the warning sign has 7/8 inch high letters for “DANGER” and “PELIGRO,” then the sign must have:

- All remaining letters at least 1/2 inch high, and
- A red circle that is at least 3 inches in diameter with the upraised hand and stern face.

If the warning sign has 7/16 inch high letters for “DANGER” and “PELIGRO,” then the sign must have:

- All remaining letters at least 1/4 inch high, and
- A red circle that is at least 1 1/2 inches in diameter with the upraised hand and stern face.

**Signs any smaller are not allowed under any circumstances.**

*The words on the warning sign in Spanish may be replaced with equivalent terms in a different language (non-English) if that language is read by the largest group of workers at your agricultural establishment who do not read English. No other changes may be made to the format of the sign.*

The revised WPS did not change the specifications for the warning sign.

**Table 3. Warning Sign Requirements**

| Minimum Height in Inches |              |                    |  |                           |   |
|--------------------------|--------------|--------------------|--|---------------------------|---|
| Overall size of sign     | Size of Hand | Red Circle Graphic | Lettering for Words "DANGER" & "PELIGRO" | Lettering for Other Words | Posting Locations   |
| 14" x 16"                | 2"           | >3"                | 1"                                       | 1"                        | Visible from points of entry, including access roads, border of worker housing within 100 feet, footpaths |
| 7" x 8" (approx.)*       | 1"           | 3"                 | 7/8"                                     | 1/2"                      | Same as standard sign and every 50 feet around perimeter  |
| 4 1/2" x 5" (approx.)*   | 1/2"         | 1 1/2"             | 7/16"                                    | 1/4"                      | Same as standard sign and every 25 feet around perimeter  |

\*The overall sizes of the smaller signs are not actually specified in the WPS. These are the approximate sizes of signs needed to accommodate the smaller sizes of the letters and red circle graphic that are specified.

*Worker housing area is defined as any place or area of land on or near an agricultural establishment where housing or space for housing is provided for workers or handlers by an agricultural employer, owner, labor contractor, or any other person responsible for the recruitment or employment of agricultural workers.*

### Where to post warning signs 170.409(b)(3)(ii) & (iii)

#### Standard sign in outdoor production areas

When using the standard sign (14" x 16"), post the signs so they are visible from all reasonably expected points of worker entry to the treated area. This includes at least each access road, each border with any worker housing area within 100 feet of the treated area, and each footpath and other walking routes that enter the treated area. Where there are no reasonably expected points of worker entry, signs must be posted in the corners of the treated area or in any other location that gives maximum visibility.

**Standard sign in enclosed space production areas**

When using the standard sign (14" x 16") and the entire structure or space is subject to a REI or WPS ventilation criteria, post the signs so they are visible from all reasonably expected points of worker entry to the structure or space. If the treated area is a subsection of the structure or space, post the signs so they are visible from all reasonably expected points of worker entry to treated area including each aisle or other walking route that enters the treated area. Where there are no reasonably expected points of worker entry, signs must be posted in the corners of the treated area or in any other location that gives maximum visibility.

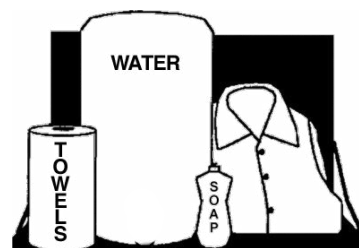
**Smaller signs in outdoor and enclosed space production areas**

When using smaller signs, post signs in the locations required for the standard sign and:

- No farther than 50 feet apart around the perimeter of the treated area if the letters for DANGER and PELIGRO are at least 7/8 inch in height, or
- No farther than 25 feet apart around the perimeter of the treated area if the letters for DANGER and PELIGRO are at least 7/16 inch in height.

## DECONTAMINATION SUPPLIES FOR WORKERS

**Agricultural employers of workers** must make sure that decontamination supplies are provided to **workers** who are working in a pesticide-treated area where, within the last 30 days, a WPS-labeled pesticide product has been used or a REI for such pesticide has been in effect, and are doing tasks that involve contact with anything that has been treated with the pesticide, including soil, water, or plants. 170.411(a)



### When must decontamination supplies be provided for workers?

- If the REI is greater than 4 hours, provide the decontamination supplies until 30 days after the end of the REI.
- If the REI is less than or equal to 4 hours, provide the decontamination supplies until 7 days after the REI expires.

### What supplies must be provided to workers?

- **Water** — The agricultural employer must provide at least 1 gallon of water for each worker at the beginning of the work period. The water must be a quality and temperature that will not cause injury or illness if it contacts skin or eyes, or is swallowed. If a water source is used for mixing pesticides, it **cannot** be used for decontamination without taking additional precautions to prevent contamination of the water by pesticides (e.g., back-flow prevention device, air gap, etc.).
- **Soap and single use towels** — enough for workers' needs. **Hand sanitizers or wet towelettes do not meet the requirement for soap or towels.**

### Where must decontamination supplies be located?

All decontamination supplies for workers must be located together and be reasonably accessible to where the workers are working (generally within 1/4 mile of the workers) and be outside of any treated area or an area under a REI.

For worker tasks performed more than 1/4 mile from the nearest point reachable by vehicles (cars, trucks, or tractors) or more than 1/4 mile from a non-treated area, the decontamination supplies may be at the nearest vehicular access point outside any treated area or area under a REI.



**EARLY-ENTRY WORKERS** 170.603

**Early-entry workers must be a minimum of 18 years old.**

The agricultural employer may direct workers to enter treated areas when a REI is in effect to perform certain activities (e.g., moving irrigation equipment, driving a tractor in the treated area, responding to agricultural emergencies, performing short-term or limited contact tasks, etc.) provided that all of the conditions for the specific exception are met. In addition to meeting the WPS requirements for worker training and being provided the protections of a worker under the WPS, this section explains what additional conditions must be met to allow workers to be “early-entry” workers.

An early-entry worker may only enter a treated area during a REI under the following limited situations and must meet all applicable conditions for each “exception.”

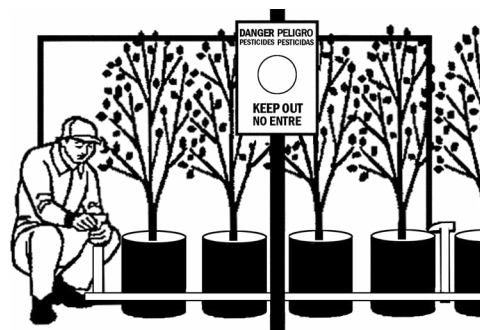
**EXCEPTIONS FOR EARLY ENTRY****Exception for activities with no-contact** 170.603(a)

- The early-entry worker must not touch anything treated by the pesticide to which the REI applies. This means no contact with things like soil, water, air, or surfaces of plants. There must be no contact with anything that may have pesticide residues on it even if the worker wears PPE.
- No early-entry worker is allowed in the treated area under the “no-contact” exception until any inhalation exposure level listed on the pesticide product labeling has been reached or any ventilation criteria established by WPS (Chapter 3, Table 1. Entry Restrictions During Enclosed Space Production Pesticide Applications) or on the pesticide product labeling has been met.

**Exception for short-term activities** 170.603(b)

Early-entry workers may enter into a treated area where a REI is in effect for short-term activities if all of the following requirements are met:

- No hand labor activity is performed.
- The time in treated areas, where a REI is in effect, does not exceed one hour in any 24-hour period for any early-entry worker.
- No early-entry worker is allowed in the treated area during the first 4 hours after the application ends.
- No early-entry worker is allowed in the treated area until any inhalation exposure level listed on the pesticide product labeling has been reached or any ventilation criteria established by WPS (Chapter 3, Table 1. Entry Restrictions During Enclosed Space Production Pesticide Applications) or on the pesticide product labeling has been met.



*Employers should make every effort to schedule pesticide applications and worker tasks in a way that will avoid the necessity of early entry of workers into treated areas.*

*Anyone doing crop advisor tasks during an REI, such as assessing pest pressure or the status of plants, is a handler under WPS and must receive the protections for handlers. See Chapter 4: Handlers and Chapter 6: Exemptions and Exceptions for crop advisors.*

*The definition of hand labor does NOT include operating, moving or repairing irrigation or watering equipment.*

State/Tribal pesticide authorities may declare, through regulation or policy, conditions that constitute an agricultural emergency in your state or area of Indian country rather than identifying an agricultural emergency on a case-by-case basis. Check with the appropriate pesticide regulatory authority to find out if there are general conditions or scenarios that are considered to be agricultural emergencies that could apply to your agricultural establishment.

**Hand labor** means any agricultural activity performed by hand or with any hand tool that causes a worker to have substantial contact with plants, plant parts, or soil and other surfaces that may contain pesticide residues, except that hand labor does not include operating, moving, or repairing irrigation or watering equipment or performing crop advisor tasks.

Examples of hand labor tasks include: harvesting, detasseling, thinning, weeding, topping, planting, girdling, caning, sucker removal, pruning, disbudding, roguing, and packing product into containers in the field.

**Exception for an agricultural emergency** 170.603(c)

- An agricultural emergency is a sudden occurrence or set of circumstances that the agricultural employer could not have anticipated and could not have had any control over. This emergency requires entry into a treated area during a REI when no alternative practices would prevent or mitigate a substantial economic loss. A substantial economic loss means a loss in profitability greater than would be expected based on the experience and fluctuations of crop yields in previous years. Only losses caused by the agricultural emergency specific to the affected site and geographic area are considered. Losses from mismanagement are not included when determining whether a loss is substantial.
- An agricultural emergency must be declared by the state department of agriculture, or the state or tribal agency responsible for pesticide enforcement that applies to the treated area. The agricultural employer determines if the emergency will result in a substantial economic loss to the agricultural establishment.
- If the labeling of any pesticide product applied to the treated area affected by the emergency requires double notification to workers, no early-entry worker is allowed to spend more than 4 hours out of any 24-hour period in treated areas.
- No early-entry worker is allowed in the treated area during the first 4 hours after the application ends.
- No early-entry worker is allowed in the treated area until any inhalation exposure level listed on the pesticide product labeling has been reached or any ventilation criteria established by WPS (Chapter 3, Table 1. Entry Restrictions During Enclosed Space Production Pesticide Applications) or on the pesticide product labeling has been met.

**Exception for limited contact and irrigation activities** 170.603(d)

For early entry into a treated area where a REI is in effect to conduct irrigation activities or unforeseen activities that have limited contact with treated materials (plants or soil), all of the following requirements must be met:

- No hand labor activity is performed.
- The time in treated areas, where a REI is in effect, does not exceed 8 hours in any 24-hour period for any early-entry worker.
- No early-entry worker is allowed in the treated area during the first 4 hours after the application ends.
- No early-entry worker is allowed in the treated area until any inhalation exposure level listed on the pesticide product labeling has been reached or any ventilation criteria established by WPS (Chapter 3, Table 1. Entry Restrictions During Enclosed Space Production Pesticide Applications) or on the pesticide product labeling has been met.
- The task to be performed must be one that if not performed before the REI expires, would cause substantial economic loss and there are no alternative tasks that would prevent the loss.
- **Except for irrigation tasks**, the need for the task could not have been foreseen.
- The early-entry worker has no contact with pesticide-treated surfaces other than minimal contact with feet, lower legs, hands and forearms.
  - The labeling of the pesticide product applied does not require double notification.

**Limited-Contact Tasks**

Tasks where early-entry workers' only contact with treated surfaces—including soil, water, surfaces of plants, crops—is minimal and is limited to their feet, lower legs, hands, and forearms. Hand labor tasks are not limited-contact tasks.

Examples of limited-contact tasks include operating or repairing weather monitoring and frost protection equipment; repairing greenhouse heating, air conditioning, and ventilation equipment; repairing non-application field equipment; maintaining and moving beehives. Limited-contact activities are those tasks that are not anticipated.

Irrigation related activities are generally anticipated and are not included in the limited-contact definition; however, they have the same requirements for early entry.

*Only appropriately trained and equipped pesticide handlers may operate, move, or repair the parts of chemigation equipment that may contain pesticide residues. Chemigation equipment is equipment used to apply pesticides with irrigation water.*

## Agricultural employer responsibilities to protect early-entry workers

170.605(a) & (b)

For an agricultural employer to direct a worker to perform activities in a treated area where a REI is in effect, they must:

- **Ensure that any early-entry worker is at least 18 years old.** 170.605(a)
- **Give instructions to early-entry workers.** Prior to early entry, give each early-entry worker all of the following information orally and in a manner that the worker can understand: 170.605(b)
  - Location of early-entry area where work activities are to be performed.
  - Pesticide(s) applied.
  - Dates and times that the REI begins and ends.
  - Which exception is the basis for the early entry, and a description of tasks that may be performed under that exception.
  - Whether contact with treated surfaces is permitted under the exception.
  - Amount of time the worker is allowed to remain in the treated area.
  - PPE required by the pesticide product labeling for early entry.
  - Location of the pesticide safety information (poster).
  - Location of the decontamination supplies required for early-entry workers.
- **Read the pesticide label.** Ensure that each early-entry worker either has read the applicable pesticide product labeling or has been informed, in a manner that the worker can understand, of all labeling requirements and statements related to human hazards or precautions, first aid and user safety. 170.605(c)

**PPE FOR EARLY-ENTRY WORKERS** 170.605(d) & (e)

It is the agricultural employer's responsibility to provide each early-entry worker with the PPE specified in the pesticide product labeling for early entry and ensure that the early-entry worker uses the PPE as intended according to manufacturer's instructions and follow any other applicable requirements on the pesticide product labeling.

PPE for early entry must meet the standards required for handlers and be maintained as such. Chapter 4: Additional Handler Employer Requirements describes PPE standards for handlers. 170.507(b)(1)-(9) and 170.507(c) & (d)

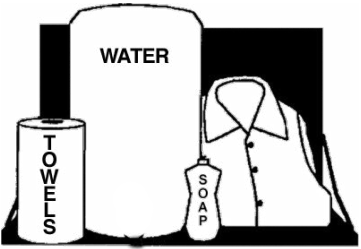
The agricultural employer must:

- Not allow or direct any early-entry worker to wear PPE unless they have received instruction in the prevention, recognition, and first aid treatment of heat-related illness. The worker must know and understand how to implement measures sufficient to prevent heat-related illness. 170.605(f)
- Provide each early-entry worker with instruction on the proper use and removal of the PPE, and as appropriate, on its cleaning, maintenance and disposal.
- Not allow or direct any early-entry worker to wear home or to take home employer-provided PPE contaminated with pesticides. 170.605(g)

*PPE for early-entry activities is listed on the pesticide label in the "Directions for Use" section in the "Agricultural Use Requirements" box.*

## DECONTAMINATION SUPPLIES FOR EARLY-ENTRY WORKERS

170.509 and 170.605(h)-(j)



During any early-entry activity, the agricultural employer must provide all of the following decontamination supplies:

*Hand sanitizers or wet towelettes do not meet the requirement for soap or towels.*

- At least three gallons of water per early-entry worker at the beginning of each early-entry work period for routine washing and potential emergency decontamination,
- Soap,
- Single-use towels, and
- Clean change of clothing, such as coveralls, for use in an emergency.

*Decontamination and emergency eye flush water must, at all times when it is available to workers, be of a quality and temperature that will not cause illness or injury when it contacts the skin or eyes or if it is swallowed.*

Additionally, if the pesticide product applied requires protective eyewear, 1 pint of water in a portable container must be immediately available to each early-entry worker (i.e., be on the worker’s person or within immediate reach).

### Where should the decontamination supplies for early-entry workers be located? 170.605(h)

Decontamination supplies for early-entry workers:

- Must **not** be in an area being treated with pesticides.
- Must **not** be in an area under a REI, **unless** that location is necessary for the supplies to be reasonably accessible to early-entry workers.
- Must be reasonably accessible to and generally not more than 1/4 mile from early-entry workers.
- May be located at the nearest vehicular access point if tasks being performed are more than 1/4 mile from the nearest point reachable by vehicle (car, truck, or tractor).

### Decontamination at the end of early-entry period 170.605(j)

Provide at the site where the early-entry workers remove their PPE:

- Soap,
- Single-use towels, and
- At least three gallons of water per early-entry worker so that the worker may wash thoroughly after removing PPE.

**TABLE 4. SUMMARY OF EARLY-ENTRY REQUIREMENTS** 170.603 and 170.605

| WPS Provision or Requirement  | Type of Early Entry Exception |            |   |            |   |    |
|---|-------------------------------|------------|---|------------|---|----|
|   | No Contact                    | Short-Term | Limited Contact (unforeseen event)                          | Irrigation | Agricultural Emergency  |    |
| Enter during application?   | No                            | No         | No  | No         | No  | No |
| Enter before inhalation exposure level or WPS ventilation criteria are met?                                       | Yes                           | No         | No  | No         | No  | No |
| Enter during first 4 hours after application is complete?   | Yes                           | No         | No  | No         | No  | No |
| Conditions on anticipating the need for early entry?  | No                            | No         | Yes. The need for the task could NOT have been anticipated. | No         | Yes. Must be agricultural emergency*  |    |
| Conditions on economic necessity  | No                            | No         | Only to prevent substantial economic loss                   | No         | Only to prevent substantial economic loss   |    |
| Hours of entry permitted per day?   | No limit                      | 1 hour     | 8 hours   | 8 hours    | No limit except if pesticide applied has double notification requirement, then 4 hours. |    |
| Hand labor tasks permitted?   | Yes**                         | No         | No  | No         | Yes   |    |
| WPS Worker Training required?   | Yes                           | Yes        | Yes   | Yes        | Yes   |    |
| Central Posting information provided?   | Yes                           | Yes        | Yes   | Yes        | Yes   |    |
| Emergency assistance provided?  | Yes                           | Yes        | Yes   | Yes        | Yes   |    |
| Information on pesticides applied?  | Yes                           | Yes        | Yes   | Yes        | Yes   |    |
| Instructed on PPE required. PPE provided, used, cleaned, and maintained properly?                                 | Yes                           | Yes        | Yes   | Yes        | Yes   |    |
| Labeling information and statements related to human hazards or precautions, first aid, and user safety provided? | Yes                           | Yes        | Yes   | Yes        | Yes   |    |
| Early entry decontamination supplies provided?  | Yes                           | Yes        | Yes   | Yes        | Yes   |    |

\*An agricultural emergency means a sudden occurrence or set of circumstances the agricultural employer could not have anticipated and over which the agricultural employer has no control, that requires entry into a treated area during a REI, and when no alternative practices would prevent or mitigate a substantial economic loss.

\*\*Hand labor is only allowed if the hand labor will not result in any contact with any pesticide treated surfaces. For example, if the pesticide is incorporated into the soil during the application (and is not a fumigant) or if it is a soil-drench application in a nursery or enclosed space production, it may be possible to do hand labor and not contact any pesticide treated surfaces.

Workers cannot enter a treated area during an application; this is never allowed.





# CHAPTER 4

## ADDITIONAL HANDLER EMPLOYER REQUIREMENTS

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**All WPS requirements are effective January 2, 2017 unless identified for a delayed implementation of January 2, 2018.**

Chapter 2: Requirements for Agricultural Employers of Workers or Handlers presented the WPS protections agricultural employers must provide to workers and handlers. This chapter describes the additional protections that agricultural employers are required to provide to their handlers.

The requirements in this section are for handler employers. As an agricultural employer, you are a handler employer when you employ handlers directly or through labor contractors.

**Handlers must be a minimum of 18 years old.**



## TRAINING PESTICIDE HANDLERS

Owners of agricultural establishments and their immediate families are exempt from handler training requirements of the WPS. See Chapter 6: Exemptions and Exceptions. In addition, certified crop advisors (acknowledged as appropriate in writing by the EPA, or a State or Tribal agency responsible for pesticide enforcement) and currently certified pesticide applicators are exempt from WPS worker and handler training requirements.



*You are not a handler employer if you hire a commercial pesticide handler or use a commercial pesticide handling establishment to apply pesticides on your agricultural establishment and none of your employees conduct any handling tasks.*

### Review key requirements of handler training 170.501

The annual training requirements for handlers and workers are presented in Chapter 2: Requirements for Agricultural Employers of Workers or Handlers. The following is a review of the key requirements of WPS training for handlers:

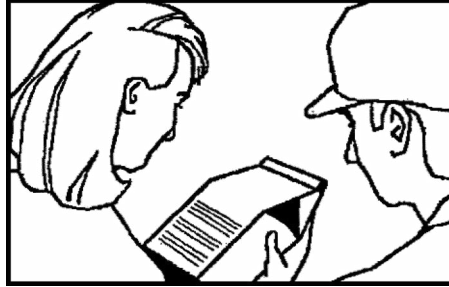
- **There is no grace period for WPS training!**
- Before any handler performs any handler task, the handler employer must ensure that each handler has completed WPS training within the last 12 months, unless the handler is currently:
  - Certified as an applicator of restricted-use pesticides, or
  - Certified or licensed as a crop advisor by a program acknowledged as appropriate in writing by EPA or the State or Tribal agency responsible for pesticide enforcement. 170.501(b)
- Train handlers every 12 months. 170.501(a)
- Only qualified trainers (described in Chapter 2) may provide training and must be present during the entire training program to respond to questions. 170.501(c)(1) & (4)
- Provide training in a language or manner the handlers can understand, such as using a translator. 170.501(c)(1)
- Present training using EPA-approved materials either orally from written materials or audio-visually. 170.501(c)(1)
- Keep training records for 2 years. 170.501(d)(1)
- Provide training records to handler employees upon request. 170.501(d)(2)
- All training requirements are effective January 2, 2017 EXCEPT the expanded training content which is effective six months after EPA announces the availability of training materials **but not earlier than January 2, 2018.** 170.501(c)(3)

## INFORMATION THAT MUST BE PROVIDED TO HANDLERS

In addition to providing the WPS handler training and protections covered in Chapter 2: Requirements for Agricultural Employers of Workers or Handlers, the handler employer must also provide handlers with the information below, in a manner they can understand, before they perform any handler activity.

### Labeling information 170.503(a)(1) & (2)

The handler must either read, or be informed of, all sections of the pesticide product labeling applicable to the safe use of the pesticide, including label use directions and restrictions. **The handler must be given this information in a manner they can understand.** The labeling must be available to the handler at all times during handler activities.



To explain a WPS concept “in a manner handlers can understand” means the information may need to be read, or written in a different language, provided with a hands-on demonstration to “show” the topics, use graphics, allow time for questions and answers, or whatever mechanism is successful in communicating with employees.

Option: Handlers may be allowed to read the labeling themselves, if they are able to read and understand it thoroughly.

### Application-specific information 170.503(a)(3)

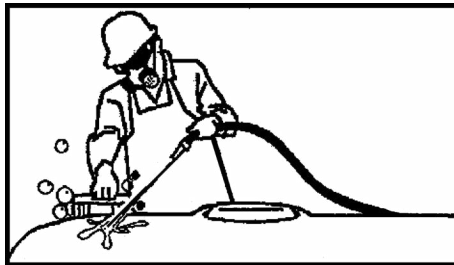
Handlers must be made aware of any entry restrictions, AEZs and REIs that may apply to the activities being performed by the handler.

### Pesticide application equipment 170.309(i) & (j)

A handler employer must ensure that:

- Handlers are instructed in the safe operation of equipment used to mix, load, transfer, or apply pesticides before they use the equipment. 170.309(i)
- Each day before using any equipment to mix, load, transfer or apply pesticides, the equipment is inspected for leaks, clogged nozzles, worn or damaged parts and equipment is repaired or replaced before it is used.

170.309(j)



In addition to providing handlers with the general pesticide safety training, an agricultural employer must give handlers establishment-specific information described in Chapter 2: Requirements for Agricultural Employers of Workers or Handlers. 170.503(b)

## REQUIREMENTS FOR HANDLERS AND HANDLER EMPLOYERS DURING PESTICIDE APPLICATIONS



*Owners and their immediate family members acting as handlers must comply with these requirements when applying pesticides on their establishment.*

Agricultural employers must comply with certain requirements during pesticide applications to protect workers and other persons, such as bystanders. This section describes other WPS requirements during pesticide applications that directly affect handlers and handler employers. Agricultural employers who employ handlers (i.e., handler employers) and handlers themselves must comply with these requirements.

and handlers themselves must comply with these requirements.

### **Do not let pesticides contact workers or any persons** 170.505(a)

The handler employer and the handler must ensure that no pesticide is applied so as to contact, directly or through drift, any worker or other person, other than an appropriately trained and equipped handler involved in the application. This is a requirement for both handlers and handler employers and it is also a labeling requirement the pesticide applicator must comply with. 170.505(a)

### **Suspend pesticide applications** 170.505(b)

The application exclusion zone (AEZ) is described in Chapter 3 in terms of the agricultural employer's responsibilities to keep workers and others out of the treated area and AEZ during pesticide applications.

Effective January 2, 2018, there is a different AEZ requirement that applies to pesticide handlers making pesticide applications. Specifically, the handler making a pesticide application must **temporarily suspend** the application if any worker or other person (other than an appropriately trained and equipped handler involved with the application) is in the:

- AEZ for outdoor production applications, or
- Area required to be free of workers or others during enclosed space production applications.

*The "do not contact" requirement is not limited by distance or the boundaries of the establishment, so it applies to workers and other persons whether they are on or off the agricultural establishment and regardless of how far away they are from the application.*

The handler requirement to suspend the application applies if a worker or other person is in any portion of the AEZ. In this situation, the applicator must temporarily suspend the application and may not proceed until the applicator can ensure that the pesticide will not contact any persons that are in the AEZ, including areas that extend beyond the boundary of the establishment.

*Effective January 2, 2017, agricultural employers must keep workers and other persons out of the AEZ.*

An agricultural employer may not allow a pesticide to be applied, or a suspended application to be resumed, while any worker or other person on the establishment is in the treated area or within the AEZ.

**Monitor handlers using highly toxic pesticides** 170.505(c)

If a pesticide product that has the skull-and-crossbones symbol on the front panel of the pesticide product label is being used, a handler employer must ensure that the handler is monitored visually or by voice communication at least every 2 hours.



**Communicate continuously with handlers using fumigants in enclosed spaces** 170.505(d)



When a handler is using a fumigant pesticide product in an enclosed space production area, a handler employer must ensure that the handler maintains continuous visual or voice contact with another handler stationed immediately outside of the enclosed space. The handler stationed outside of the enclosed space must have immediate access to and be able to use the PPE required by the fumigant product labeling for applicators in case there is a need to assist or rescue the handler making the application.

*Fumigant – Any pesticide product that is a vapor or gas, or forms a vapor or gas on application, and whose method of pesticidal action is through the gaseous state.*

*Fumigants will most likely have label restrictions that are more restrictive than WPS including the label-required Fumigant Management Plan.*

***Remember: If the pesticide product labeling contains specific instructions or requirements that conflict with the requirements of the Worker Protection Standard, follow the instructions or requirements on the labeling.***

## PERSONAL PROTECTIVE EQUIPMENT (PPE) FOR HANDLERS

### Handler employer and handler responsibilities 170.507(a) & (b)

*On the pesticide product labeling, PPE for handling activities is listed in the “Hazards to Humans” section.*

Handler employers must provide the PPE that is required by the pesticide product labeling for the handler to use. The PPE provided must be clean and in proper working condition. For the purposes of WPS, long-sleeved shirts, short-sleeved shirts, long pants, short pants, shoes and socks are considered standard attire and do not have to be provided by the handler employer even though such work clothes may be required by a pesticide product labeling as PPE.

Handlers are individually responsible for following the pesticide labeling directions and wearing the clothing and PPE required by the pesticide product labeling. The “use” of any pesticide product must be consistent with the label directions or it is a violation of federal law.

### PPE terminology 170.507(b)

For clarification, the following terms are interpreted as to their meaning for PPE when required by pesticide product labeling:

“**Chemical-resistant PPE**” must be made of material that allows no measurable movement of the pesticide being used through the material during use.

“**Chemical-resistant apron**” must be a chemical-resistant apron that covers the front of the body from mid-chest to the knees.

“**Chemical-resistant footwear**” means one of the following types of footwear must be worn:

- Chemical-resistant shoes.
- Chemical-resistant boots.
- Chemical-resistant shoe coverings worn over shoes or boots.

“**Chemical-resistant headgear**” must be either a chemical-resistant hood or a chemical-resistant hat with a wide brim.

“**Chemical-resistant suit**” must be a loose-fitting, one- or two-piece chemical-resistant garment that covers, at a minimum, the entire body except head, hands, and feet.

*Shoes or boots must be labeled “chemical-resistant.” Sandals and cloth or leather shoes or boots are NOT chemical resistant.*

*Very few pesticides require handlers to wear chemical-resistant suits because of the high potential for heat stress.*

“**Coveralls**” must be loose-fitting, one- or two-piece garments that cover, at a minimum, the entire body except head, hands, and feet.

- When the pesticide label requires coveralls to be worn, it means **cloth** garments as described above. They are *not* required to be chemical-resistant. If full body chemical-resistant protection is required, the label will specify that a handler must wear a chemical-resistant suit instead of coveralls.

“**Gloves**” must be the type specified on the pesticide product labeling.

- Gloves made of leather, cotton, or other absorbent materials may not be worn while performing handler activities unless gloves made of these materials are listed as acceptable for such use on the pesticide product labeling.
- Separable glove liners may be worn beneath chemical-resistant gloves, unless the pesticide product labeling specifically prohibits their use. Separable glove liners are defined as separate glove-like hand coverings, made of lightweight material, with or without fingers. Work gloves made from lightweight cotton or poly-type material are considered to be glove liners if worn beneath chemical-resistant gloves. Separable glove liners may not extend outside the chemical-resistant gloves under which they are worn. Chemical-resistant gloves with non-separable absorbent lining materials are prohibited.
- If used, separable glove liners must be discarded immediately after a total of no more than 10 hours of use or within 24 hours of when first put on, whichever comes first. The liners must be replaced immediately if directly contacted by pesticide. Used glove liners must not be reused. Contaminated liners must be disposed of in accordance with any Federal, State, or local regulations.

“**Protective eyewear**” means one of the following types of eyewear:

- Goggles,
- Face shield,
- Safety glasses with front, brow, and temple protection, or
- Full-face respirator.

“**Waterproof**” must be made of material that allows no measurable movement of water or aqueous solutions through the material during use.

## Use, cleaning and maintenance of PPE 170.507(c) & (d)

To provide protections to handlers in the use, cleaning and maintenance of PPE, the handler employer must ensure that:

- PPE is used correctly for its intended purpose and is used according to the manufacturer's instructions.
- All PPE is inspected for leaks, holes, tears, or worn places before each day of use. Any damaged equipment must be repaired or discarded.
- All PPE is cleaned according to the manufacturer's instructions or pesticide product labeling instructions before each day of reuse. In the absence of any such instructions, PPE must be washed thoroughly in detergent and hot water.
- All washed PPE is dried thoroughly before being stored or reused.
- All clean PPE is stored separately from personal clothing and apart from pesticide-contaminated areas.
- Contaminated PPE is made unusable as clothing or unavailable for any use by anyone, if the PPE cannot or will not be cleaned properly.
- Any coveralls or other absorbent materials that have been drenched or heavily contaminated with a pesticide that has the signal word "DANGER" or "WARNING" on the pesticide label are not reused and are disposed of in accordance with any applicable laws or regulations.
- Any person who handles contaminated PPE must wear the gloves specified on the pesticide product labeling for mixing and loading the product(s) of the contaminant(s).
- Contaminated PPE is kept separately from non-contaminated PPE, other clothing or laundry, and washed separately from any other clothing or laundry.
- Any person who cleans or launders PPE is informed of all the following:
  - That such equipment may be contaminated with pesticides and there are potentially harmful effects from exposure to pesticides.
  - The correct way(s) to clean PPE and how to protect themselves when handling such equipment.
  - Proper decontamination procedures that should be followed after handling contaminated PPE.
- Handlers have a place(s) away from pesticide storage and pesticide use areas where they may:
  - Store personal clothing not worn during handling activities.
  - Put on PPE at the start of any exposure period.
  - Remove PPE at the end of any exposure period.
- Handlers are not allowed or directed to wear home or to take home employer-provided PPE contaminated with pesticides.

*Any person handling contaminated PPE must use the most protective gloves identified on any of the products which contaminated the PPE.*



**Heat-related illness** 170.507(e)

When a WPS-labeled pesticide product requires the use of PPE for a handler activity, appropriate measures must be taken to prevent heat-related illness. This may include knowing the heat and humidity work conditions, altering time of work hours to avoid or limit working in the hottest/most humid situations, providing adequate water breaks and cool-down periods, allowing removal of PPE when not required, etc.

Visit OSHA's web site for useful information about occupational heat exposure and how to avoid heat stress: <https://www.osha.gov/SLTC/heatstress/>

**Exceptions to PPE required by pesticide product labeling****PPE exception allowed for body protection** 170.607(a)-(c)

- A chemical-resistant suit may be substituted for coveralls. If a chemical-resistant suit is substituted for coveralls, any labeling requirement for an additional layer of clothing beneath the coveralls is waived.
- A chemical-resistant suit may be substituted for a chemical-resistant apron.

**Boots.** If chemical-resistant footwear with sufficient durability and a tread appropriate for wear in rough terrain is not obtainable, then leather boots may be worn on such terrain.

**Gloves.** If chemical-resistant gloves with sufficient durability and suppleness are not obtainable, then during activities with plants with sharp thorns, leather gloves may be worn over chemical-resistant glove liners. However, once leather gloves are worn for this use, thereafter they must be worn only with chemical-resistant liners and they must not be worn for any other use.

**PPE exception allowed when using closed systems** 170.607(d)

When a closed system is used to transfer pesticide products, both of the following conditions must be met in order to use PPE that is different from the PPE required by the pesticide product labeling for a closed system:

1. The closed system must be able to remove the pesticide from its original container and transfer the pesticide product through connecting hoses, pipes and couplings that are sufficiently tight to prevent exposure of handlers to the pesticide product, except for the negligible escape associated with normal operation of the system; or when loading intact, sealed, water soluble packaging into a mixing tank or system, **and**
2. All of the requirements for an agricultural employer or commercial pesticide handler employer must be met, and
  - Each closed system must have written operating instructions that are clearly legible and include:
    - o Operating procedures for use, including the safe removal of a probe,
    - o Maintenance, cleaning and repair,
    - o Known restrictions or limitations relating to the system, such as incompatible pesticides or sizes/types of containers or closures that cannot be handled by the system,
    - o Any limits on the ability to measure a pesticide, and
    - o Special procedures or limitations regarding partially-filled containers.
  - The written operating instructions for the closed system must be available at the mixing or loading site and must be made available to any handlers who use the system.
  - Any handler operating the closed system must be trained in its use and operate the closed system in accordance with its written operating instructions.
  - The closed system must be cleaned and maintained as specified in the written operating instructions and as needed to make sure the system functions properly.
  - All PPE specified in the pesticide product labeling is immediately available to the handler for use in an emergency.
  - Protective eyewear must be worn when using closed systems operating under pressure.

**If the conditions of (1) and (2) are met, the following exceptions to labeling-specified PPE are permitted:**

- Handlers using a closed system to mix or load pesticides with a signal word of “DANGER” or “WARNING” may substitute the following, instead of the PPE specified on the pesticide product label:
  - o Long-sleeved shirt,
  - o Long pants,
  - o Shoes and socks,
  - o Chemical-resistant apron,
  - o Protective eyewear, and
  - o Protective gloves specified on the labeling for handlers for the labeling-specified PPE.

- Handlers using a closed system to mix or load pesticides other than those with a signal word of “DANGER” or “WARNING” may substitute the following, instead of the PPE specified on the pesticide product label:
  - Protective eyewear,
  - Long sleeved shirt,
  - Long pants, and
  - Shoes and socks.

### **PPE exception allowed for enclosed cabs** 170.607(e)

If a handler applies a pesticide from inside a vehicle’s enclosed cab and all of the PPE required by the pesticide product labeling for applicators is immediately available and stored in a sealed container to prevent contamination, handlers may substitute a long-sleeved shirt, long pants, shoes and socks for the labeling-specified PPE for skin and eye protection.

- If a particulate filtering respirator (NIOSH approval number prefix TC-84A) (including a particulate filtering facepiece respirator, which used to be called a dust/mist or particulate filtering respirator) is required by the pesticide product labeling for applicators, the applicator does not have to wear that respirator inside the enclosed cab if the enclosed cab has a properly functioning air ventilation system which is used and maintained in accordance with the manufacturer’s written operating instructions.
- If any other type of respirator is required by the pesticide labeling for applicators, then that respirator must be worn inside the enclosed cab. See Respirator section on the next page.

Handlers must wear the applicator PPE required by the pesticide product labeling if they exit the cab within a treated area during an application or when a REI is in effect. Once PPE is worn in a treated area, it must be removed before reentering the cab to prevent contamination of the cab.

### **PPE exception allowed for aerial applications** 170.607(e) & (f)

Wearing chemical-resistant gloves when entering or leaving an aircraft used to apply pesticides is optional, unless such gloves are required on the pesticide product labeling. If gloves are brought into the cockpit of an aircraft that has been used to apply pesticides, the gloves must be kept in an enclosed container to prevent contamination of the inside of the cockpit.

Handlers applying pesticides from an open cockpit aircraft must use the PPE specified in the pesticide product labeling for use during an application, except that chemical-resistant footwear need not be worn. A helmet may be substituted for chemical-resistant headgear. A helmet with a face shield lowered to cover the face may be substituted for protective eyewear.

Persons occupying an enclosed cockpit may substitute a long sleeved shirt, long pants, shoes, and socks for labeling-specified PPE.

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*An enclosed cab is defined as a cab with a nonporous barrier that totally surrounds the occupant(s) of the cab and prevents dermal contact with pesticides that are being applied outside of the cab.*

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*Although a dust/mist filtering respirator is an outdated designation, some pesticide product labels still refer to this type of respirator and are included in the exception allowed for enclosed cabs.*

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*A carbon filter is not a requirement for the enclosed cab to qualify for the exemption; only a properly functioning air ventilation system. Any ventilation system with a standard air filter is acceptable. No special filter requirements must be met.*

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*Under the enclosed cockpit exception, respirators and gloves are not required to be worn in enclosed cockpits.*

**Respirators – requirements & recordkeeping** 170.507(b)(10)

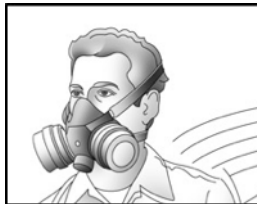


Self-contained breathing apparatus (SCBA)\*

The WPS adopted certain Occupational Safety and Health Administration (OSHA) provisions that require handler employers to provide medical evaluations, fit testing, and training to handlers when using pesticide products that require use of a respirator. This includes particulate filtering facepiece respirators (formerly known as dust/mist respirators). These requirements ensure that handlers who are using pesticides that require use of a respirator are provided with a comparable level of protection to OSHA’s respiratory protection requirements.

The goal of the respirator requirements is to ensure the handler:

- Is physically capable of wearing a respirator,
- Receives the intended protection by having the respirator fit properly, and
- Knows how to use the respirator correctly.



Half-mask air-purifying respirator\*



Filtering facepiece\*



Full-facepiece air-purifying respirator\*

Whenever a respirator is required to be worn by the pesticide product labeling, the correct respirator specified by the label must be used. Prior to using a respirator, the handler employer must provide the handler with the following:

- Medical evaluation,
- Annual fit testing, and
- Annual respirator training.

The handler employer must keep records of the medical determinations (proof of medical evaluations), fit testing and respirator training for 2 years from the date conducted.

**A respirator is intended for use by one person only.  
Respirators should not be shared by multiple individuals.**

\*Graphics from the OSHA Small Entity Compliance Guide for the Respiratory Protection Standard: <https://www.osha.gov/Publications/3384small-entity-for-respiratory-protection-standard-rev.pdf>

**Medical evaluation** 40 CFR 170.507(b)(10)(iii) & 29 CFR 1910.134

Using a respirator may place a physiological burden on handlers that could cause injury if the wearer has certain health problems or medical conditions. This burden varies with the type of respirator worn, the job and conditions in which the respirator is used, and the medical status of the handler.

A medical evaluation must be conducted to determine whether the handler is physically able to use a respirator before the handler is fit tested or required to use the respirator.

The handler employer must identify a physician or other licensed health-care professional (PLHCP) to perform the confidential medical evaluation using a medical questionnaire or exam. **The medical evaluation must be done at no cost to the employee.** The questionnaire may be provided by the PLHCP and must be based on OSHA's Part A of Appendix C to 1910.134. The questionnaire is also available in Spanish. See Appendix D: Contacts and Additional Resources.

Prior to providing the questionnaire to the handler, the handler employer must complete the following information for the PLHCP:

- The type and weight of respirator that the handler will use.
- How long and how frequently the handler will use the respirator.
- How much physical work the handler will do while using the respirator.
- Other PPE the handler will use.
- The temperature and humidity extremes of the working environment.

**Handlers must complete a confidential medical questionnaire during normal working hours or at a time and place convenient to the handler.**

The handler must understand the questions on the medical questionnaire. The handler employer must provide a telephone number for the PLHCP to the employee in case they have questions. ***The handler's responses to the medical questionnaire must not be reviewed by the handler employer and must be provided directly to the PLHCP.***

The PLHCP's final medical determination must be based on information covered by the questionnaire. This information can be obtained by evaluating written responses or by conducting a medical examination that covers all the areas included in the questionnaire. The handler must be given an opportunity to discuss the questionnaire and/or examination results with the PLHCP.

A PLHCP may include any medical tests, consultations, or diagnostic procedures that the PLHCP deems necessary to make a final determination.

The handler employer is responsible for any costs associated with these additional medical assessments. However, the employer has the option of not allowing the handler to undergo further evaluation. If that is the case, the employer cannot allow that handler to participate in any handler activities that require the use of a respirator.

*The requirement for a medical evaluation applies to all respirators, regardless of the type, level of protection, or whether it is tight-fitting or loose-fitting.*

*The handler is to either deliver the questionnaire directly to the PLHCP or seal it in an envelope and mail it directly to the PLHCP.*

*There are online services that conduct respirator medical evaluations. Be sure to select one that is qualified to operate in your state.*

**A medical evaluation is required one time** unless another medical evaluation is required for any of the following reasons:

- The medical determination (medical release) is only good for a specified length of time (often 1, 2 or 3 years).
- The employee reports medical signs or symptoms related to respirator use.
- The PLHCP, a supervisor, or the program administrator recommends a re-evaluation.
- Fit-test or other program information indicates a need for re-evaluation.
- When changes in the workplace increase respiratory stress on an employee.
- The initial medical examination demonstrates the need for a follow-up medical examination.

The follow-up medical examination shall include any medical tests, consultations, or diagnostic procedures that the PLHCP deems necessary to make a final determination.

### **Documentation**

The PLHCP will send the handler employer and the handler a written medical determination (medical release) of the medical evaluation results. A handler cannot use a respirator until this written medical determination is received allowing such use. The determination will include the following information:

- Whether the employee is medically able to use a respirator.
- Any restrictions on the employee's use of the respirator.
- The need for follow-up medical evaluations .
- Verification that the PLHCP has given the employee a copy of the written medical determination.

### **Recordkeeping**

Maintain a copy of the written medical determination (medical release) for at least 2 years, or until a subsequent medical evaluation is conducted.

***All other information regarding the medical evaluation is strictly confidential and is restricted to only the employee and the PLHCP.***

**Annual fit testing** 40 CFR 170.507(b)(10)(i) & 29 CFR 1910.134(f)

The purpose of a fit test is to ensure that the respirator forms an adequate seal with a handler's face so the respirator provides the intended inhalation exposure protection.

Handlers must be fit tested for **each type of respirator** specified by the pesticide product labeling which they will be using before using the respirator and every 12 months after that. The fit test must be conducted using the exact make, model, style and size of respirator that the handler uses. If any of that changes, the handler must be fit tested with the new respirator.

Fit testing must follow OSHA protocols. With respirators, one size does not fit all. Two fit-test methods are available to determine the correct fit for most tight-fitting facepieces.

- Qualitative fit test (QLFT). This inexpensive, easy-to-perform test relies on the respirator user's response to a test agent such as banana oil, saccharin, or irritant smoke. If the user detects the agent while wearing the respirator, the facepiece-to-face seal is not successful and the test fails. A user who cannot successfully complete the test must be tested with another face piece, make, size, or brand.
  - This method does not require specialized equipment or a trained person to conduct the test however, the person administering this test must be able to prepare test solutions, calibrate equipment, perform test properly, recognize invalid tests and ensure test equipment is in proper working order.
- Quantitative fit test (QNFT). An instrument samples the concentration of a test agent in the ambient atmosphere and inside the user's facepiece. With this information a quantitative fit factor can be calculated that indicates how well the facepiece fits the user; the higher the number the better the fit. This method is more accurate than a qualitative test but also more expensive. The QNFT requires special equipment, and a trained person must conduct the test.

Fit testing must be conducted annually and whenever there is a change in the respirator facepiece make, model, style, or size, or if the handler has a physiological change that affects the seal between the respirator's facepiece and the user's face. OSHA's protocols to ensure fit tests are done properly (Appendix A of 29 CFR 1910.134) are to be followed. These protocols may be found at: [https://www.osha.gov/pls/oshaweb/owadisp.show\\_document?p\\_table=STANDARDS&p\\_id=9780](https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=STANDARDS&p_id=9780).

*The requirement for fit testing applies to the use of tight-fitting respirators and does not apply to the use of loose-fitting respirators.*

**Particulate filtering facepiece respirators** are required to be fit tested. Particulate filtering facepiece respirators must be equipped with a sealable surface to enable the respirator to be fit tested.

*As an example, if a handler uses a particulate filtering facepiece respirator when using one pesticide and a half-face respirator with organic vapor cartridges when using a different pesticide, the handler must be fit tested for both respirators.*

*A handler employer is allowed to conduct the fit test for their handlers or they may also use an outside party that may have different respirator makes, models, styles and sizes that may be needed to ensure the handlers can be properly fit.*



## Recordkeeping

A written record of the fit test must be maintained for 2 years and contain:

- Name of handler tested,
- Type of fit test performed,
- Make, model and size of the respirator tested,
- Date of the fit test, and
- Results of the fit test:
  - Pass/fail for qualitative fit test.
  - Fit factor and strip chart recording or other record of the test results for a quantitative fit test.

## Respirator seal check

**A seal check is not a fit test!**

Anyone using a tight-fitting respirator must perform a respirator seal check before using it to ensure an adequate seal is achieved each time the respirator is put on. There are different ways to check respirator seals including a positive pressure check, a negative pressure check, or following the manufacturer's recommended check method. A seal check is not a fit test!

## How to check the seal of tight-fitting respirators

### Positive-pressure check:

1. Block the exhalation valve cover with the palm of your hand.
2. Exhale gently into the facepiece, creating a slight positive pressure.
3. If you can feel air leaking under the facepiece, reposition the facepiece and repeat steps 1 and 2 until you have an effective seal.

### Negative-pressure check:

1. Cover the inlet openings of the cartridges or canisters with palms of your hands and inhale gently so that the facepiece collapses.
2. Hold your breath for about 10 seconds. The seal is effective if the facepiece stays collapsed.
3. If the facepiece expands or you can feel air leaking under the facepiece, reposition it and repeat steps 1 and 2.

## Annual respirator training 40 CFR 170.507(b)(10)(ii) & 29 CFR 1910.134(k)(1)(i)-(vi)

*The requirement for respirator training applies to all respirators, regardless of the type, level of protection, or whether it is tight-fitting or loose-fitting.*

Handlers must be provided with training in the use of the respirator specified on the pesticide product labeling and demonstrate knowledge of the following:

- Why the respirator is necessary and how improper fit, usage, or maintenance can compromise the protective effect of the respirator,
- What the limitations and capabilities of the respirator are,
- How to select cartridges and canisters and know the schedule for changing,
- How to use the respirator effectively in emergency situations, including situations in which the respirator malfunctions,
- How to inspect, put on and remove, use, and check the seals of the respirator,
- Respirator maintenance and storage procedures, and
- How to recognize medical signs and symptoms that may limit or prevent the effective use of respirators.



Respirator retraining is required annually and when:

- Workplace conditions change,
- A new type of respirator is used, or
- Inadequacies in the employee's knowledge or use indicate the need to retrain.

### Recordkeeping

A written record of the respirator training must be maintained for 2 years and should contain:

- Name and signature of handler trained,
- Date of training,
- Trainer's name, and
- Training topics.

### Respirator change-out schedules 170.507(d)

When particulate filtering respirators are used, the filters or the filtering facepiece itself must be replaced before further respirator use when one of the following conditions is met:

- When breathing resistance becomes excessive.
- When the filter element has physical damage or tears.
- According to manufacturer's recommendations or pesticide product labeling, whichever is more frequent.
- In the absence of any other instructions or indications of service life, at the end of eight hours of cumulative use.

When gas or vapor removing respirators are used, the gas or vapor removing canisters or cartridges are to be replaced before further respirator use when one of the following conditions is met if there is no end-of-service-life indicator on the cartridge or canister:

- At the first indication of odor, taste, or irritation.
- When breathing resistance becomes excessive.
- When required according to manufacturer's recommendations or pesticide product labeling instructions, whichever is more frequent.
- When the maximum use time is reached as determined by the handler employer's respiratory protection program.
- In the absence of any other instructions or indications of service life, at the end of eight hours of cumulative use.

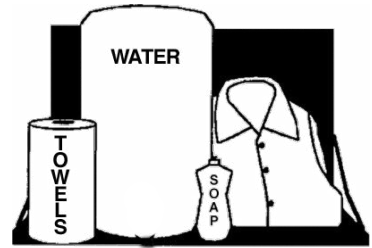
If a handler has facial hair that comes between the sealing surface of the facepiece and the handler's face or that interferes with valve function, the handler cannot use a respirator that has a tight-fitting facepiece.

If there is an end-of-service-life indicator on the cartridge or canister, replace the cartridge or canister when indicated.

## DECONTAMINATION SUPPLIES FOR HANDLERS

**Handler employers** must provide decontamination supplies, as described below, to handlers who are doing handling tasks for routine washing, emergency decontamination and eye flushing.

170.509(a)-(d)



### When must the supplies be provided?

- **Handlers:** the duration of the handling task and until PPE is removed.

### What supplies must be provided?

- **Water** — as specified below. The water must be of a quality and temperature that will not cause illness or injury when it contacts the skin or eyes or if swallowed. If a water source is used for mixing pesticides, it cannot be used for decontamination without additional precautions taken to prevent contamination of the water with pesticides (e.g., back-flow prevention device, air gap, etc.).
- **Soap and single use towels** — enough for handlers' needs. **Hand sanitizers or wet towelettes do not meet the requirement for soap or towels.**
- **Clean change of clothes**, such as one-size-fits-all coveralls, to put on if the handlers' clothes are contaminated and need to be removed right away.

### How much water must be provided?

Clean running water definitely meets the requirement. However, if it is not available, the following amounts must be met:

- **Handlers:** 3 gallons or more per handler of water is required at the start of the work period.
- **Emergency eye flushing station:** emergency eye flushing supplies must be provided at any site where handlers are mixing or loading a pesticide that requires protective eyewear or are mixing or loading any pesticide using a closed system operating under pressure. The supplies that must be available are:
  - A system capable of delivering gently running water at a rate of at least 0.4 gallons per minute for at least 15 minutes, or
  - At least 6 gallons of water in containers suitable for providing gently running water for eye flushing for 15 minutes. The container(s) must be able to dispense a gentle steady flow of water.

Additionally, when applying a pesticide that requires protective eyewear, 1 pint of water must be immediately available to each handler (applicator) in a portable container (on the applicator's person or in the application equipment being used).

*When required, the eye flushing supplies at mix/load sites must be immediately available to the handlers (mixers/loaders) and the pint of eye flush water must be immediately available to the handler (applicator).*

**Where must routine decontamination supplies be located?**

The water for routine cleaning, soap, single use towels and change of clothes must be located together and must be:

- Reasonably accessible to handlers (within 1/4 mile or at the nearest vehicular access),
- Outside of any treated area or an area under an REI unless supplies (soap, single-use towels, clean change of clothing and routine decontamination water) are all contained within a pesticide protected closed container (except if running water is available, it does not have to be in the container),
- At any mixing or loading site, and
- At the site where PPE is removed.

**Exceptions:**

For a pilot who is applying pesticides aurally, the decontamination supplies must be at the aircraft's loading site or in the aircraft.



# CHAPTER 5

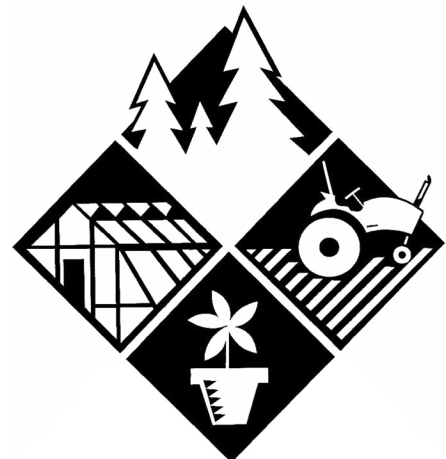
## REQUIREMENTS FOR COMMERCIAL PESTICIDE HANDLER EMPLOYERS

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**All WPS requirements are effective January 2, 2017 unless identified for a delayed implementation of January 2, 2018.**

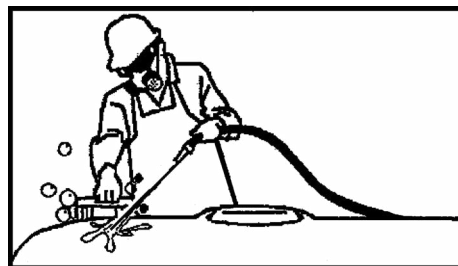
This chapter describes some of the WPS protections commercial pesticide handler employers must provide to their handlers. Commercial pesticide handling establishments and their employees are included in WPS when they apply WPS-labeled pesticide products on agricultural establishments, even if some of the pesticide handling tasks (mixing, loading, disposal, etc.) take place somewhere other than the agricultural establishment that is the treatment site. Owners and managers of commercial pesticide handling establishments have WPS responsibilities as commercial pesticide handler employers.

**Additional responsibilities for all handler employers are covered in Chapter 4. Commercial pesticide handler employers must refer to both Chapters 4 and 5 for all of the WPS requirements and protections applicable to their establishments and handler employees.**



## GENERAL RESPONSIBILITIES FOR COMMERCIAL PESTICIDE HANDLER EMPLOYERS

To streamline presenting the WPS requirements for a commercial pesticide handler employer (CPHE), the requirements for CPHEs that are not covered in Chapter 4 have been placed in this chapter. **A CPHE must comply with the requirements presented in Chapter 4: Additional Handler Employer Requirements AND within this chapter.**



The responsibilities of complying with the WPS primarily fall on the employer (the owner of the business) of a handler (applicator/crop advisor). In addition, the pesticide handler is also responsible for complying with certain WPS provisions as well as all of the pesticide label directions.

### Key WPS definitions:

**A commercial pesticide handling establishment** is defined as an enterprise, other than an agricultural establishment, that provides pesticide handler or crop advising services to agricultural establishments. *In other words, this is usually a custom pesticide application business that is hired by a farm, forest, nursery or enclosed space agricultural production facility to apply pesticides or to provide crop-consulting services.*

The commercial pesticide handling establishment is the business or enterprise that is hired to make pesticide applications on an agricultural establishment. The commercial pesticide handling employer is the person responsible for providing WPS protections to the handlers or crop advisors they employ.

**The commercial pesticide handler employer** is defined as any person, other than an agricultural employer, who employs any handler to perform handler activities on an agricultural establishment.

A crop advisor is considered a “handler” under WPS only if they are conducting handler tasks, which include entering into a treated area that is under a REI to do crop advisor tasks. **Crop advisors are NOT allowed to be early-entry workers.** See Chapter 6: Exemptions and Exceptions for crop advisors.

**The CPHE must ensure that:**

- All pesticides are used consistent with the pesticide product label at all times, including following the WPS requirements when applicable. 170.313(a)
- Each worker and handler receives the protections required by the WPS. 170.313(b)
- Each handler, or worker that conducts early-entry tasks, is at least 18 years of age. 170.313(c)
- Employees do not clean, repair, or adjust pesticide application equipment without completing WPS handler training. 170.313(l)
- Other persons (not employed by the agricultural establishment) do not clean, repair, or adjust pesticide application equipment until they are told:
  - That the equipment may be contaminated with pesticides.
  - About the potentially harmful effects of pesticide exposure.
  - How they are to handle the equipment to limit exposure to pesticides.
  - How to wash themselves and/or their clothes to prevent or remove pesticide residues. 170.313(l)(1)-(4)
- Handlers are given instruction in the safe operation of equipment used to mix, load, transfer, or apply pesticides. 170.313(f)
- Before any equipment is used to mix, load, transfer, or apply pesticides, it must be inspected for leaks, clogged nozzles, worn or damaged parts. Any faulty equipment must be repaired or replaced before use. 170.313(g)
- Handlers that apply pesticides on an agricultural establishment are informed about, or are aware of, the location and description of any treated areas on the agricultural establishment where a REI is in effect, and the restrictions on entering those areas. 170.313(h)
- Records or other information required by WPS are provided for inspection to an employee of EPA or any duly authorized representative of the Federal, State, or Tribal agency responsible for pesticide enforcement. 170.313(m)

## RESPONSIBILITIES OF EMPLOYERS TO INSTRUCT SUPERVISORS OF HANDLERS 170.313(d) & (e)

Even if the CPHE assigns a supervising employee or labor contractor to carry out the duties required by the WPS, the CPHE is ultimately responsible for making sure those duties are performed.

If a CPHE employs anyone to supervise handlers, or hires handlers through a labor contractor, the CPHE must provide sufficient instructions to the supervisors and/or labor contractors to ensure that handlers receive all required WPS protections. The instructions must specify which tasks the labor contractor and/or supervisors are responsible for in order to comply with the WPS.

The CPHE must also require labor contractors and anyone who supervises handlers to provide sufficient information and directions to each handler to ensure that they can comply with the WPS provisions applicable to their duties and tasks as a handler.

The CPHE and their supervisors must clearly understand each of the responsibilities for complying with the WPS and ensure that they are implemented.

## EMERGENCY ASSISTANCE

Employers can “make transportation available” by:

- Taking the employee to the medical care facility, or
- Calling an emergency vehicle, such as an ambulance, or
- Making sure the employee has a ride to the medical care facility with someone else.

If there is reason to believe that a handler employed by a CPHE has experienced a potential pesticide exposure during or within 72 hours after his or her employment, and needs emergency medical treatment, the CPHE must do all of the following promptly after learning of the possible poisoning or injury:



### Provide emergency transportation 170.313(k)(1)

Promptly make emergency transportation available to take the handler from the commercial pesticide handling establishment, or any agricultural establishment on which the handler may be working on behalf of the CPHE, to a medical care facility capable of providing emergency medical treatment to a person exposed to pesticides.

### Provide emergency information 170.313(k)(2)

The CPHE must provide all of the following information to the treating medical personnel:

- Copies of the applicable safety data sheet(s) and the product name(s), EPA registration number(s) and active ingredient(s) for each pesticide product to which the person may have been exposed.
- The circumstances of application or use of the pesticide on the agricultural establishment.
- The circumstances that could have resulted in exposure to the pesticide.

The CPHE has WPS emergency assistance responsibilities for only their handlers. An agricultural employer has no WPS responsibilities for CPHE handlers other than providing information about treated areas under REIs to the CPHE (information exchange).



## TRAINING PESTICIDE HANDLERS

The following section provides an overview of the key requirements for training handlers in accordance with the WPS.



- **There is no grace period for WPS handler training! Handlers must be trained before performing any handling task.**
- All handlers must be trained every 12 months. 170.501(a)
- Employees are only exempt from WPS handler training if the handler is currently:
  - Certified as an applicator of restricted-use pesticides.
  - Certified or licensed as a crop advisor by a program acknowledged as appropriate in writing by EPA or the State or Tribal agency responsible for pesticide enforcement and that includes all the topics required. 170.501(b)
- Only qualified trainers may provide training and they must be present during the entire training program to respond to questions (see below to determine who is qualified to train handlers). 170.501(c)(1) & (4)
- Training must be given orally from written materials or audio-visually using only EPA approved training materials. 170.501(c)
- Training must be presented in a manner employees can understand using a translator if necessary.
- Records of handler training must be kept for 2 years.
- Training records must be provided to employees upon request.
- All training requirements are effective January 2, 2017 EXCEPT the expanded training content which is effective six months after EPA announces the availability of training materials **but not earlier than January 2, 2018.**  
170.501(c)(3)

### What topics must the handler training cover?

Handler training content effective January 2, 2018 is itemized in Appendix B: Worker Protection Standard Criteria. Until January 2, 2018, WPS safety training content remains the same as in the 1995 rule although ***all training materials used after January 2, 2017 must be approved by EPA.*** .

*The expanded content of training topics is the only requirement of handler training that has a delayed implementation date of January 2, 2018 (or no more than 6 months after EPA has published the availability of the training materials but not before January 2, 2018). Handlers will have to be trained on the same 23 topics as workers, with handlers requiring an additional 13 topics (total of 36 topics). Refer to Training Criteria for Handlers in the Appendix B for information on specific training topics.*

**How often must handlers be trained?** 170.501(a)

Once every 12 months (annually), counting from the end of the month in which the previous training was completed.

An attendance roster of the WPS training with all of the training record information meets the recordkeeping requirement.

The EPA does NOT supply or issue WPS training verification cards.

If a handler was trained at another establishment, you may get a copy of the training record and keep as your record of training. If no record is provided, you must provide WPS training and maintain the training record.

WPS training materials that are produced by EPA will bear the official EPA logo and have an EPA publication number. WPS training materials that have been developed by others and approved by EPA will bear an EPA approval number and an EPA statement of approval for use for WPS training.

**Training records** 170.501(d)

Training records for each handler must be kept on the establishment for 2 years from the date of training. The training record must include:

- The handler's printed name and signature,
- The date of training,
- Trainer's name,
- Evidence of the trainer's qualification to train,
- Employer's name, and
- Information to identify which EPA-approved training materials were used for the training. (i.e., the EPA document number or EPA approval number for the materials.)

A copy of the training record is not required to be provided to each handler trained. However, the CPHE must provide a copy of the training record to the trained handler if requested by the employee. Individual training record forms or other methods of maintaining the required training information may be developed and used to meet this requirement.

**Who qualifies to be a WPS trainer?** 170.501(c)(4)

The person who conducts handler training must:

- Currently be a certified applicator of restricted-use pesticides (in any category of certification), or
- Currently be designated as a trainer of certified pesticide applicators or handlers by a Federal, State, or Tribal agency having jurisdiction, or
- Have completed an EPA-approved pesticide safety train-the-trainer program for trainers of handlers.

**How is training to be conducted?** 170.501(c)(1)

Trainers of handlers must:

- Use EPA-approved training materials,
- Present the training orally from written materials or audio visually,
- Present the information in a manner that the trainees can understand, using a translator if necessary,
- Be present at all times during training to respond to trainees' questions, and
- Ensure training quality by providing an environment conducive to training that is reasonably free of distractions.

## EMPLOYER INFORMATION EXCHANGE

Whenever a commercial pesticide handler (including crop advisors) will perform pesticide handling tasks on an agricultural establishment, the CPHE must provide the agricultural employer with certain information concerning pesticide applications being conducted on the agricultural establishment.



The purpose of this exchange of information is to allow the agricultural employer the opportunity to inform workers or handlers of pesticide applications made, restricted areas, and to record and display the appropriate information.

In addition, the agricultural employer must provide certain information to the CPHE about treated areas on the agricultural establishment. The purpose of this exchange of information (and the requirement for the CHPE to pass it along to the handler) is to ensure that a commercial pesticide handler is aware of areas under REIs on an agricultural establishment close to where he/she will be working.

### **Information provided to the commercial pesticide handler employer (CPHE) from an agricultural employer** 170.309(k) & 170.313(h)

- Before a commercial pesticide handler enters an agricultural establishment, the agricultural employer must inform the CPHE about treated areas and any restrictions on the establishment and the CPHE must provide that information to the commercial pesticide handler. While it is the agricultural employer's responsibility to inform the CPHE, the CPHE must obtain this information so it can be communicated to their handler employees.
- The agricultural employer must provide to the CPHE:
  - The specific location and description of any treated areas on the agricultural establishment under a restricted-entry interval that the commercial pesticide handler may be in (or walk within 1/4 mile of), and
  - Any restrictions on entering those areas.

The CPHE must inform their handler of the information provided by the agricultural employer. 170.313 (h)

*Prior to the application, the CPHE and agricultural employer should agree upon a way to communicate any changes that may occur regarding the pesticide application to ensure receipt of the information. This information exchange can be accomplished through electronic media, telephone or other means.*

## Information provided to an agricultural employer from a commercial pesticide handler employer (CPHE) 170.313(i) & (j)

To allow an agricultural employer to inform workers on the establishment about a pesticide application that is, or will be performed, the CPHE (employer of the for-hire/custom applicator) must inform the agricultural employer of the following:

- The specific location and description of the area(s) on the agricultural establishment that are to be treated with a pesticide product,
- Date, start time and estimated end time of the pesticide application,
- Pesticide product name, EPA registration number, and active ingredient(s),
- REI for the pesticide product,
- Whether the pesticide product labeling requires posting, oral notification or both to be conducted by the agricultural employer, and
- Any other specific requirements on the pesticide product labeling concerning protection of workers and other persons during or after application.

### What if the information changes?

The CPHE must provide the agricultural employer with updated information PRIOR to the application when there are any changes to:

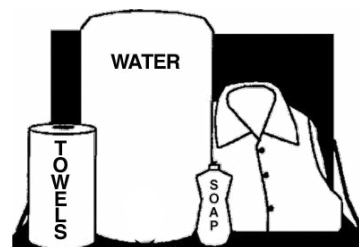
- The location to be treated,
- REI,
- Method of notification,
- Labeling requirements to protect workers/other persons, or
- The start time which will cause it to be earlier than estimated.

If the product information changes or there are other changes to the date, start and end time, the CPHE must provide the updated information to the agricultural employer within 2 hours after completing the application.

Changes to the estimated application end time of less than one hour do not need to be reported to the agricultural employer.

## DECONTAMINATION SUPPLIES FOR HANDLERS

To prevent, or mitigate pesticide exposures, the commercial pesticide handler employer is required to provide supplies to each handler for routine washing to remove pesticide residues, emergency decontamination, and immediate eye-flushing in certain situations. What supplies must be provided, when, where, and for how long are covered in Chapter 4: Additional Handler Employer Requirements.



*It is important for agricultural employers to make arrangements with the CPHE on how they will receive the required pesticide application information so they can take the necessary steps to protect workers and other persons on the establishment during pesticide applications, provide notification of pesticide applications to workers, and provide the application and hazard information at the central display site.*

## RETALIATION AGAINST EMPLOYEES IS PROHIBITED

The commercial pesticide handler employer, their supervisors or others cannot intimidate, threaten, coerce or discriminate against, prevent, discourage, or fire any handler for complying or attempting to comply with the WPS. Additionally, the commercial pesticide handler employer cannot retaliate in any manner if:

- Any handler refuses to participate in any activity that the handler reasonably believes to be in violation of the WPS,
- Any handler has, or is about to report WPS noncompliance to appropriate authorities for enforcement of WPS provisions, or
- Any handler agrees to provide information to the EPA or any duly authorized representative of a Federal, State or Tribal government about WPS compliance, or assists or participates in any manner in an investigation, proceeding, or hearing concerning WPS compliance.

***Retaliation is a serious violation of federal law*** (170.315)

## EMPLOYER RESPONSIBILITIES FOR WPS VIOLATIONS

### **Penalties for noncompliance** 170.317

Commercial pesticide handler employers can be subject to civil and criminal penalties if they do not comply with the federal WPS including all revisions to this rule. Failure to comply is a pesticide misuse violation since the WPS is referenced on applicable pesticide product labeling. Failure to comply with distinct requirements of the WPS can result in independently assessable charges, even if the violative acts occurred during one pesticide application. See Chapter 7: Compliance with the Worker Protection Standard.

### **Employer responsibilities for supervisors or labor contractors assigned to carry out WPS requirements**

The Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) includes provisions that hold commercial pesticide handler employers liable for a WPS penalty if another person employed by or **acting for** them, including supervisors, fails to comply with any WPS requirements. The term “acting for” includes both employment and contractual relationships.



# CHAPTER 6

## EXEMPTIONS AND EXCEPTIONS

**WPS EXEMPTIONS FOR OWNERS OF AGRICULTURAL ESTABLISHMENTS . . . . . 88**  
**WPS EXEMPTIONS AND EXCEPTIONS FOR CROP ADVISORS . . . . 92**

**All WPS requirements are effective January 2, 2017 unless identified for a delayed implementation of January 2, 2018.**

The WPS exempts owners of agricultural establishments from many, but not all, WPS requirements. The WPS also contains specific exemptions for crop advisors. This chapter describes the WPS exemptions and exceptions for owners of agricultural establishments and crop advisors.



## WPS EXEMPTIONS FOR OWNERS OF AGRICULTURAL ESTABLISHMENTS 170.601

The WPS exempts owners of agricultural establishments and members of their immediate family from certain requirements. It is important to note that:



- No agricultural establishments that use WPS-labeled pesticide products are completely exempt from the WPS requirements,
- Owners/agricultural employers must provide full WPS protections for workers and handlers who are not in the owners' immediate families, and
- Owners and their immediate family members that qualify for the exemption must comply with some of the WPS requirements.

### Definition of immediate family 170.305

The 2015 WPS definition of “immediate family” includes: spouse, parents, stepparents, foster parents, father-in-law, mother-in-law, children, stepchildren, foster children, sons-in-law, daughters-in-law, grandparents, grandchildren, brothers, sisters, brothers-in-law, sisters-in-law, aunts, uncles, nieces, nephews, and first cousins. “First cousin” means the child of a parent’s sibling (i.e., the child of an aunt or uncle).

### Agricultural establishments that qualify for the exemption

The exemption allowed in the WPS applies only to the owners and their immediate family members on any agricultural establishment where a majority of the establishment is owned by one or more members of the same immediate family. A “**majority of the establishment**” means that more than 50% of the equity in the establishment is owned by one or more members of the same immediate family as defined above.

*If a majority of an agricultural establishment is owned by one or more members of the same immediate family, and the remaining portion of ownership is owned by members of another immediate family, the owner/immediate family exemption applies to both families and their immediate family members.*



Owners of the agricultural establishment must provide all WPS protections for any employees or other persons on the establishment that are **NOT** members of their immediate family.

**Owner** means any person who has a present possessory interest (e.g., fee, leasehold, rental, or other) in an agricultural establishment.

The agricultural owner exemptions do **NOT** apply if:

- The farm, forest, nursery or enclosed space production facility is rented out or leased out to another person that is not an immediate family member and the owner has no part in the management or profit/loss from it.
- A person that is not an immediate family member is hired to operate a farm, forest, nursery or enclosed space production facility. In this case, the person is an employee of the agricultural establishment and may be considered an agricultural employer, but is not an owner of the agricultural establishment.

#### **Immediate Family Exemption Examples:**

##### **When the exemption applies:**

If Farmer #1 and immediate family members own 51% and Farmer #2 and immediate family members owns 49% of the same farm, all immediate family members of both families qualify for the immediate family exemption.

##### **When the exemption does NOT apply:**

If Farmer #1 and Farmer #2 jointly own 51% (or more) of the farm, but are not related as immediate family, and Farmer #3 and immediate family members own the other 49% or less) of the same farm, **NONE** of the farmers/owners or any of their immediate family members qualify for the owner and immediate family exemption.

- *There is no exemption for “family farms” per se;*
- *The “agricultural establishment” itself is NOT exempt from the WPS;*
- *This exemption only covers the owner and immediate family members.*

*The immediate family exemption is only for owners of agricultural establishments; there is no immediate family exemption for owners of commercial pesticide handling establishments.*

## Exemptions for agricultural establishment owners

Qualifying owner(s) of the agricultural establishment **ARE NOT REQUIRED** to provide the following WPS protections to themselves or members of their immediate family:

- Minimum age for handlers and early-entry workers. 170.309(c)
- Provide emergency assistance. 170.309(f)
- Provide handler training prior to cleaning, repairing or adjusting pesticide application equipment. 170.309(g)
- Display, maintain, and provide access to pesticide safety, pesticide application and hazard information. 170.309(h) & 170.311
- Keep records of pesticide application and hazard information required by WPS. 170.309(h) & 170.311(b)
- Provide instruction in the safe operation of equipment used for mixing, loading, transferring or applying pesticides. 170.309(i)
- Ensure equipment used for mixing, loading, transferring, or applying pesticides is inspected for leaks, clogging, and worn or damaged parts and make repairs as needed prior to use. 170.309(j)
- Provide WPS training for workers and handlers. 170.401 & 170.501
- Ensure knowledge of labeling, application-specific, and establishment-specific information. 170.403 & 170.503
- Provide visual or voice monitoring of applicator when using a pesticide product that has the skull-and-crossbones symbol on the front panel unless required by product label directions. 170.505(c)
- Provide continuous visual or voice contact during fumigant applications. 170.505(d)
- Provide oral and posted notifications of worker entry restrictions (i.e., REIs in effect). 170.409
- Provide instructions on use of personal protective equipment (PPE); inspect, clean, store, and maintain PPE; and take measures to prevent and treat heat-related illness. 170.507(c)-(e)
- Maintain decontamination sites and supplies. 170.411 & 170.509
- Comply with early-entry provisions including minimum age, providing information, maintaining PPE and instructing on its use, instructing on how to prevent, recognize, and treat heat-related illness and providing decontamination supplies. 170.605(a)-(c) and (e)-(j)

Qualifying owners of agricultural establishments and their immediate family members **MUST COMPLY** with all of the following WPS requirements when using WPS-labeled pesticide products:

- Follow WPS requirements for respirator training, medical evaluation, fit testing, and recordkeeping when respirators are required on the pesticide labeling.
- Use the PPE listed on pesticide labeling.
- Keep immediate family members out of the treated area until the restricted-entry interval (REI) expires.
- Ensure pesticide is applied so it does not contact anyone, including members of the immediate family (requirement on label and in WPS).
- Keep everyone, including members of the immediate family, away from the treated area during the application and the application exclusion zone.
- Ensure that any pesticide applied is used in a manner consistent with the product's labeling.
- After January 1, 2018, any handler must **suspend** a pesticide application if a workers or other person is in the AEZ during an application.

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*Agricultural establishment owners and immediate family members are still eligible for the allowable exceptions to PPE, such as using a closed system.*

**The exemption does NOT apply to employees outside of immediate family.**

The owner of an agricultural establishment must always provide all applicable WPS protections to workers and handlers employed by the establishment who are not members of the owner's immediate family. This includes:

- Workers or handlers who are employees receiving a wage, salary or other monetary compensation.
- Persons other than workers or handlers, such as those who clean PPE or repair, clean, or maintain contaminated pesticide handling equipment.

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*Any person performing worker or handler tasks who does not receive a wage, salary or other compensation is not a worker or handler protected by the revised WPS, regardless of family relationship to the owner.*

## WPS EXEMPTIONS AND EXCEPTIONS FOR CROP ADVISORS

*Pesticide distribution as used in the definition of a crop advisor refers to assessing the pesticide coverage, dispersal, dissemination, pattern, etc., to determine if there was appropriate distribution of the material during application.*

*The WPS exemptions for certified crop advisors do NOT apply to non-certified crop advisors, including non-certified crop advisor employees operating under the supervision of a certified crop advisor.*

Under the WPS, a “crop advisor” is a person who assesses pest numbers, damage, pesticide distribution or the status or requirements of agricultural plants. The WPS does not require a “crop advisor” to have any specific certification or training to be recognized as a crop advisor. However, certain WPS exemptions apply **only to certified crop advisors**.

Non-certified crop advisors must be provided with the WPS protections required for worker or handler activities depending on the tasks being conducted by the crop advisor. The crop advisor employer (including the self-employed crop advisor) is responsible for providing all required WPS protections to non-certified crop advisors.

### Important definitions that apply to crop advisors

**Commercial pesticide handling establishment** means any enterprise, other than an agricultural establishment, that provides pesticide handler or **crop advising services** to agricultural establishments.

**Certified Crop Advisor** for the purposes of the WPS includes crop advisors certified as a Professional Crop Consultant by the National Alliance of Independent Crop Consultants (NAICC), or certified or licensed as a crop advisor by a program approved and recognized in writing by the EPA, or a State or Tribal agency responsible for pesticide enforcement. The approved program must cover all of the WPS handler pesticide safety training content listed in Appendix B: Worker Protection Standard Criteria. 170.601(b)

**Handler** means any person, including a self-employed person, who is employed by an agricultural employer or commercial pesticide handler employer **and ...performs tasks as a crop advisor** during any pesticide application or restricted-entry interval, or before the inhalation exposure level listed in the pesticide product labeling has been reached or one of the ventilation criteria established by WPS or the pesticide product labeling has been met.

**Worker** means any person, **including a self-employed person**, who is employed and performs activities directly relating to the production of agricultural plants on an agricultural establishment.

**Hand labor** means any agricultural activity performed by hand or with hand tools that causes a worker to have substantial contact with plants, plant parts, or soil and other surfaces that may contain pesticide residues, except hand labor does not include operating, moving, or repairing irrigation or watering equipment or **performing crop advisor tasks**.

**Certified crop advisor exemptions** 170.601 & 170.607(g)

**Certified crop advisors** are exempt from certain responsibilities under the WPS if the pesticide application is completed and all of the following conditions are met:

- The crop advisor is certified or licensed as a crop advisor by a program acknowledged as appropriate in writing by the EPA, or a State or Tribal agency responsible for pesticide enforcement.
- The certification or licensing program must include pesticide safety training that has all the information required of WPS handlers as applicable depending on the date of training (i.e., WPS handler pesticide safety training content required before January 2, 2018 is different from training content required after January 2, 2018 or 6 months from the date EPA announces the availability of training materials but not before January 2, 2018). See Appendix B: Worker Protection Standard Criteria.
- Only crop advising tasks are performed in the treated area.

**Certified crop advisors** who meet the requirements listed above can determine the appropriate PPE to wear when doing crop advising tasks during the REI. In addition, the employer of the certified crop advisor does not have to provide:

- The routine decontamination supplies and eye-flushing supplies for handlers. 170.509
- Emergency assistance, including providing transportation to a medical care facility and providing certain information to the treating medical personnel. 170.309(f) & 170.313(k)
- Access to the labeling or inform the certified crop advisor about the labeling and application-specific information regarding the safe use of the pesticide. 170.503(a)
- Sufficient information and directions to the certified crop advisor to ensure that they can comply with the WPS. 170.309(e) & 170.313(e)

Employers of crop advisors must provide all required WPS protections to any crop advisor employees who are not certified crop advisors.

*Certified crop advisors can self-determine their PPE when doing crop advising tasks during the REI. They do not have to wear one of the sets of PPE allowed for non-certified crop advisors, which includes handler or early-entry worker PPE required by the labeling or the “universal set” of PPE specified on pg 93.*

The following table summarizes some of the WPS exemptions for certified crop advisors and the corresponding requirements for non-certified crop advisors. There are other WPS requirements that apply to all crop advisors.

**Table 5. WPS Exemptions for Crop Advisors**

| <b>Certified crop advisor*</b>                 | <b>Non-certified crop advisor</b>   |
|--|---|
| Exempt from some provisions of WPS             | No exemption  |
| Self-determine PPE for entry during a REI      | Is considered a handler for entry during an REI<br><br>Must wear PPE required for non-certified crop advisors (see page 93) |
| Exempt from WPS pesticide safety training      | Must have/receive pesticide safety training   |
| Exempt from emergency assistance               | Must be provided emergency assistance   |
| Exempt from decontamination supply requirement | Must have/receive decontamination supplies  |

\* A certified crop advisor organization must have written approval from EPA, State or Tribal agency to qualify for WPS exemptions

**Employers of non-certified crop advisors must provide:**

- Decontamination supplies:
  - 1 gal water/worker for routine washing.
  - 3 gal water/handler for routine washing.
- Pesticide safety training for workers or handlers, depending on whether the crop advisor will enter a treated area during a REI.
- Labeling and application-specific information regarding the safe use of the pesticide before performing any handler activities and access to the labeling.
- PPE, care and maintenance.
- Emergency assistance:
  - Transportation.
  - Provide the following information to treating medical personnel:
    - SDS, pesticide product name(s), EPA registration number(s), and active ingredient(s).
    - How the person was exposed.

**No exemption for entry restrictions during an application**

The certified/licensed crop advisor exemption does not apply when crop advisors or persons under their direct supervision enter an area **before an application is completed**. This applies to all entry restrictions during applications for outdoor production (AEZ) and enclosed space production facilities.

*Crop advisors cannot be an early-entry worker. They must meet the requirements of a handler to enter a treated area while a REI is in effect.*

## **PPE exceptions for crop advisors entering a treated area during a REI** 170.601(b) & 170.607

**Certified crop advisors** can make their own determination for the appropriate PPE for entry into a treated area during a REI and substitute their self-determined set of PPE for the labeling-required PPE **for themselves only**.

**Non-certified crop advisors** performing crop advising tasks during the REI must wear one of the three following sets of PPE, but he/she may choose between any of the following options and select the least restrictive:

- The labeling-required PPE for handlers,
- The labeling-required PPE for early-entry workers, or
- A “universal set” of PPE that is good for conducting any crop advising task during the REI which consists of: coveralls, shoes plus socks, waterproof gloves, and protective eyewear (if the label requires protective eyewear for handlers).

The above PPE options for non-certified crop advisors may only be used when the following conditions are met:

- The application has been completed for at least four hours.
- No entry is allowed until any inhalation exposure level listed on the pesticide product labeling has been reached or any ventilation criteria established by the WPS (Chapter 3, Table 1. Entry Restrictions During Enclosed Space Production Pesticide Applications) or on the pesticide product labeling have been met.
- The non-certified crop advisor who enters a treated area during a REI only performs crop advising tasks while in the treated area.

## **Employees working under the supervision of a certified crop advisor**

The CPHE, agricultural employer, or the certified crop advisors themselves (if self-employed) must provide each employee working under the supervision of a certified crop advisor with all required WPS protections, including the labeling-required PPE while working in a field during a REI, or PPE substitutions allowed for non-certified crop advisors.

**The certified crop advisor exemption is ONLY for a certified crop advisor and does NOT extend to any non-certified crop advisor employees working under their direct supervision.**

*“Coveralls” are loose-fitting one- or two-piece cloth garments that cover the entire body except the head, hands and feet.*

*If a crop advisor is an employee of an agricultural establishment, they are either a handler or worker for that establishment but may use the crop advisor PPE exception when applicable.*

*Self-employed crop advisors are responsible for the same WPS requirements as a commercial pesticide handler establishment.*

## WPS training for non-certified crop advisors

Non-certified crop advisors are **not exempt** from WPS training requirements and they must receive the appropriate WPS handler or worker training as appropriate before performing any crop advising activities in a pesticide treated area.

**Non-certified crop advisors** are “handlers” if they enter treated areas to conduct crop advising activities while a REI is in effect, and therefore need to be trained as handlers.

**Non-certified crop advisors** are “workers” if they only enter treated areas after the REI has ended (but within 30 days after the REI), and therefore would only need to be trained as workers.

***Non-certified crop advisors cannot be early-entry workers.  
They are either workers or handlers.***

## Who is responsible for WPS compliance for certified or non-certified crop advisors?

The responsibility for providing WPS training and other applicable WPS protections to crop advisors depends upon their employment situation.

**Table 6. Responsibility for Providing WPS Protections to Crop Advisors**

| <b>If the crop advisor is a/an:</b>  | <b>The entity responsible for WPS compliance is:</b>   |
|--|--|
| Direct employee of an agricultural establishment (e.g., Blue Sky Farms)                  | The agricultural employer must provide WPS protections   |
| Employee of a commercial pesticide handling establishment (e.g., Acme Crop Services)     | The commercial pesticide handler employer (CPHE) must provide WPS protections                      |
| Self-employed crop advisor (certified or non-certified) (e.g., Joe Solo Crop Consultant) | The crop advisor must self-provide applicable WPS protections, including pesticide safety training |



**CHAPTER 7**  
**COMPLIANCE WITH THE WORKER**  
**PROTECTION STANDARD**

**EMPLOYER RESPONSIBILITIES FOR WPS COMPLIANCE. . . . . 98**  
    Retaliation against employees . . . . . 99  
    Use of a pesticide in a manner inconsistent with its labeling . . . 99  
    Employer responsibilities for supervisors or labor contractors  
    assigned to carry out WPS requirements . . . . . 100  
    WPS recordkeeping responsibilities . . . . . 100  
**AVOIDING DISCRIMINATION IN HIRING . . . . . 101**  
**WPS PENALTIES AND FINES . . . . . 101**  
**EPA'S COMPLIANCE ASSURANCE PROCESS. . . . . 102**

**All WPS requirements are effective January 2, 2017 unless identified for a delayed implementation of January 2, 2018.**



## EMPLOYER RESPONSIBILITIES FOR WPS COMPLIANCE

EPA's goal in revising the WPS regulations is to strengthen protections for the nation's 2 million agricultural workers and their families working on farms, forests, nurseries, and enclosed space production facilities (e.g., greenhouses, mushroom houses, etc.). The 2015 revisions also ensure workers and handlers receive workplace protections comparable to those that are already provided to workers in other industries, while still considering the unique needs of agricultural operations.

This manual provides information to help employers comply with the requirements of the federal WPS for agricultural pesticides as originally published in 1992, amended in 1995, 1996 and 2004, and revised in 2015. It is the employer's responsibility to understand what requirements apply to you and to comply with all those requirements. However, EPA, states and tribes that have the primary responsibility to implement the WPS, want to help owners and employers on agricultural establishments to comply with the regulations. If you have questions, contact your state agency or tribal contact. In most states, the WPS is implemented by the state department of agriculture. You can find [state and tribal WPS contacts](#) at the National Pesticide Information Center (NPIC).

In addition to the state or tribal contact, EPA provides information, training materials, and other tools on its [WPS website](#) and is partnering with other groups to provide assistance and information (see Appendix D: Contacts and Additional Resources). You can download WPS materials at EPA's [WPS training and safety website](#) and at the [Pesticide Educational Resources Collaborative \(PERC\)](#) website. You can order hardcopy WPS materials online at EPA's [National Service Center for Environmental Publications \(NSCEP\)](#) or by telephone at 1-800-490-9198 or fax at 301-604-3408. See links below.

State and Tribal WPS contacts - <http://npic.orst.edu/mlr.html>

EPA's WPS website - <https://www.epa.gov/pesticide-worker-safety/agricultural-worker-protection-standard-wps>

EPA's training and safety website - <https://www.epa.gov/pesticide-worker-safety/training-and-safety-materials-implementing-worker-protection-standard>

PERC website - <http://pesticideresources.org/>

NSCEP website - <https://www.epa.gov/nscep>

While the following topics were discussed in previous chapters, they are included here to emphasize their importance:

- Retaliation against employees,
- Use of a pesticide in a manner inconsistent with the label,
- Employer responsibilities for supervisors or labor contractors assigned to carry out WPS requirements, and
- WPS recordkeeping responsibilities.

This chapter also includes information on avoiding discrimination in hiring, WPS penalties and fines, and a description of EPA's compliance assurance process.

**Retaliation against employees** 170.315

Agricultural employers, commercial pesticide handler employers, or others cannot intimidate, threaten, coerce or discriminate against, prevent, discourage, or fire any worker or handler from complying or attempting to comply with the WPS. Additionally, the agricultural employer cannot retaliate in any manner if:

- Any worker or handler refuses to participate in any activity that the worker or handler reasonably believes to be in violation of the WPS,
- Any worker or handler has, or is about to report WPS noncompliance to appropriate authorities for enforcement of WPS provisions, or
- Any worker or handler agrees to provide information to the EPA or any duly authorized representative of a Federal, State or Tribal agency about WPS compliance, or assists or participates in any manner in an investigation, proceeding, or hearing concerning WPS compliance.

***Retaliation is a serious violation of federal law*** (170.315)

*For example: If the employer or supervisor refuses to provide PPE or tells an early-entry worker to enter a treated field during a REI without providing specific information and PPE and the employee files a complaint to authorities, the employer may not fire or threaten that person in any manner or allow any acts of retaliation by any employee.*

**Use of a pesticide in a manner inconsistent with its labeling** 170.317(a)

Agricultural employers, commercial pesticide handler employers, crop advisors, handlers, owners of agricultural establishments and others can be subject to federal civil and criminal penalties if found in violation of the WPS. Failure to comply with the requirements of the WPS can result in multiple and independent assessable charges, even if the violations occurred during one pesticide application. Because the WPS is referenced on a pesticide product label, users of that pesticide must comply with all of its requirements unless an exception is allowed for in the WPS or there are product-specific directions on the pesticide product labeling that are different from the WPS requirements. Failure to comply is unlawful and considered a pesticide misuse violation under The Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) 12(a)(2)(G) — also known as ***use of a pesticide in a manner inconsistent with its labeling***.

Note that states or tribes may incorporate the WPS by reference (i.e., adopt the federal regulations as their state or tribal regulations) or have their own regulations that are equivalent to, or more stringent than, the federal WPS regulations. Where state, tribal, or other local regulations go beyond or are more stringent than the federal WPS regulations, agricultural employers and commercial pesticide handler employers will have to comply with both federal WPS requirements and all additional state, tribal, or other local requirements.

## Employer responsibilities for supervisors or labor contractors assigned to carry out WPS requirements 170.317(c)

The Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) includes provisions that hold owners and agricultural employers liable for a WPS penalty if another person employed by or acting for them fails to comply with any WPS requirements. This includes labor contractors, farm managers and/or other supervisors in both employment and contractual relationships.

*For example, an agricultural employer may hire a labor contractor to supply workers and to provide pesticide safety training to the workers. If the labor contractor fails to provide appropriate safety training to the workers, the agricultural employer is still ultimately responsible for ensuring compliance with the training requirements.*

## WPS recordkeeping responsibilities 170.309(m) & 170.313(m)

Agricultural employers and commercial pesticide handler employers must provide records or other information required by WPS for inspection and copying upon request by an employee of EPA or a duly authorized representative of a Federal, State or Tribal agency responsible for pesticide enforcement. The required WPS records include:

- Documentation of pesticide safety training for workers or handlers.
- Application information and safety data sheets.
- Documentation of respirator medical evaluations, fit testing and training, if pesticide product labeling requires the use of respirators.

*The WPS requirements for decontamination supplies do NOT preclude employers from having to comply with the OSHA Field Sanitation Standard or other OSHA hazard communication requirements that are intended to protect workers and handlers from agricultural non-pesticide hazards.*  
170.317(d)

## AVOIDING DISCRIMINATION IN HIRING

Refusing to hire an applicant who cannot understand the language or languages in which training is usually provided may constitute discrimination on the basis of national origin. Such discrimination is actionable under Title VII of the Civil Rights Act of 1964 or the Immigration Reform and Control Act of 1986 (IRCA). For more information about your responsibilities under Title VII of the Civil Rights Act of 1964, contact the U.S. Equal Employment Opportunity Commission. For details about IRCA anti-discrimination provisions, contact the Special Counsel for Immigration-Related Unfair Employment Practices, U.S. Department of Justice.

*A language barrier does not exempt an employer from providing training or other responsibilities of the WPS. Even if training is not normally provided in the particular language of a job applicant, or if a translator is not readily available, employers (including agricultural employers or commercial pesticide handler employers) are still responsible to provide the protections afforded under the WPS.*

## WPS PENALTIES AND FINES

Currently, a federal civil penalty of up to \$2,750 per violation may be assessed against private applicators (owners/operators of agricultural establishments) and other persons, and up to \$18,750 per violation against commercial applicators (owners/operators of pesticide handler establishments) and other persons. Since Congress passed the Civil Monetary Penalty Inflation Adjustment Rule under the Debt Collection Improvement Act of 1996, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, civil penalties have been increased due to inflation and Congress' intent on creating deterrence to noncompliance. The next civil penalty adjustment is expected to occur in January 2017.

## EPA'S COMPLIANCE ASSURANCE PROCESS

EPA, state, and some tribes usually monitor compliance with WPS regulations through periodic inspections. Your establishment may be inspected if it was the subject of a complaint or tip, was randomly selected, or was targeted for inspection.

The inspector will gather information to assess whether your establishment is in compliance with the WPS requirements. You should accompany the inspector and ask questions if you are unclear about any WPS requirements.

If violations of law are identified and documented properly as a result of an inspection, pesticide regulatory agencies may initiate a civil or criminal enforcement action. EPA typically initiates a civil enforcement action by filing an administrative complaint with the Office of Administrative Law Judges, pursuant to the procedural rule set forth in 40 CFR, Part 22. EPA may also initiate a criminal action in federal court to address knowing and willful FIFRA violations.

### **Typical types of enforcement actions include the following:**

- A warning letter.
- An administrative order.
- An administrative order with penalty.
- A civil lawsuit.
- Criminal prosecution.

### **The penalty in a given case will depend on many things, including:**

- The number, length, and severity of the violations,
- The economic benefit obtained by the violator, and
- The violator's ability to pay.

## APPENDIX A

# WORKER PROTECTION STANDARD DEFINITIONS

These definitions will help you determine whether you are affected by the WPS.

***The following key terms have very specific meanings in the WPS.*** 170.305  
***Note: These definitions may be different from definitions found in state and other federal laws and regulations.***

**Agricultural employer** - any person who is an owner of, or is responsible for the management or condition of, an agricultural establishment, and who employs any worker or handler.

**Agricultural establishment** - any farm, forest operation, or nursery engaged in the outdoor or enclosed space production of agricultural plants. An establishment that is not primarily agricultural is an agricultural establishment if it produces agricultural plants for transplant or use (in part or their entirety) in another location instead of purchasing the agricultural plants.

**Agricultural plant** - any plant, or part thereof, grown, maintained, or otherwise produced for commercial purposes, including growing, maintaining or otherwise producing plants for sale, trade, for research or experimental purposes, or for use in part or their entirety in another location. Agricultural plant includes, but is not limited to, grains, fruits and vegetables; wood fiber or timber products; flowering and foliage plants and trees; seedlings and transplants; and turf grass produced for sod. Agricultural plant does not include pasture or rangeland used for grazing.

**Application exclusion zone (AEZ)** - the area surrounding the application equipment that must be free of all persons other than appropriately trained and equipped handlers during pesticide applications.

**Chemigation** - the application of pesticides through irrigation systems.

**Closed system** - an engineering control used to protect handlers from pesticide exposure hazards when mixing and loading pesticides.

**Commercial pesticide handler employer (CPHE)** - any person, other than an agricultural employer, who employs any handler to perform handler activities on an agricultural establishment. A labor contractor who does not provide pesticide application services or supervise the performance of handler activities, but merely employs laborers who perform handler activities at the direction of an agricultural or handler employer, is not a commercial pesticide handler employer.

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*The commercial pesticide handling establishment is the business that is owned or operated by the commercial pesticide handler employer.*

**Commercial pesticide handling establishment** – any enterprise, other than an agricultural establishment, that provides pesticide handler or crop advising services to agricultural establishments.

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*The definition of “Crop Advisor” applies to either certified or non-certified crop advisor.*

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*Pesticide distribution as used in the definition of a crop advisor refers to assessing the pesticide coverage, dispersal, dissemination, pattern, etc., to determine if there was appropriate distribution of the material during application.*

**Crop advisor** - any person who is assessing pest numbers or damage, pesticide distribution, or the status or requirements of agricultural plants.

**Designated representative** – any persons designated in writing by a worker or handler to exercise a right of access on behalf of the worker or handler to request and obtain a copy of the pesticide application and hazard information required by 40 CFR 170.309(h) in accordance with 40 CFR 170.311(b).

**Early entry** – entry by a worker into a treated area on the agricultural establishment after a pesticide application is complete, but before any restricted-entry interval for the pesticide has expired.

**Employ** - to obtain, directly or through a labor contractor, the services of a person in exchange for a salary or wages, including piece-rate wages, without regard to who may pay or who may receive the salary or wages. It includes obtaining the services of a self-employed person, an independent contractor, or a person compensated by a third party, except that it does not include an agricultural employer obtaining the services of a handler through a commercial pesticide handler employer or a commercial pesticide handling establishment.

**Enclosed cab** – a cab with a nonporous barrier that totally surrounds the occupant(s) of the cab and prevents dermal contact with pesticides that are being applied outside of the cab.

**Enclosed space production** - production of an agricultural plant indoors or in a structure or space that is covered in whole or in part by any nonporous covering and that is large enough to permit a person to enter.

**Fumigant** – any pesticide that is a vapor or gas, or forms a vapor or gas upon application, and whose pesticidal action is achieved through the gaseous or vapor state.

**Hand labor** – any agricultural activity performed by hand or with hand tools that causes a worker to have substantial contact with plants, plant parts, or soil or other surfaces that may contain pesticide residues, except that hand labor does not include operating, moving, or repairing irrigation or watering equipment or performing crop advisor tasks.

**Handler** – any person, including a self-employed person, who is employed by an agricultural employer or commercial pesticide handler employer and performs any of the following activities:

- Mixing, loading or applying pesticides,
- Disposing of a pesticide,
- Handling opened containers of pesticides, emptying, triple-rinsing, or cleaning pesticide containers according to pesticide product labeling instructions or disposing of pesticide containers that have not been cleaned,
- Acting as a flagger,
- Cleaning, adjusting, handling, or repairing the parts of mixing, loading or application equipment that may contain pesticide residues,

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*The term “Handler” does not include any person who is only handling unopened pesticide containers or pesticide containers that have been emptied and cleaned according to pesticide product labeling instructions.*



- Assisting with the application of pesticides,
- Entering an enclosed space after the application of a pesticide and before the inhalation exposure level listed in the labeling has been reached or one of the ventilation criteria established by WPS or the labeling has been met to operate ventilation equipment, monitor air levels, or adjust or remove coverings used in fumigation,
- Entering a treated area outdoors after application of any soil fumigant during the labeling-specified entry-restricted period to adjust or remove coverings used in fumigation, and
- Performing tasks as a crop advisor during any pesticide application or restricted-entry interval, or before the inhalation exposure level listed in the pesticide product labeling has been reached or one of the ventilation criteria established by WPS or the pesticide product labeling has been met.

**Handler employer** – any person who is self-employed as a handler or who employs any handler.

**Immediate family** – is limited to the spouse, parents, stepparents, foster parents, father-in-law, mother-in-law, children, stepchildren, foster children, sons-in-law, daughters-in-law, grandparents, grandchildren, brothers, sisters, brothers-in-law, sisters-in-law, aunts, uncles, nieces, nephews, and first cousins. “First cousin” means the child of a parent’s sibling, i.e., the child of an aunt or uncle.

**Labor contractor** – a person, other than a commercial pesticide handler, who employs workers or handlers to perform tasks on an agricultural establishment for an agricultural employer or a commercial pesticide handler employer.

**Outdoor production** – production of an agricultural plant in an outside area that is not enclosed or covered in any way that would obstruct the natural airflow.

**Owner** - any person who has a present possessory interest (fee, leasehold, rental, or other) in an agricultural establishment. A person who has both leased such agricultural establishment to another person and granted that same person the right and full authority to manage and govern the use of such agricultural establishment is not an owner for purposes of this part.

**Personal protective equipment (PPE)** – devices and apparel that are worn to protect the body from contact with pesticides or pesticide residues, including, but not limited to, coveralls, chemical-resistant suits, chemical-resistant gloves, chemical-resistant footwear, respirators, chemical-resistant aprons, chemical-resistant headgear, and protective eyewear.

**Restricted-entry interval (REI)** - the time after the end of a pesticide application during which entry into the treated area is restricted.

**Safety data sheet (SDS)** – has the same meaning as the definition at 29 CFR 1910.1200(c).

**Treated area** - any area to which a pesticide is being directed or has been directed.

*The SDS (formerly called a MSDS) is written or printed material concerning a hazardous chemical that is prepared by the manufacturer or the company importing the product describing the physical and chemical properties of the product according to specific guidelines.*

**Use** – as in “to use a pesticide” means any of the following:

- Pre-application activities, including, but not limited to:
- Arranging for the application of the pesticide,
- Mixing and loading the pesticide,
- Making necessary preparations for the application of the pesticide, including responsibilities related to worker notification, training of workers or handlers, providing decontamination supplies, providing pesticide safety information and pesticide application and hazard information, use and care of personal protective equipment, providing emergency assistance, and heat stress management.
- Application of the pesticide.
- Post-application activities intended to reduce the risks of illness and injury resulting from handlers’ and workers’ occupational exposures to pesticide residues during and after the restricted-entry interval, including responsibilities related to worker notification, training of workers or early-entry workers, providing decontamination supplies, providing pesticide safety information and pesticide application and hazard information, use and care of personal protective equipment, providing emergency assistance, and heat stress management.
- Other pesticide-related activities, including, but not limited to, transporting or storing pesticides that have been opened, cleaning equipment, and disposing of excess pesticides, spray mix, equipment wash waters, pesticide containers, and other pesticide containing materials.

**Worker** – any person, including a self-employed person, who is employed and performs activities directly relating to the production of agricultural plants on an agricultural establishment.

**Worker housing area** – any place or area of land on or near an agricultural establishment where housing or space for housing is provided for workers or handlers by an agricultural employer, owner, labor contractor, or any other person responsible for the recruitment or employment of agricultural workers.

## **APPENDIX B**

# **WORKER PROTECTION STANDARD CRITERIA**

|  |            |
|--|------------|
| <b>CRITERIA FOR PESTICIDE SAFETY INFORMATION DISPLAY . . . .</b>             | <b>108</b> |
| <b>CRITERIA TO QUALIFY AS A WPS TRAINER . . . . .</b>                        | <b>109</b> |
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An updated pesticide safety information display poster and updated worker and handler training content will be developed before January 2, 2018.

## CRITERIA FOR PESTICIDE SAFETY INFORMATION DISPLAY

Pesticide safety information can be either the WPS safety information poster developed by EPA, or an equivalent way of providing information on the following safety concepts. Agricultural employers may use the EPA safety posters or display the information in an alternate format that complies with the WPS requirements.

**Before January 2, 2018**, the pesticide safety information consistent with the 2005 WPS does not change. The content of the safety information may contain either the information consistent with the current EPA pesticide safety poster based on the 1995 WPS or the information required by the 2015 WPS revision.

**After January 2, 2018**, the pesticide safety information must include all of the points listed below:

- Avoid getting on the skin or into the body any pesticides that may be on or in plants, soil, irrigation water, tractors, and other equipment, on used personal protective equipment, or drifting from nearby applications.
- Wash before eating, drinking, using chewing gum or tobacco, or using the toilet.
- Wear work clothing that protects the body from pesticide residues (long-sleeved shirts, long pants, shoes and socks, and a hat or scarf).
- Wash or shower with soap and water, shampoo hair, and put on clean clothes after work.
- Wash work clothes separately from other clothes before wearing them again.
- If pesticides are spilled or sprayed on the body use decontamination supplies to wash immediately, or rinse off in the nearest clean water, including springs, streams, lakes or other sources if more readily available than decontamination supplies, and as soon as possible, wash or shower with soap and water, shampoo hair, and change into clean clothes.
- Follow directions about keeping out of treated areas and application exclusion zones.
- Instructions to employees to seek medical attention as soon as possible if they believe they have been poisoned, injured, or made ill by pesticides.
- The name, address, and telephone number of a nearby operating medical care facility capable of providing emergency medical treatment. This information must be clearly identified as emergency medical contact information on the display.
- The name, address, and telephone number of the state or tribal pesticide regulatory agency.

## CRITERIA TO QUALIFY AS A WPS TRAINER

### The person who conducts worker training must:

- Currently be certified as an applicator of restricted-use pesticides (in any category of certification), or
- Currently be designated as a trainer of certified pesticide applicators, handlers or workers, by the EPA, or a State or Tribal agency responsible for pesticide enforcement, or
- Have completed an EPA-approved pesticide safety train-the-trainer program for trainers of workers.

WPS trained handlers may **NOT** train workers unless they meet one of these qualifications for conducting worker training.

### The person who conducts handler training must:

- Currently be certified as an applicator of restricted-use pesticides (in any category of certification), or
- Currently be designated as a trainer of certified pesticide applicators or handlers by EPA, or a State or Tribal agency responsible for pesticide enforcement, or
- Have completed an EPA-approved pesticide safety train-the-trainer program for trainers of handlers.

## CRITERIA FOR WORKER TRAINING

**As of January 2, 2017, all WPS training materials must be approved by EPA.** WPS training materials produced by EPA will bear the official EPA logo and have an EPA publication number. WPS training materials that have been developed by others and approved by EPA will bear an EPA approval number and an EPA statement of approval for use in WPS training.

**Until January 2, 2018:** WPS training materials for workers must include at least the following information:

1. Where and in what form pesticides may be encountered during work activities.
2. Hazards of pesticides resulting from toxicity and exposure, including acute effects, chronic effects, delayed effects, and sensitization.
3. Routes through which pesticides can enter the body.
4. Signs and symptoms of common types of pesticide poisoning.
5. Emergency first aid for pesticide injuries or poisonings.
6. How to obtain emergency medical care.
7. Routine and emergency decontamination procedures, including emergency eyeflushing techniques.
8. Hazards from chemigation and drift.
9. Hazards from pesticide residues on clothing.
10. Warnings about taking pesticides or pesticide containers home.
11. An explanation of the WPS requirements designed to protect workers, including application and entry restrictions, design of the warning sign, posting of warning signs, oral warnings, availability of specific information about applications, and protection against retaliatory acts.

**After January 2, 2018** (or six months after EPA announces the availability of training materials but not earlier than January 2, 2018) the content of worker training materials must be approved by EPA and must include, at a minimum, all of the following topics:

1. The responsibility of agricultural employers to provide workers and handlers with information and protections designed to reduce work-related pesticide exposures and illnesses. This includes:
  - Ensuring workers and handlers have been trained on pesticide safety,
  - Providing pesticide safety and application and hazard information, decontamination supplies and emergency medical assistance,
  - Notifying workers of restrictions during applications and on entering pesticide treated areas, and
  - Informing a worker or handler that they may designate in writing a representative to request access to pesticide application and hazard information.
2. How to recognize and understand the meaning of the posted warning signs used for notifying workers of restrictions on entering pesticide treated areas on the establishment.
3. How to follow directions and/or signs about keeping out of pesticide treated areas subject to a REI and application exclusion zones.
4. Where and in what forms pesticides may be encountered during work activities, and potential sources of pesticide exposure on the agricultural establishment. This includes exposure to pesticide residues that may be on or in plants, soil, tractors, application and chemigation equipment, or used PPE, and that pesticides may drift through the air from nearby applications or be in irrigation water.
5. Potential hazards from toxicity and exposure that pesticides present to workers and their families, including acute and chronic effects, delayed effects, and sensitization.
6. Routes through which pesticides can enter the body.
7. Signs and symptoms of common types of pesticide poisoning.
8. Emergency first aid for pesticide injuries or poisonings.
9. Routine and emergency decontamination procedures, including emergency eye flushing techniques, and if pesticides are spilled or sprayed on the body to use decontamination supplies to wash immediately or rinse off in the nearest clean water, including springs, streams, lakes or other sources if more readily available than decontamination supplies, and as soon as possible, wash or shower with soap and water, shampoo hair, and change into clean clothes.

10. How and when to obtain emergency medical care.
11. When working in pesticide treated areas, wear work clothing that protects the body from pesticide residues and wash hands before eating, drinking, using chewing gum or tobacco, or using the toilet.
12. Wash or shower with soap and water, shampoo hair, and change into clean clothes as soon as possible after working in pesticide treated areas.
13. Potential hazards from pesticide residues on clothing.
14. Wash work clothes before wearing them again and wash them separately from other clothes.
15. Do not take pesticides or pesticide containers used at work to your home.
16. Safety data sheets provide hazard, emergency medical treatment and other information about the pesticides used on the establishment they may come in contact with. The responsibility of agricultural employers to do all of the following:
  - Display safety data sheets for all pesticides used on the establishment.
  - Provide workers and handlers information about the location of the safety data sheets on the establishment.
  - Provide workers and handlers unimpeded access to safety data sheets during normal work hours.
17. The rule prohibits agricultural employers from allowing or directing any worker to mix, load or apply pesticides or assist in the application of pesticides unless the worker has been trained as a handler.
18. The responsibility of agricultural employers to provide specific information to workers before directing them to perform early-entry activities. Workers must be 18 years old to perform early-entry activities.
19. Potential hazards to children and pregnant women from pesticide exposure.
20. Keep children and nonworking family members away from pesticide treated areas.
21. After working in pesticide treated areas, remove work boots or shoes before entering your home, and remove work clothes and wash or shower before physical contact with children or family members.
22. How to report suspected pesticide use violations to the State or Tribal agency responsible for pesticide enforcement.
23. The rule prohibits agricultural employers from intimidating, threatening, coercing, or discriminating against any worker or handler for complying with or attempting to comply with the requirements of this rule, or because the worker or handler provided, caused to be provided or is about to provide information to the employer or the EPA or its agents regarding conduct that the employee reasonably believes violates this part, and/or made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing concerning compliance with this rule.

## CRITERIA FOR HANDLER TRAINING

**As of January 2, 2017, all WPS training materials must be approved by EPA.** WPS training materials produced by EPA will bear the official EPA logo and have an EPA publication number. WPS training materials that have been developed by others and approved by EPA will bear an EPA approval number and an EPA statement of approval for use for WPS training.

**Until January 2, 2018:** WPS training materials for handlers must include at least the following information:

1. Format and meaning of information on pesticide labels and in labeling, including safety information such as precautionary statements about human health hazards.
2. Hazards of pesticides resulting from toxicity and exposure, including acute effects, chronic effects, delayed effects, and sensitization.
3. Routes through which pesticides can enter the body.
4. Signs and symptoms of common types of pesticide poisoning.
5. Emergency first aid for pesticide injuries or poisonings.
6. How to obtain emergency medical care.
7. Routine and emergency decontamination procedures, including emergency eyeflushing techniques.
8. Need for and appropriate use of personal protective equipment.
9. Prevention, recognition, and first aid treatment of heat-related illness.
10. Safety requirements for handling, transporting, storing, and disposing of pesticides, including general procedures for spill cleanup.
11. Environmental concerns such as drift, runoff, and wildlife hazards.
12. Warnings about taking pesticides or pesticide containers home.
13. An explanation of WPS requirements that handler employers must follow for the protection of handlers and others, including the prohibition against applying pesticides in a manner that will cause contact with workers or other persons, the requirement to use personal protective equipment, the provisions for training and decontamination, and the protection against retaliatory acts.

**After January 2, 2018** (or six months after EPA announces the availability of training materials but not earlier than January 2, 2018) the content of handler training materials must be approved by EPA and must include, at a minimum, all of the following topics:

1. The responsibility of agricultural employers to provide workers and handlers with information and protections designed to reduce work-related pesticide exposures and illnesses. This includes:
  - Ensuring workers and handlers have been trained on pesticide safety,
  - Providing pesticide safety and application and hazard information,
  - Providing decontamination supplies and emergency medical assistance,
  - Notifying workers of restrictions during applications and on entering pesticide treated areas, and
  - Informing workers or handlers that they may designate, in writing, a representative to request access to pesticide application and hazard information.



2. How to recognize and understand the meaning of the posted warning signs used for notifying workers of restrictions on entering pesticide treated areas on the establishment.
3. How to follow directions and/or signs about keeping out of pesticide treated areas subject to a REI and application exclusion zones (AEZ).
4. Where and in what forms pesticides may be encountered during work activities, and potential sources of pesticide exposure on the agricultural establishment. This includes exposure to pesticide residues that may be on or in plants, soil, tractors, application and chemigation equipment, or used PPE, and that pesticides may drift through the air from nearby applications or be in irrigation water.
5. Potential hazards from toxicity and exposure that pesticides present to workers, handlers and their families, including acute and chronic effects, delayed effects, and sensitization.
6. Routes through which pesticides can enter the body.
7. Signs and symptoms of common types of pesticide poisoning.
8. Emergency first aid for pesticide injuries or poisonings.
9. Routine and emergency decontamination procedures, including emergency eye flushing techniques, and if pesticides are spilled or sprayed on the body to use decontamination supplies to wash immediately or rinse off in the nearest clean water, including springs, streams, lakes or other sources if more readily available than decontamination supplies, and as soon as possible, wash or shower with soap and water, shampoo hair, and change into clean clothes.
10. How and when to obtain emergency medical care.
11. When working in pesticide treated areas, wear work clothing that protects the body from pesticide residues and wash hands before eating, drinking, using chewing gum or tobacco, or using the toilet.
12. Wash or shower with soap and water, shampoo hair, and change into clean clothes as soon as possible after working in pesticide treated areas.
13. Potential hazards from pesticide residues on clothing.
14. Wash work clothes before wearing them again and wash them separately from other clothes.
15. Do not take pesticides or pesticide containers used at work to your home.
16. Safety data sheets provide hazard, emergency medical treatment and other information about the pesticides used on the establishment they may come in contact with. It is the responsibility of agricultural employers to do all of the following:
  - Display safety data sheets (SDS) for all pesticides used on the establishment.
  - Provide workers and handlers information about the location of the SDS on the establishment.
  - Provide workers and handlers unimpeded access to SDS during normal work hours.
17. The rule prohibits agricultural employers from allowing or directing any worker to mix, load or apply pesticides or assist in the application of pesticides unless the worker has been trained as a handler.
18. The responsibility of agricultural employers to provide specific information to workers before directing them to perform early-entry activities. Workers must be 18 years old to perform early-entry activities.

19. Potential hazards to children and pregnant women from pesticide exposure.
20. Keep children and nonworking family members away from pesticide treated areas.
21. After working in pesticide treated areas, remove work boots or shoes before entering your home, and remove work clothes and wash or shower before physical contact with children or family members.
22. How to report suspected pesticide use violations to the State or Tribal agency responsible for pesticide enforcement.
23. The rule prohibits agricultural employers from intimidating, threatening, coercing, or discriminating against any worker or handler for complying with or attempting to comply with the requirements of this rule, or because the worker or handler provided, caused to be provided or is about to provide information to the employer or the EPA or its agents regarding conduct that the employee reasonably believes violates this part, and/or made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing concerning compliance with this rule.
24. Information on proper application and use of pesticides.
25. Handlers must follow the portions of the labeling applicable to the safe use of the pesticide.
26. Format and meaning of information contained on pesticide labels and in labeling applicable to the safe use of the pesticide.
27. Need for and appropriate use and removal of all PPE.
28. How to recognize, prevent, and provide first aid treatment for heat-related illness.
29. Safety requirements for handling, transporting, storing, and disposing of pesticides, including general procedures for spill cleanup.
30. Environmental concerns, such as drift, runoff, and wildlife hazards.
31. Handlers must not apply pesticides in a manner that results in contact with workers or other persons.
32. The responsibility of handler employers to provide handlers with information and protections designed to reduce work-related pesticide exposures and illnesses. This includes:
  - Providing, cleaning, maintaining, storing, and ensuring proper use of all required PPE,
  - Providing decontamination supplies, and
  - Providing specific information about pesticide use and labeling information.
33. Handlers must suspend a pesticide application if workers or other persons are in the application exclusion zone (AEZ).
34. Handlers must be at least 18 years old.
35. The responsibility of handler employers to ensure handlers have received respirator fit-testing, training and medical evaluation if they are required to wear a respirator by the product labeling.
36. The responsibility of agricultural employers to post treated areas as required by this rule.

## CRITERIA FOR WPS TRAIN-THE-TRAINER PROGRAMS

Persons seeking to become trainers of workers and handlers must be qualified to train. One way to qualify is by completing an EPA approved train-the-trainer (TTT) program. This requirement becomes effective on January 2, 2017.

EPA has prepared a comprehensive guidance document to facilitate the development of WPS train-the-trainer programs that meet EPA requirements. A few of the key points are presented below.

**How to request EPA's approval of a WPS TTT program:** You may request approval for a train-the-trainer program by email. The email submission to EPA should include:

- The requester's name, affiliation, contact information (email, telephone number),
- The materials in English,
- Whether the program covers trainers of workers, handlers, or both,
- Method of delivery (in-person, online, audiovisual, other media),
- Non-English language translations planned & how translation will be verified as accurate, and
- If documentation of trainer's successful completion of the course will be provided, list the contents and, if possible, provide an example form.

All submissions should be sent electronically by email to all of the following:

- Kathy Davis, at [davis.kathy@epa.gov](mailto:davis.kathy@epa.gov)
- Jeanne Kasai at [kasai.jeanne@epa.gov](mailto:kasai.jeanne@epa.gov)
- EPA Regional WPS Coordinator

**Format:** The materials should be in an electronic draft form to allow for editing based on EPA comments.

**Language:** The materials should be submitted in English.

**Training content:** The materials should provide instruction on providing training that covers the worker training content (170.401(c)(3)(i)-(xxiii)) and/or handler training content (170.501(c)(3)(i)-(xiv)) required by the rule as published on November 2, 2015.

**Specific guidance is available on the website at:**

<https://www.epa.gov/pesticide-worker-safety/worker-protection-standard-train-trainer-programs-approval-process-and>

## MEDICAL RECOMMENDATION AND RECORDKEEPING FOR RESPIRATORS

In determining the employee's ability to use a respirator, the handler employer must obtain a written recommendation regarding the employee's ability to use the respirator from the physician or other licensed health care professional (PLHCP).

The recommendation must provide only the following information:

1. Any limitations on respirator use related to the medical condition of the employee, or relating to the workplace conditions in which the respirator will be used, including whether or not the employee is medically able to use the respirator;
2. The need, if any, for follow-up medical evaluations; and
3. Verification that the PLHCP has provided the employee with a copy of the PLHCP's written recommendation.

**A copy of this medical recommendation from the PLHCP fulfills the required WPS record of the medical evaluation.** Maintain the copy of the written determination (medical release) for at least 2 years, or until a subsequent medical evaluation is conducted.

The employer should not see or have a copy of the handler's medical evaluation questionnaire, which contains private medical information.

## OSHA-ACCEPTED RESPIRATOR FIT TESTING PROCEDURES

The OSHA-accepted fit testing procedures are taken directly from the OSHA regulations and due to the length of the document, the procedures in their entirety may be found on the OSHA website at: [www.osha.gov/pls/oshaweb/owadisp.show\\_document?p\\_table=STANDARDS&p\\_id=9780](http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=STANDARDS&p_id=9780)

## RESPIRATOR TRAINING CRITERIA REQUIRED BY WPS

The handler employer must ensure each handler can demonstrate knowledge of at least the following:

1. Why the respirator is necessary and how improper fit, usage, or maintenance can compromise the protective effect of the respirator;
2. What the limitations and capabilities of the respirator are;
3. How to use the respirator effectively in emergency situations, including situations in which the respirator malfunctions;
4. How to inspect, put on and remove, use, and check the seals of the respirator;
5. What the procedures are for maintenance and storage of the respirator; and
6. How to recognize medical signs and symptoms that may limit or prevent the effective use of respirators.

## APPENDIX C

# WORKER PROTECTION STANDARD CHECKLISTS

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## WPS REQUIREMENTS FOR AGRICULTURAL EMPLOYERS OF WORKERS (Chapters 2 & 3)

- Complete WPS worker training before conducting worker tasks.
- Keep records of WPS worker training and provide record to workers if requested.
- Display pesticide **safety** information at the central location and, if applicable, decontamination locations.
- Display pesticide **application and hazard** information at the central location.
- Keep records of the pesticide application and hazard information for 2 yrs.
- Provide establishment-specific information to workers.
- Provide pesticide application and hazard information upon request of worker, medical personnel or designated representative.
- Notify workers of applications – posting, oral warning, or both.
- Provide information (Information Exchange) to Commercial Pesticide Handler Employer (CPHE) (i.e., custom application or crop advisor).
- Provide tasks and instructions to worker supervisors to ensure compliance with WPS requirements.
- Ensure supervisors give directions to workers for WPS compliance.
- Ensure workers do not work on pesticide equipment without receiving handler training. Ensure any individual not directly employed receives information on pesticides before using, cleaning, repairing, etc. pesticide equipment.
- Follow restrictions DURING applications to keep workers and other persons out of certain areas (treated area and AEZ, or enclosed space production facility).
- Follow other restrictions DURING applications (do not contact worker or other person directly or through drift; and applicator must temporarily suspend the application if workers or other persons are in the AEZ or enclosed space production facility).
- Follow restrictions AFTER applications (i.e., REI, label restrictions, etc.).
- Provide decontamination supplies at required locations.
- Make emergency assistance available (information and transportation).
- Have EARLY-ENTRY WORKERS?
  - Minimum age of 18 years old for early-entry workers.
  - Provide clean PPE in operating condition to early-entry workers.
  - Provide information to early-entry workers and comply with applicable early entry exception.



## WPS REQUIREMENTS FOR AGRICULTURAL EMPLOYERS OF HANDLERS

(Chapters 2 & 4)

- Ensure handlers are a minimum of 18 years old.
- Complete WPS handler training before conducting handler tasks.
- Keep records of WPS handler training and provide record to handlers if requested.
- Display pesticide safety information at the central location and, if applicable, decontamination locations.
- Display pesticide **application and hazard** information at the central location.
- Keep records of the pesticide application information and SDSs for 2 yrs.
- Provide establishment-specific information to handlers.
- Provide pesticide application information and SDSs on request of handler, medical personnel or designated representative.
- Provide handler with training/instruction on safe operation of pesticide equipment and all application equipment is inspected daily for leaks, etc. and repaired if necessary.
- Read to, or inform, handlers of pesticide label statements related to human hazards, first aid & safety, in a manner they can understand.
- Have pesticide label available to handler at all times during application.
- Provide tasks and instructions to handler supervisors to ensure compliance with WPS requirements.
- Ensure supervisors give directions to handlers for WPS compliance.
- Provide information (Information Exchange) to Commercial Pesticide Handler Employer (CPHE) (i.e., custom application or crop advisor).
- Ensure handlers do not work on pesticide equipment without receiving handler training. Ensure any individual not directly employed receives information on pesticides before using, cleaning, repairing, etc. pesticide equipment.
- Provide clean PPE in operating condition to handlers.
- Only exceptions to handler PPE are those allowed by WPS.
- Follow restrictions DURING applications to keep workers and other persons out of certain areas (treated area and AEZ or enclosed space production area).
- Follow other restrictions DURING applications (Do not contact workers or other persons directly or through drift; and applicator temporarily suspends the application if workers or other persons are in the AEZ or enclosed space production area).
- Monitor handler every 2 hours visually or by voice communication for applications of pesticides with skull & crossbones on label.
- Fumigant applications in enclosed space production facilities – have a second handler outside of the enclosed space to continuously monitor (voice or visual), or rescue the applicator if necessary. Must have second set of required PPE outside of application space.
- If a respirator is required, follow respirator requirements (i.e., medical evaluation, fit testing, respirator training) and ensure that all records of completion of these tasks kept for 2 years.
- Provide decontamination supplies (and eye flushing supplies, if required) at required locations.
- Make emergency assistance available (information and transportation).



## **WPS REQUIREMENTS FOR THE USE OF RESPIRATORS** (Chapter 4)

- Respirator medical evaluation conducted and a copy of the medical recommendation maintained.
- Respirator fit test conducted annually and records maintained of results.
- Respirator training conducted annually and records maintained.
- Respirator seal check conducted prior to using the respirator.
- Respirator cleaned and maintained according to manufacturer's recommendations.
- Respirator canisters, cartridges or filters meet change-out schedules.





## WPS REQUIREMENTS FOR COMMERCIAL PESTICIDE HANDLER EMPLOYERS (Chapter 5)

- Ensure handlers are a minimum of 18 years old.
- Complete WPS handler training before conducting handler tasks.
- Keep records of WPS handler training and provide record to handlers if requested.
- Provide handler with training/instruction on safe operation of pesticide equipment and all application equipment is inspected daily for leaks, etc. and repaired if necessary.
- Read to, or inform, handlers of pesticide label statements related to human hazards, first aid & safety, in a manner they can understand.
- Have pesticide label available to handler at all times during application.
- Provide tasks and instructions to handler supervisors to ensure compliance with WPS requirements.
- Ensure supervisors give directions to handlers for WPS compliance.
- Provide information (Information Exchange) to agricultural employer (customer) prior to application.
- Give your handler the information about treated areas that the agricultural employer (customer) provided to the CPHE (Information exchange).
- Ensure handlers do not work on pesticide equipment without receiving handler training (ensure any individual not directly employed receives information on pesticides before using, cleaning, repairing, etc. pesticide equipment).
- Provide clean PPE in operating condition to handlers.
- Only exceptions to handler PPE are those allowed by WPS.
- Provide decontamination supplies (and eye flushing supplies if required) at required locations.
- Follow restrictions DURING applications to keep workers and other persons out of certain areas (treated area and AEZ or enclosed space production area).
- Follow relevant restrictions DURING applications (do not contact workers or other persons directly or through drift; and applicator temporarily suspends the application if workers or other persons are in the AEZ or enclosed space production area).
- Monitor handler every 2 hours visually or by voice communication for applications of pesticides with skull & crossbones on label.
- Fumigant applications in enclosed space production facilities – have a second handler outside of the enclosed space to continuously monitor (voice or visual), or rescue the applicator if necessary. Must have second set of required PPE outside of application space.
- If a respirator is required, follow respirator requirements (i.e., medical evaluation, fit testing, respirator training) and ensure that all records of completion of these tasks kept for 2 years.
- Make emergency assistance available (information and transportation).



## **WPS REQUIREMENTS FOR AGRICULTURAL ESTABLISHMENT OWNERS AND IMMEDIATE FAMILY MEMBERS** (Chapter 6)

The owner of an agricultural establishment is EXEMPT from some WPS protections for the agricultural establishment owner and the owner's immediate family members. Agricultural production must be on their establishment.

**Owners of agricultural establishments and their immediate family members MUST COMPLY with all of the following WPS requirements when using WPS-labeled pesticide products:**

- Ensure that any pesticide applied is used in a manner consistent with the product's labeling (i.e., use directions, restrictions, etc.).
- Ensure pesticide is applied so it does not contact anyone, including members of the immediate family (requirement on label and in WPS) and temporarily suspend the application if workers or other persons are in the AEZ or enclosed space area.
- Use the PPE and other work attire listed on pesticide labeling (and are eligible for the allowable exceptions to PPE, such as using a closed system).
- Keep everyone, including members of the immediate family, away from the treated area and the application exclusion zone during the application.
- Keep immediate family members out of the treated area until the REI expires.
- When respirators are required on the pesticide labeling, follow WPS requirements for training, medical evaluation, fit testing, and recordkeeping.

**After January 2, 2018, any handler must suspend a pesticide application if a worker or other person is in the AEZ during the application.**



## WPS EXEMPTIONS FOR AGRICULTURAL ESTABLISHMENT OWNERS AND IMMEDIATE FAMILY MEMBERS (Chapter 6)

The owner of an agricultural establishment is **EXEMPT** from the following WPS protections. These exemptions are for the agricultural establishment owner and the owner's immediate family members. These protections must be provided to any non-family workers and handlers employed by the establishment. Agricultural production must be on their establishment.

### WPS provisions that agricultural establishment owners and immediate family do NOT have to follow are:

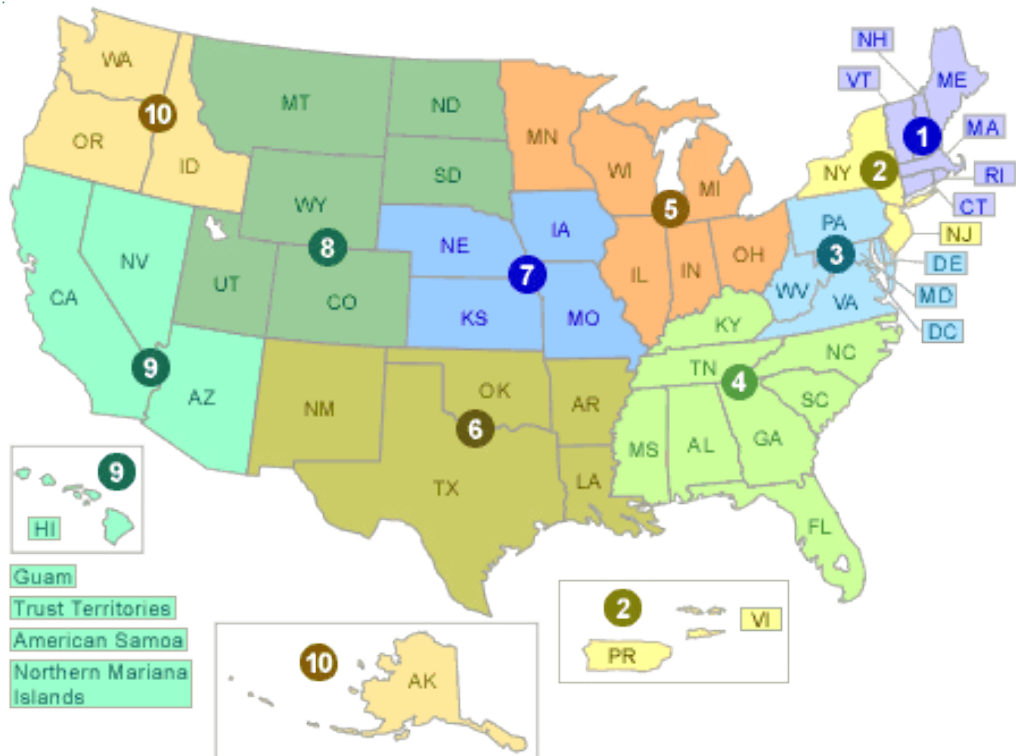
- Minimum age requirement for handlers and early-entry workers.
- Training requirements for workers and handlers and training records.
- Displaying, maintaining, and providing access to pesticide safety, pesticide application and hazard information.
- Oral and posted notifications of worker entry restrictions including posting pesticide safety, application and safety data sheets at a central location.
- Keeping records of pesticide application and hazard information required by WPS.
- Completing handler training before cleaning, repairing, or adjusting pesticide application equipment.
- Providing instruction in the safe operation of equipment used for mixing, loading, transferring or applying pesticide.
- Informing handler of pesticide label statements related to human hazards, first aid and safety, in a manner they can understand.
- Inspecting equipment used for mixing, loading, transferring, or applying pesticides for leaks, clogging, and worn or damaged parts and makes repairs if needed.
- Cleaning, storing and maintaining PPE including providing heat related illness first aid procedures.
- Providing establishment-specific information.
- Providing information before allowing a person not directly employed by the agricultural establishment to clean, repair, or adjust equipment that has been used to mix, load, transfer, or apply pesticides.
- Visual or voice monitoring of applicator when using a pesticide product that has the skull-and-crossbones symbol on the front panel unless required by product label directions.
- Continuous visual or voice contact during fumigant applications.
- Early entry provisions including minimum age, pesticide application information, labeling information, maintaining PPE, and decontamination supplies.
- Maintaining decontamination sites and supplies.
- Providing emergency assistance.



## APPENDIX D

# CONTACTS AND ADDITIONAL RESOURCES

EPA has ten regional offices across the country, each of which is responsible for several states and in some cases, territories or special environmental programs. EPA Regional contacts may be found on the following page, or visit the following website: <https://www.epa.gov/aboutepa/visiting-regional-office>





## CONTACTS

For more information about the Worker Protection Standard, or if you have questions or concerns about pesticides, contact the state or tribal agency responsible for regulating pesticides in your area or the EPA Regional Office nearest you.

### EPA Headquarters

**EPA Office of Pesticide Programs**  
U.S. Environmental Protection Agency  
W.J. Clinton Building, South  
1200 Pennsylvania Ave., NW  
Washington, D.C. 20460  
<http://www.epa.gov/pesticides>

**EPA National Agriculture Compliance Assistance Center**  
300 Minnesota Ave.  
Kansas City, KS 66101  
(888) 663-2155  
<http://www.epa.gov/agriculture>

**EPA Office of Compliance**  
U.S. Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Ave., N.W.  
Washington, D.C. 20460  
(202) 564-2395  
<http://www.epa.gov/compliance>

### EPA Regions

**Region 1 (MA, CT, RI, NH, VT, ME)**  
U.S. Environmental Protection Agency, Region 1  
Pesticides Program (CPT)  
Office of Ecosystem Protection (MC: OES 05-4)  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912  
(888) 372-7341  
<https://www.epa.gov/aboutepa/forms/contacting-epa-new-england>

**Region 2 (NY, NJ, PR, VI)**  
U.S. Environmental Protection Agency, Region 2  
Pesticide Team  
2890 Woodbridge Ave., MS-500  
Edison, NJ 08837  
(877) 251-4575  
<https://www.epa.gov/aboutepa/forms/contact-epa-region-2>

**Region 3 (PA, MD, VA, WV, DE)**  
U.S. Environmental Protection Agency, Region 3  
Pesticides and Asbestos Branch  
Office of Toxics and Pesticides  
1650 Arch St. (Mail Code 3LC42)  
Philadelphia, PA 19103-2029  
(800) 438-2474  
<https://www.epa.gov/aboutepa/forms/contact-epas-region-3-office>

**Region 4 (GA, NC, SC, AL, MS, KY, FL, TN)**  
U.S. Environmental Protection Agency, Region 4  
Pesticides Section, Sam Nunn Atlanta Federal Center  
61 Forsyth St, SW  
Atlanta, GA 30303-8960  
(404) 562-8968  
<https://www.epa.gov/aboutepa/forms/contacting-epa-region-4-southeast>

**Region 5 (IL, MI, MN, IN, OH, WI)**  
U.S. Environmental Protection Agency, Region 5  
Pesticide Program Section (DT-8J)  
77 West Jackson Blvd.  
Chicago, IL 60604  
(312) 353-2192  
<https://www.epa.gov/aboutepa/region-5-experts-list> [search “pesticides”]

**Region 6 (TX, OK, AR, LA, NM)**  
U.S. Environmental Protection Agency, Region 6  
Pesticides Program (6PD-P)  
1445 Ross Ave., Suite 1200  
Dallas, TX 75202-2750  
(800) 887-6063  
(214) 665-2760 (if calling from outside R6)  
<https://www.epa.gov/aboutepa/visiting-epas-region-6-office-dallas>

**Region 7 (MO, KS, IA, NE)**  
U.S. Environmental Protection Agency, Region 7  
Pesticide Branch (PEST)  
11201 Renner Blvd.  
Lenexa, KS 66219  
(913) 551-7033  
<https://www.epa.gov/aboutepa/epa-region-7-midwest>

**Region 8 (CO, MT, ND, SD, UT, WY)**  
U.S. Environmental Protection Agency, Region 8  
Pesticide Program (8P-P3T)  
1595 Wynkoop Street  
Denver, CO 80202-1129  
(800) 227-8917  
<https://www.epa.gov/aboutepa/forms/contact-epas-region-8-office>

**Region 9 (CA, NV, AZ, HI, GU)**  
U.S. Environmental Protection Agency, Region 9  
Pesticides Section (CED-5)  
75 Hawthorne St.  
San Francisco, CA 94105  
(415) 947-8000  
En español: (415) 972-3493  
<https://www.epa.gov/aboutepa/forms/contact-epa-region-9-pacific-southwest>

**Region 10 (WA, OR, ID, AK)**  
U.S. Environmental Protection Agency, Region 10  
Pesticides and Toxics Unit (OCE-101)  
1200 Sixth Avenue, Suite 900  
Seattle, WA 98101-1128  
(800) 424-4372 or (206) 553-1200  
<https://www.epa.gov/aboutepa/forms/contact-epas-region-10-office-seattle>





## ADDITIONAL RESOURCES

### **EPA Office of Pesticide Programs - Worker Safety**

<https://www.epa.gov/pesticide-worker-safety>

### **EPA Worker Protection Standard - Information page**

<https://www.epa.gov/pesticide-worker-safety/agricultural-worker-protection-standard-wps>

### **Code of Federal Regulations - Worker Protection Standard**

<http://www.ecfr.gov/cgi-bin/text-idx?&mc=true&node=pt40.26.170&rgn=div5>

### **EPA Train-the-Trainer Program document**

<https://www.epa.gov/pesticide-worker-safety/worker-protection-standard-train-trainer-programs-approval-process-and>

### **Pesticide Educational Resources Collaborative**

<http://pesticideresources.org/>

### **Directory of State Pesticide Regulators**

### **Association of American Pesticide Control Officials**

<http://aapco.org>

### **Pesticide Educational Resources Collaborative:**

### **Inventory of WPS Resources (sample forms, fact sheets, etc.)**

<http://pesticideresources.org/wps/inventory.html>

### **Pesticide Safety Education Coordinators**

<http://www.ipmcenters.org/contacts/PSEPDiretory.cfm>

### **American Association of Pesticide Safety Educators**

<http://www.aapse.ext.vt.edu>

### **National Pesticide Information Center**

<http://www.npic.orst.edu>

### **Tribal Pesticide Program Council**

<http://www.tppcwebsite.org/membership>

### **OSHA Fit Testing Procedures**

[https://www.osha.gov/pls/oshaweb/owadisp.show\\_document?p\\_table=STANDARDS&p\\_id=9780](https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=STANDARDS&p_id=9780)

### **Laundering Pesticide-Contaminated Work Clothes**

<https://www.ag.ndsu.edu/publications/landing-pages/crops/laundrying-pesticide-work-clothes-ps-1778>

### **OSHA Occupational Heat Exposure Information**

<https://www.osha.gov/SLTC/heatstress>

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