

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.

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.

