

U.S. Environmental Protection Agency

Agricultural Worker Protection Standard (WPS) Application Exclusion Zone (AEZ) Requirements – Comparison between the 2015 WPS AEZ and the 2020 WPS AEZ Revisions

On October 30, 2020, EPA finalized revisions to the existing WPS (40 CFR 170) provisions related to the AEZ requirements. This document provides general guidance to EPA, certifying authorities, agricultural employers, applicators, and the public. This document is not binding on EPA or any outside parties, and EPA may depart from the guidance where circumstances warrant and without prior notice. The full text of the rule, including the final regulatory text, and more information on the changes to the regulation are available at <http://www.regulations.gov> using Docket ID EPA-HQ-OPP-2017-0543.

WPS regulatory citation	2015 WPS AEZ Requirement	2020 WPS AEZ Revision	Purpose and Rationale
<p>1. DEFINITION</p> <p><i>Application Exclusion Zone</i> §170.305</p>	<p><i>Application exclusion zone</i> means the area surrounding the application equipment that must be free of all persons.</p>	<p><i>Application exclusion zone</i> means the area surrounding the point(s) of pesticide discharge from the application equipment that must generally be free of all persons during pesticide applications.</p>	<p>-Clarifies where the AEZ distance begins (point of discharge).</p> <p>-Emphasizes that the AEZ must generally be free of all persons. Adds “generally” because there are a few exemptions and exceptions, such as trained and equipped handlers involved in the application may be within an AEZ during application.</p>
<p>2. CRITERIA FOR SIZE OF AEZ</p> <p>Entry Restrictions associated with outdoor pesticide applications §170.405(a)(1)</p>	<p>Criteria to determine AEZ size of 25 or 100 ft for outdoor production is by:</p> <ul style="list-style-type: none"> • application method, • spray quality (droplet spectrum) defined by droplet size (i.e., volume median diameter (VMD)), and • for ground applications only, by spray height. <p>Resulting in:</p> <ul style="list-style-type: none"> • 100 ft AEZ for outdoor applications made aerially; by air blast applications; ground-based spray using a spray quality (droplet spectrum) of smaller than medium (VMD of less than 294 microns); and as a fumigant, smoke, mist, or fog; and 	<p>Eliminated spray quality (droplet spectrum) and VMD as criterion for determining AEZ size for ground spray applications (as proposed) so that all ground-based spray from a height greater than 12 inches is subject to 25 ft AEZ.</p> <p>Criteria to determine AEZ size of 25 or 100 ft for outdoor production is now determined only by:</p> <ul style="list-style-type: none"> • application method, and • for ground applications only, by spray height. <p>Resulting in:</p> <ul style="list-style-type: none"> • 100 ft AEZ for outdoor applications made aerially; by air blast or air-propelled applications; as a fumigant, smoke, mist or fog; and 	<p>Simplifies criteria for AEZ size for clarity, leading to better understanding of the requirements and improving the ability to comply with and enforce the rule.</p> <p>–“Do Not Contact” is a performance standard that mandates an outcome but not how it is to be achieved. AEZ requirements are supplemental to “Do Not Contact” and intended as a concrete benchmark to help handlers accomplish no-contact objective.</p> <p>-AEZ is one of several mechanisms to protect workers and other persons.</p> <p>-Product-specific risk assessments may result in more stringent protections imposed through the label.</p> <p>- The American Society of Agricultural and Biological Engineers revised their spray quality (i.e., droplet size and/or VMDs) classification system for spray</p>

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	<ul style="list-style-type: none"> • 25 ft AEZ during applications using a spray method not listed above and when sprayed at a height greater than 12 inches from the planting medium using a spray quality (droplet spectrum) of medium or larger (volume median diameter of 294 microns or greater). 	<ul style="list-style-type: none"> • 25 ft AEZ during applications using a spray method not listed for 100 ft AEZ and when sprayed at a height greater than 12 inches from the soil surface or planting medium. 	<p>nozzles, and the WPS spray quality criterion is no longer appropriate. Retaining the WPS spray quality criterion would make it confusing and difficult for applicators to comply.</p> <p>-Cost and burden of a 100-foot AEZ for all ground spray applications would be disproportionate to benefits.</p>
<p>3. LIMITING THE AEZ TO WITHIN THE ESTABLISHMENT'S BOUNDARIES</p> <p>Requirements during applications to protect handlers, workers and other persons – Suspending applications §170.505(b)</p>	<p>Handlers must suspend application if workers or other persons* are in the AEZ – handlers' AEZ responsibilities <u>extend beyond</u> the boundaries of agricultural establishment.</p> <p>*Other than trained and equipped handlers involved in the application.</p>	<p>Handlers must suspend application if workers or other persons are in the AEZ – but limits the <u>handlers' AEZ responsibilities</u> to <u>within the boundaries</u> of the agricultural establishment.</p> <p>Revision effectively limits the AEZ to within the establishment's boundaries.</p>	<p>-Simplifies the requirements so the handlers' responsibilities to suspend applications coincide with areas where the owner has control over people's movement by other persons.</p> <p>-“Do Not Contact” provision remains in place; applies regardless of distance from application equipment and whether persons are on or off the establishment.</p> <p>-Enhanced training since Dec. 2018 has improved understanding and compliance with the “Do Not Contact” provision. These trainings include best application practices intended to prevent contact from pesticide applications, such as:</p> <ul style="list-style-type: none"> -Assessing wind and weather conditions to prevent drift. -Adjust application methods. -Ask persons to move until application is complete. -Adjust area or path of equipment away from persons. <p>-Eliminates confusion and complexity. Owners are already required not to allow or direct persons not involved in the application to enter or remain in the AEZ within the establishment's boundaries. Brings the agricultural employer's and the handlers' responsibilities in line with one another.</p>

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<p>4. EASEMENTS WITHIN AEZ</p> <p>Entry restrictions associated with outdoor pesticide applications §170.405(a)(2)</p> <p>Requirements during applications to protect handlers, workers, and other persons – Suspending applications §170.505(b)</p>	<p>Agricultural employers must not allow or direct anyone* to enter or remain in the treated area or AEZ.</p> <p>Handlers must suspend application if workers or other persons* are in AEZ.</p> <p>*Other than trained and equipped handlers involved in the application.</p>	<p>In addition to the changes noted in 3. LIMITING THE AEZ TO WITHIN THE ESTABLISHMENT’S BOUNDARIES, the rule adds exception for persons not employed by the establishment who are on or in easements within the AEZ so that the handler may to continue with the application.</p> <p>The handler must still comply with the “Do Not Contact” requirement.</p>	<p>Agricultural employers typically have no control over persons on their property subject to an easement.</p> <p>Simplifies requirement so handler can continue applications in areas where the owner has no control of movement by other persons.</p> <p>The handler must not allow pesticides to contact others through spray or by drift. (“Do Not Contact” requirement still applies.) (See discussion on handler responsibilities and training above for “LIMITING THE AEZ TO WITHIN THE ESTABLISHMENT’S BOUNDARIES”)</p>
<p>5. IMMEDIATE FAMILY IN CLOSED SHELTERS WITHIN THE AEZ</p> <p>Entry restrictions associated with outdoor pesticide applications §170.405(a)(2)</p> <p>Requirements during applications to protect handlers, workers, and other persons – Suspending applications §170.505(b)</p> <p>Exemptions for owners of agricultural establishments and their immediate families §171.601</p>	<p>Farm owners and their immediate families are exempt from many but not all WPS requirements. Applications would have to be suspended, or owners/families would have to leave their home/buildings if within the AEZ during application.</p>	<p>- Exempt farm owners when the owner is performing handler activities so that owners’ immediate family may remain inside closed buildings that are within the AEZ.</p> <p>- 3rd party handlers may continue the application with owner’s immediate family in closed building, but only if the owner informs and instructs the handler to do so.</p>	<p>As with other owner and immediate family exemptions, EPA presumes the owner will take the necessary steps to protect his/her family and can best decide whether to remove family from enclosed buildings within the AEZ.</p> <p>EPA did not foresee in 2015 that owners’ families would have to vacate closed shelters when applications are made in the evening or early morning to account for weather conditions or for pollinator protection or other product-specific requirements.</p> <p>-“Do Not Contact” provision remains in place.</p>

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<p>6. RESUMING SUSPENDED APPLICATIONS</p> <p>Requirements during applications to protect handlers, workers, and other persons – Suspending applications §170.505(b)</p>	<p>Handlers must suspend an application when persons* are within the AEZ.</p> <p>*Other than trained and equipped handlers involved in the application.</p>	<p>Handlers must suspend an application when persons* are within the AEZ within the boundaries of the establishment. Handlers may resume an application that was suspended because of persons present in the AEZ when those persons have vacated the AEZ.</p> <p>*Other than trained and equipped handlers involved in the application, persons not employed by the establishment who are on or in easements within the AEZ, and owners and their immediate family within closed buildings</p> <p>See 4. EASEMENTS WITHIN AEZ and 5. IMMEDIATE FAMILY IN CLOSED SHELTERS. The “Do Not Contact” requirement remains in place in these situations.</p>	<p>Clarifies that suspending applications was meant to be temporary until persons not participating in the application have left the AEZ.</p>

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<p>7. HANDLER TRAINING §170.501(c)(3)(xi)</p>	<p>Training point: “Handlers must suspend an application if workers or other persons are in the application exclusion zone.”</p>	<p>Adds to existing training point – handlers must not resume application while workers or other persons remain in the AEZ within the boundaries of the establishment, except for appropriately trained and equipped handlers involved in the application, persons not employed by the establishment in an area subject to an easement that prevents the agricultural employer from temporarily excluding those persons from that area, and the owner(s) of the agricultural establishment and members of their immediate families who remain inside closed buildings, housing, or shelters on the establishment, provided that the owner expressly instructs the handlers that only immediate family members remain inside those closed buildings (etc.) and that the application should proceed despite their presence.</p>	<p>Incorporates all changes above - -handlers must suspend when workers or other persons are in AEZ within the boundaries of the establishment and cannot resume while those persons remain; -exception for persons not employed by the establishment in easements, -exception for owner(s) and their family members to remain in AEZ in enclosed buildings and that owner instructs handlers to proceed despite their presence.</p>