

# **The Federal Worker Protection Standard: A Primer on Its History and Implication of the 2015 Revisions**

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The federal Worker Protection Standard (WPS), in combination with other components of EPA's pesticide regulatory program, is intended to reduce the risks of injury or illness from pesticide use and contact among pesticide applicators, agricultural workers, pesticide handlers, the general public, and other persons who may be on or near agricultural establishments, with particular consideration to minority and low-income populations. The regulation primarily seeks to protect agricultural workers (those who perform hand-labor tasks in pesticide-treated crops, such as harvesting, thinning, pruning) and pesticide handlers (those who mix, load, and apply pesticides) on farms, forests, and nurseries, and in greenhouses. The rule impresses on the employer the responsibility for providing protections to workers and handlers on their establishments and to ensure that they have access to information necessary to protect themselves and others during and after a pesticide application.

The WPS provides a comprehensive collection of pesticide management practices generally applicable to all agricultural pesticide use scenarios in crop production, supplementing the product-specific requirements that appear on pesticide labels. Risk reduction measures may be characterized as information, protection, or mitigation. The regulation requires employers to provide workers and handlers with pesticide safety training, posting and notification of treated areas, and information about the pesticide and on entry restrictions, as well as PPE for workers who enter treated areas after pesticide application to perform crop-related tasks and handlers who mix, load, and apply pesticides.

Under authority of the Federal Insecticide Fungicide Rodenticide Act (FIFRA), EPA initiated measures to protect workers, handlers, at-risk groups, and the general public, and the environment from pesticide exposure in two primary ways.

1. EPA includes specific use instructions and restrictions on individual pesticide product labeling. These instructions and restrictions are the result of EPA's registration and reevaluation processes and are based on the risks of the particular product. Since users must comply with directions for use and restrictions on a product's labeling, EPA uses the labeling to convey mandatory requirements for how the pesticide must be used to protect people and the environment from unreasonable adverse effects of pesticide exposure (e.g., physical drift, runoff).
2. EPA enacted the WPS to expand protections against the risks of agricultural pesticides without making product-specific labeling longer and much more complex. The WPS is a standardized set of requirements for workers, handlers, and their employers that are generally applicable to all agricultural pesticides. The requirements are incorporated onto agricultural pesticide labels by reference, commonly cited as "label requirement by reference."

Thus, the WPS augments product labeling instructions to protect workers and handlers from occupational pesticide exposure. The WPS is incorporated by reference on certain pesticide product labeling by means of a statement in the agricultural use box. (Specifically, "Use this product only in accordance with its labeling and with the Worker Protection Standard, 40 CFR part 170.")

The existing WPS was published in 1992 and implemented in 1995. Since implementation, EPA has sought to ensure that the regulation provides the intended protections and to identify necessary improvements. The 2015 revisions to the amended 1992 WPS are expected to achieve an overall reduction in incidents of unsafe pesticide exposure and to improve the occupational health of the

nation's agricultural workers and pesticide handlers. The 2015 revisions considered comments received during the public comment process, as well as information gleaned from reported incidents of pesticide-related illness or injury.

Among other things, EPA expects the changes to:

- Improve effectiveness of worker and handler training.
- Improve protections to workers during REIs (Restricted Entry Interval).
- Improve protections for workers during and after pesticide applications.
- Expand the information provided to workers, thus improving hazard communication protections.
- Expand the content of pesticide safety information displayed to improve the display's effectiveness.
- Improve the protections for crop advisor employees.
- Increase the amounts of decontamination water available, thus improving the effectiveness of the decontamination process.
- Improve the emergency response when workers or handlers experience pesticide exposures.
- Improve the organization of the WPS, thus making it easier for employers to understand and comply with the rule.
- Clarify that workers and handlers are covered by the rule only if they are employed, directly or indirectly, by the agricultural establishment (i.e., receiving a salary or wage).
- Protect adolescents by establishing a minimum age for handlers and for workers who enter a treated area during an REI, but adding an exemption to the minimum age requirement for adolescents who work on an establishment owned by an immediate family member.
- Improve flexibility for small farmers and members of their immediate family by expanding the definition of immediate family members to be more inclusive and retaining the exemptions from almost all WPS requirements for owners and their immediate family members.

Major revisions incorporated into the 2015 regulation include:

- Annual mandatory training to inform farmworkers on the required protections. This increases the likelihood that protections will be followed. Currently, training is only once every 5 years.
- Expanded training includes instructions to reduce take-home exposure from pesticides on work clothing and other safety topics.
- First-time ever minimum age requirement: Children under 18 are prohibited from handling pesticides. (An exemption applies to owners and their immediate family members.) (NOTE: The Fair Labor Standards Act [FLSA] establishes a minimum age of 16 for youth engaged in occupations deemed hazardous by the Secretary of Labor. This includes persons handling toxicity category I and II pesticides in agriculture.)
- Expanded mandatory posting of no-entry signs for the most hazardous pesticides. The signs prohibit entry into pesticide-treated fields until residues decline to a safe level.
- New no-entry application-exclusion zones up to 100 feet surrounding pesticide application equipment will protect workers and others from exposure to pesticide overspray.
- Requirement to provide more than one way for farmworkers and their representatives to gain access to pesticide application information and safety data sheets – either centrally-posted or by requesting records.
- Mandatory record-keeping to improve states' ability to follow up on pesticide violations and enforce compliance. Records of application-specific pesticide information, as well as farmworker training, must be kept for two years.
- Anti-retaliation provisions are comparable to U.S. Department of Labor's (DOL's) requirements.

- Changes in personal protective equipment will be consistent with the DOL's Occupational Safety & Health Administration standards for ensuring respirators are effective, including fit test, medical evaluation, and training.
- Specific amounts of water to be used for routine washing, emergency eye flushing, and other decontamination, including eye wash systems for handlers at pesticide mixing/loading sites.
- Continue the exemption for farm owners and their immediate family with an expanded definition of immediate family.

The following table summarizes key provisions between the 1992 WPS regulation and the 2015 revisions. Additional information is available at <http://www2.epa.gov/pesticide-worker-safety>.

# AGRICULTURAL WORKER PROTECTION STANDARD (WPS) COMPARISON OF THE NEW PROTECTIONS TO THE EXISTING PROTECTIONS

September 2015

US EPA



This table summarizes key provisions in the EPA's current WPS regulation and the 2015 revisions. It does not cover all of the details in the rule nor does it include all of the information needed to comply with the regulation.

Requirement	New 2015 Provision	Current Provision
<b>Training</b>		
Frequency of full training for workers and handlers	Annual training.	Every 5 years.
Training grace period for worker training	No grace period. Workers must be trained before they work in an area where a pesticide has been used or a restricted-entry interval has been in effect in the past 30 days.	5-day grace period with abbreviated training.
Qualifications for trainers of workers	Certified applicators, State/Tribal/Federal approved trainers, and persons who have completed an EPA-approved train-the-trainer course.	Handlers, certified applicators, State/Tribal/Federal approved trainers, and persons completing an approved train-the-trainer course.
Expand training content for workers and handlers	Keep existing and expand content. Final worker training topics expanded to 23 items, and handler training expanded to 36 items. Training on new content not required until 2 years from effective date of final rule.	11 basic training items for workers and 13 items for handlers. Minimal training on reducing take-home exposure, reporting use violations, and prohibition from employer retaliation.
Recordkeeping of training	Keep records for 2 years. Give copy of record of training to workers and handlers upon their request.	No recordkeeping of training. Voluntary verification card system.
<b>Hazard Communication</b>		
Content and availability of hazard communications materials	Employer must display application information and safety data sheets (SDSs) at central location within 24 hours of end of application and before workers enter that treated area. Display both for 30 days after REI expires. Keep application information and SDS for 2 years from end of REI and make available to workers, handlers, designated representatives (identified in writing) or treating medical personnel upon request.	Employer must display application-specific information at a central location before application occurs, or, if no workers or handlers are on the establishment, before next period workers/handlers are on establishment. Keep posted for 30 days after REI expires. No recordkeeping.

Requirement	New 2015 Provision	Current Provision
<b>Notification of Treated Areas</b>		
Notification of treated areas under an REI	Post warning sign if REI is greater than 48 hours (outdoor applications) or 4 hours (enclosed space applications (e.g., greenhouses)), otherwise option for posting or oral notification unless label requires both.	Farms, forests and nurseries: Post warning sign or give oral notification for any REI, unless label requires both. Greenhouses: all applications require signs to be posted.
Warning sign	Same as current sign.	Red circle containing stern-faced man with upraised hand. At the top: "DANGER" and "PELIGRO", "PESTICIDES", "PESTICIDAS". At the bottom: "KEEP OUT", "NO ENTRE."
Information exchange between handler employer and agricultural employer	Agricultural employer must provide application information on treated areas the handler may be in (or walk within ¼ mile of). Handler employer must notify before the application begins for certain changes and within 2 hours of end of application for most other changes, unless only change was less than 1 hour difference in application time.	Agricultural employer must provide application information on treated areas the handler may be in (or walk within ¼ mile of). Handler employer must notify of changes to application plans before application begins.
<b>Minimum Age</b>		
Minimum age for handlers and early-entry workers	Handlers and early-entry workers must be at least 18 years old. (Members of owner's immediate family are exempt from this and most other requirements of the WPS.)	No minimum age.
<b>Entry Restrictions During Application for Outdoor Production</b>		
Ag employers must prohibit entry in areas during application for outdoor production. (Restrictions for greenhouses/enclosed space production are different.)	All outdoor production: No entry into treated area or the application exclusion zone, which is an area up to 100 feet area around the application equipment during pesticide application on farms, forests and nurseries. Size of the application exclusion zone depends on type of application. Revised descriptions of application methods.	Farms and forests: No entry into treated area. Nurseries: No entry into treated area or an area up to 100 feet around the treated area, where the size of the additional area depends on type of application.
<b>Handler Suspend Application</b>		
Handler (applicator) must suspend application in certain circumstances	Handler must apply pesticides so as not to contact workers or other persons. Handler must suspend application if a worker or other person is in the application exclusion zone, an area up to 100 feet around the application equipment.	Handler must apply pesticides so as not to contact workers or other persons. No specific requirement to suspend applications.
<b>Exemptions and Exceptions</b>		
Exemption for certified crop advisors and their employees	Only certified crop advisors are exempt from labeling PPE and WPS requirements as specified in exemption. Certified crop advisor employees must use label- required PPE while working in a field during an REI, and employer must provide all required WPS protections, or rely on the PPE substitutions allowed under the crop advisors.	Certified crop advisor chooses PPE for themselves and their employees working under their direct supervision in a field during an REI. Also exempted from providing decontamination supplies and emergency assistance for themselves and employees.
Exceptions to REIs for early entry workers – notification requirements	Notify early-entry workers of application specifics, tasks to be performed, conditions of the early-entry exception, and hazard information from the pesticide label.	Inform early-entry workers of hazard information from the pesticide label.
<b>Basic Pesticide Safety Information</b>		
Display of pesticide safety information	Display pesticide safety information at a central location and at sites where decontamination supplies are located, if the decontamination supplies are at a permanent site or at a location with 11 or more workers or handlers.	Display a safety poster at central location.

Requirement	New 2015 Provision	Current Provision
Content of pesticide safety information	Information can be displayed in any format (doesn't have to be a poster); keep the 7 concepts about preventing pesticides from entering your body; delete the point that there are federal rules to protect workers and handlers; add instructions for employees to seek medical attention as soon as possible if they have been poisoned, injured or made ill by pesticides; add name, address and telephone number of state or tribal pesticide regulatory authority; revise "emergency medical facility" to " <i>a nearby</i> operating medical care facility." New content for safety information display not required until 2 years from effective date of final rule.	The safety poster must include 7 concepts about preventing pesticides from entering your body; the point that there are federal rules to protect workers and handlers; and the name, address and phone number of the nearest emergency medical care facility.
<b>Personal Protective Equipment</b>		
Respirators	Employer must provide respirator and fit testing, training, and medical evaluation that conforms to OSHA standards for any handler required to wear any respirator by the labeling. Require recordkeeping of completion of fit test, training, and medical evaluation.	Employer must provide respirator listed on label and ensure it fits. No recordkeeping required.
Definition of chemical-resistant	Same as current definition.	Made of a material that allows no measurable movement of the pesticide through the material during use.
PPE exception for closed systems	Exceptions to the labeling-specified PPE allowed for handlers when using closed systems. A closed system must meet a broad performance-based standard and basic operating standards (written operating instructions and training of handlers in use of the system) must be provided.	Exceptions to the labeling-specified PPE allowed for handlers when using closed systems. No specific criteria for closed systems.
PPE exception for crop advisors and their employees	Crop advisors and their employees entering treated areas while a REI is in effect to conduct crop-advisor tasks may wear a standard set of PPE (coveralls, shoes plus socks and chemical-resistant gloves made of any waterproof material, and eye protection if the labeling of the pesticide product applied requires protective eyewear for handlers, as outlined in rule), <i>OR</i> the PPE specified on the pesticide labeling for early-entry activities instead of the PPE specified on the pesticide labeling for handling activities, provided certain conditions are met. (See exemption for certified crop advisor.)	Crop advisors and their employees entering treated areas while a REI is in effect to conduct crop-advisor tasks may wear the PPE specified on the pesticide labeling for early-entry activities instead of the PPE specified on the pesticide labeling for handling activities, provided certain conditions are met. (See exemption for certified crop advisor.)
PPE exception from eyewear for pilots in open cockpits	If product label requires eye protection, pilots in open cockpits may wear a helmet with lowered face shield instead of label-required eye protection.	If product label requires eye protection, pilots in open cockpits may wear visor instead of label-required eye protection.
PPE exception from gloves for pilots in enclosed cockpits	Same as current requirement.	Gloves are optional when entering and leaving aircraft unless required by product label.
PPE exception for enclosed cabs	Maintain exception for dermal PPE as in existing rule with same conditions, but handlers in enclosed cabs must wear the labeling-specified respiratory protection except when the only labeling-specified respiratory protection is a particulate filtering facepiece respirator (NIOSH approval number prefix TC-84A), previously called a dust/mist filtering respirator.	Exceptions to the labeling-specified PPE are allowed when handling tasks are performed from inside an enclosed cab that meets the specifications defined in the rule and certain conditions are met. Exceptions to the labeling-required respiratory protection are allowed only if the cab has been certified by the manufacturer to provide respiratory protection equivalent to the respiratory protection required by the pesticide labeling for handling.

Requirement	New 2015 Provision	Current Provision
<b>Decontamination Supplies</b>		
Quantity of water	Provide 1 gallon for each worker and 3 gallons for each handler and each early entry worker as measured at beginning of workers' or handlers' work period.	Provide enough water for routine washing and emergency eye flushing for workers and handlers. For handlers, also provide enough to wash entire body in emergency.
Use of natural waters	Must provide water for decontamination. There is no reference to, or prohibition from, using natural waters in addition to decontamination water provided. Workers and handlers are trained to use any nearest clean water source in case of emergency.	Must provide water for decontamination. May use natural waters in addition to water provided for decontamination.
Eye wash for handlers	Provide a system capable of delivering 0.4 gallons/minute for 15 minutes, or 6 gallons of water able to flow gently for about 15 minutes at a mix/load site if handlers use products requiring eye protection or use a pressurized closed system. One pint of water in a portable container must be available to each handler applying pesticides if eye protection is required.	Provide enough water for emergency eye flushing. One pint of water in a portable container must be available to each handler if eye protection is required.
<b>Emergency Assistance</b>		
Emergency Assistance	Provide prompt transportation to medical facility. Promptly provide the SDS, product information (name, EPA Reg No and active ingredient) and circumstances of exposure to treating medical personnel.	Provide prompt transportation to medical facility and provide any obtainable information about the product, antidote, first aid, and circumstances of exposure to the worker/handler or treating medical personnel.
<b>Exemptions and Exceptions</b>		
Exemption for certified crop advisors and their employees	Only certified crop advisors are exempt from labeling PPE and WPS requirements as specified in exemption. Certified crop advisor employees must use label- required PPE while working in a field during an REI, and employer must provide all required WPS protections, or rely on the PPE substitutions allowed under the crop advisors.	Certified crop advisor chooses PPE for themselves and their employees working under their direct supervision in a field during an REI. Also exempted from providing decontamination supplies and emergency assistance for themselves and employees.
Exceptions to REIs for early entry workers – notification requirements	Notify early-entry workers of application specifics, tasks to be performed, conditions of the early-entry exception, and hazard information from the pesticide label.	Inform early-entry workers of hazard information from the pesticide label.
Immediate Family	Expand to also include all in-laws, grandparents, grandchildren, aunts, uncles, nieces, nephews and first cousins.	Includes spouse, parents, stepparents, foster parents, children, stepchildren, foster children, brothers, and sisters.
Enclosed space production	New definition: enclosed space production that is 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.	Greenhouse means an operation inside any structure or space that is enclosed with nonporous covering and that is of sufficient size to permit worker entry.
Employ	Employ means 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.	No definition of "employ" in existing rule. Definitions of "agricultural employer" and "handler employer" covered aspects of what types of employment covered.

For more information about the WPS changes:

EPA's Occupational Pesticide Safety and Health Website: <http://www2.epa.gov/pesticide-worker-safety>

EPA's WPS Website: <http://www2.epa.gov/pesticide-worker-safety/revisions-worker-protection-standard>