Revised Worker Protection Standard Regulation (Rev. 2015)

What you need to know....

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The WPS was implemented in 1995 to protect agricultural workers from pesticide exposures in the agricultural workplace.

It’s requirements are based on potential exposures to those engaged in the application of pesticides – Ag Handlers, and those who may be exposed to pesticide residues when then work on an ag establishment – Ag Workers.
EPA’s Worker Protection Standard - WPS

The WPS applies to agricultural establishments engaged in the production of agricultural plants.

The worker protection requirements of the WPS are to be fulfilled by agricultural employers to protect their employees.

The Revised WPS (2015) introduces some new and more rigorous safety requirements. With this comes some new terminology that you must understand.
The WPS is designed to

Inform

❖ Training
❖ Pesticide safety information
❖ Notification of pesticide applications
❖ Information exchange
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げる Restricted entry intervals - REIs
げる Personal protective equipment - PPE
げる Application exclusion zones - AEZs
げる Suspend applications
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- Personal protective equipment - PPE
- Application exclusion zones – AEZs *new*
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Mitigate

❖ Routine decontamination supplies
❖ Emergency eyewash
❖ Emergency assistance
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Who is responsible for providing WPS protections?

- **Agricultural employers** on crop-producing agricultural establishments
- **Commercial pesticide handling establishment employers**
WPS 101: Scope and Applicability

Who is responsible for providing WPS protections?

- Agricultural employers on crop-producing agricultural establishments
- Commercial pesticide handling establishment employers

Who is protected?

- Workers – people employed to perform work activities related to production of agricultural plants
- Pesticide handlers – people employed to mix, load or apply pesticides for use on agricultural establishments in the production of agricultural plants
- Other persons during pesticide applications
KEY POINT: NO changes to Worker Protection Pesticide Label Statements (Part 156 Subpart K)

- No label changes needed to implement new WPS revisions
- No change in scope of products covered by the rule – only agricultural use pesticides (for crop uses) covered
- Current WPS labeling requirements remain the same
- Regulatory focus should be on WPS compliance monitoring on ag use inspections for WPS use requirements rather than marketplace or producer establishment inspections
Under *FIFRA* (section 12(a)(2)(G)), it is unlawful for any person “to use any registered pesticide in a manner inconsistent with its labeling” when this part is referenced on a label. Users must comply with all of its requirements, except those that are inconsistent with product-specific instructions on the pesticide product labeling.

*FIFRA: Federal Insecticide Fungicide and Rodenticide Act*
When do you have to comply with the Worker Protection Regulation?

Ag Use Requirements Box on product states “Use this product only in accordance with its Labeling and with the Worker Protection Standard...”


**Revised WPS Compliance Deadlines**

**January 2, 2017:**

- Annual training for workers and handlers. *There is no longer a no grace period.*
- New qualifications for trainers
- Training record keeping *(This was always a good idea!)*
- Minimum age for handlers and early entry workers (18)
- Medical evaluation, fit testing and training *before* use of respirators *(Product labels calling for respiratory protection)*
- Amounts of water available for decontamination & eyewash
- All requirements *EXCEPT FOR:*
Revised WPS Compliance Deadlines

January 2, 2018:

- Handler suspend applications if a person is in the application exclusion zone [40CFR§170.505(b)]
- Additional training content for workers and handlers [40CFR§170.401(c)(3); 40CFR§170.501(c)(3)]
- New content for safety poster [40CFR§170.311(a)(3)]
Changes to WPS Rule Structure

40 CFR 170
## Current WPS Rule Structure

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<td><strong>Subpart A: General Provisions</strong></td>
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<td>Scope &amp; purpose; definitions; compliance dates; general duties &amp; prohibited actions; violations</td>
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<td><strong>Subpart B: Standard for Workers</strong></td>
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<tr>
<td>Applicability, exceptions &amp; exemptions; restrictions during &amp; after application; notification; training; post pesticide safety &amp; pesticide application info; decontamination; emergency assistance</td>
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<td><strong>Subpart C: Standard for Handlers</strong></td>
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<td>Applicability, exceptions &amp; exemptions; restrictions during application; info exchange; training; knowledge of labeling &amp; site-specific info; post pesticide safety info; PPE; decontamination; emergency assistance</td>
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# Revised WPS Rule Structure

## Description

<table>
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<tr>
<th>Subpart D: General Provisions</th>
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<tr>
<td>Scope &amp; purpose; applicability; definitions; employer duties (including emergency assistance); display pesticide safety, application &amp; hazard info; prohibited actions; violations</td>
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<th>Subpart E: Requirements to Protect Workers</th>
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<td>Training; establishment-specific info; restrictions during &amp; after application; notification; decontamination</td>
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<th>Subpart F: Requirements to Protect Handlers</th>
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<td>Training; knowledge of labeling &amp; establishment-specific info; requirements during applications; PPE; decontamination &amp; eye flushing supplies</td>
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<tr>
<th>Subpart G: Exemptions, Exceptions &amp; Equivalency</th>
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<td>Exemptions; early-entry exceptions; exceptions to PPE; equivalency requests</td>
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Implementation Dates
170.2 Implementation and expiration dates.

(a) Implementation date. Beginning January 2, 2017 requirements of §170.301 through §170.609 of this part shall apply to any pesticide product that bears the statement “Use this product only in accordance with its labeling and with the Worker Protection Standard, 40 CFR part 170”.

(b) Expiration date. Sections 170.1 through 170.260 of this part shall expire on, and will no longer be effective after January 2, 2017 – the “old” WPS requirements.
Implementation Dates: 2018

- Sections 170.311(a)(3), 170.401(c)(3), 170.501(c)(3), and 170.505(b):
  - The implementation date for these provisions is delayed until January 2, 2018
  - The implementation date for ALL other WPS requirements is January 2, 2017

- Requirements in listed sections:
  - Revised content of pesticide safety information
  - New content for worker & handler training
  - Handler must suspend application if worker(s) or other person(s) is in Application Exclusion Zone (AEZ)
WPS 101: Scope and Applicability

Keys to applicability of the WPS

- Use of a WPS-labeled pesticide product on an “agricultural establishment” directly related to the production of an “agricultural plant”

- Employment of workers or handlers

- Definitions of “agricultural establishment,” “agricultural plant,” and “employ” apply (these are important definitions to establishing the scope of rule)
The WPS does not apply on agricultural establishments when pesticides are used as follows:

- 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 (think Zika) and Mediterranean fruit fly eradication programs)

- On plants other than agricultural plants, which may include plants in home fruit and vegetable gardens and home greenhouses, and permanent plantings for ornamental purposes, such as plants that are in ornamental gardens, parks, public or private landscaping, lawns or other grounds that are intended only for aesthetic purposes

- For control of vertebrate pests, unless directly related to the production of an agricultural plant
WPS Exceptions to Applicability

170.303(b)

The WPS does not apply on agricultural establishments when pesticides are used as follows:

- As attractants or repellents in traps
- On the harvested portions of agricultural plants or on harvested timber (any post-harvest)
- For research uses of unregistered pesticides.
- On pasture and rangeland where the forage will not be harvested for hay
- In a manner not directly related to the production of agricultural plants, including, but not limited to livestock pest control, structural pest control and control of vegetation in non-crop areas
New Definitions....
Definitions

Key Definitions & Revisions

☐ Agricultural establishment and agricultural plant
☐ Application exclusion zone (AEZ)
☐ Commercial pesticide handler employer
☐ Designated representative
☐ Employ
☐ ‘Enclosed space production’ and ‘outdoor production’
☐ Immediate family
☐ Safety data sheet-SDS – formerly called MSDSs
☐ Use - as in “to use a pesticide”
• Application exclusion zone – a new concept

  – *Application exclusion zone* means the area surrounding the application equipment that must be free of all persons other than appropriately trained and equipped handlers during pesticide applications.
Application Exclusion Zone in Outdoor Production

When the application is concluded, the AEZ no longer exists.
AEZs in Outdoor Production

170.405(a)(1)

• 100 foot AEZ
  – Applied aerially, by air blast or with a spray quality smaller than medium
  – Applied as a fumigant, smoke, mist or fog

• 25 foot AEZ
  – Applied other than above & sprayed from a height of >12 inches from planting medium with spray quality of medium or larger

• No AEZ
  – Applied otherwise
**Protections During Applications in Outdoor Production**

🔗 **Ag Employer’s AEZ responsibilities:**

- **Requirement** (170.405(a)(2)): During an application, the agricultural employer must keep workers and other persons out of the treated area and AEZ that is WITHIN the boundary of the establishment owner’s property
  - Who is responsible for compliance: **Ag employer**
  - Who is protected: Workers & other persons (besides protected handlers)
  - Is the protection limited to the boundaries of the ag establishment?
    **Yes**  
    **Effective Date for AEZ compliance 1/2/2017**
New Protections During Applications in Outdoor Production

Handler’s AEZ responsibilities:

- Requirement (170.505(b)): Handlers must immediately suspend a pesticide application if any worker or other person (other than handler) is in AEZ (170.505(b))
  - Who is responsible for compliance: Handler/applicator
  - Who is protected: Workers & other persons (besides protected handlers)
  - Is the protection limited to the boundaries of the ag establishment? No

Effective 1/2/2018
• **Designated representative**

  – *Designated representative* means 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 § 170.309(h) in accordance with § 170.311(b) of this part.
• Enclosed space production

  – *Enclosed space production* means 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.
• Immediate family

  – 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 parent’s sibling, i.e., the child of an aunt or uncle.
• Safety data sheet (SDS)  (formerly MSDS)
  
  – Safety data sheet has the same meaning as the definition at 29 CFR 1900.1200(c).
  
  – OSHA definition: Safety data sheet (SDS) means written or printed material concerning a hazardous chemical that is prepared in accordance with paragraph (g) of this section.
WPS Training Requirements
Revised Training and Mitigation

• Inform workers & handlers
  – Training; establishment-specific info; knowledge of labeling & applications

• Mitigate exposures
  – Decontamination supplies including eyewash; emergency assistance

• Protect workers & handlers
  – Minimum age, PPE requirements
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Key Changes

- Annual training for Workers and Handlers
- No grace period

Implementation timing

- January 2017 all new training requirements will be fully enforceable – EXCEPT new content.
- January 2018 new content required.
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Trainer Qualifications for Workers and Handlers

170.401(c)4 and 170.501(c)4

• Trainers of Workers or Handlers must either:
  – be certified as an applicator of RUPs, or
  – have completed an EPA-approved pesticide safety train-the-trainer program for handlers or workers, or
  – be designated as a qualified trainer by EPA or the agency responsible for pesticide enforcement.

  • Certified applicator or handler designation also qualifies them to train workers.
  • If only training workers, trainer only needs worker designation.
Trainer Qualifications for Workers and Handlers

170.401(c)4 and 170.501(c)4

Key changes

• Handlers are no longer qualified to provide training to workers.

• Train-the-trainer courses must be EPA-approved.

• Completion of any EPA approved TTT course qualifies a person to train in any jurisdiction, unless explicitly prohibited.
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Training Methods for Workers and Handlers

Key additions

• Training Location must be **reasonably free from distraction** and conducive to training.

• Qualified trainer must be present during the entire training program.

• Training materials must be EPA-approved.

All new training requirements will be fully enforceable **January 2017** – EXCEPT *new content*.
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Verification of Training for Workers and Handlers 170.401(d) and 170.501(d)

Key changes

• Employers must keep training records for 2 years.

• Record must include:
  o Handler/Workers printed name and signature
  o date of the training
  o what EPA-approved training materials were used
  o name and qualifications of trainer
  o employer’s name

• Must provide a copy of training records to inspectors or Workers/Handlers upon request.

• Voluntary training verification card system removed.
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Content of Training

- Existing content kept *and expanded*
  - Worker training has 23 items
  - Handler training has 36 items
  - *Training on new content required*
    - 2 years from date of final rule

→ projected date: January 2018
Specific Information and Knowledge of Labeling & Application-Specific Information
Establishment-Specific Information for Workers (170.403)

Before any Worker performs any activity in a treated area on an agricultural establishment, the agricultural employer must ensure that the worker has been informed of, in a manner the worker can understand, all of the following establishment-specific information:

- The location of pesticide safety information
- The location of pesticide application and hazard information
- The location of decontamination supplies
Establishment-Specific Information for Handlers (170.503(b))

Before any Handler performs any activity in a treated area on an agricultural establishment, the agricultural employer must ensure that the worker has been informed of, in a manner the worker can understand, all of the following establishment-specific information:

- The location of pesticide safety information
- The location of pesticide application and hazard information
- The location of decontamination supplies
Knowledge of Labeling and Application-Specific Information (170.503(a))

The **handler employer** must ensure that **before** any **Handler** performs any handler activity involving a pesticide product:

- the Handler either has read the portions of the labeling applicable to the safe use of the pesticide or has been informed in a manner the handler can understand of **all** labeling requirements and use directions applicable to the safe use of the pesticide
- the Handler has access to the applicable product labeling **at all times** during handler activities
- the Handler is aware of requirements for any entry restrictions, application exclusion zones and restricted-entry intervals that may apply based on the handler’s activity
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- the Handler has access to the applicable product labeling *at all times* during handler activities
- the Handler is aware of requirements for any entry restrictions, application exclusion zones and restricted-entry intervals that may apply based on the Handler’s activity
Decontamination

Routine decontamination supplies

Emergency eye-flush
Routine Decontamination Supplies

Current WPS

• Employers must provide “sufficient amount of water so that the workers/handlers may wash thoroughly”

Revised WPS 170.411, 170.509, 170.605(h)

• Provide 1 gallon of water for each Worker and
• 3 gallons for each Handler and each early entry worker

  - measured at the beginning of the work period
Emergency Eye-Flush

Current WPS

• If Handler is using a product that requires eye protection, one pint (16 ounces) of water must be immediately available to each Handler.

Revised WPS 170.509(d)

• If Handler is using a product that requires eye protection or using closed system under pressure, eyeflush water must be immediately available at each mix/load site for Handler eye flushing.

• If applicator is using a product that requires eye protection, one pint of water must be immediately available to each applicator.
Emergency Eye-Flush

• One system per mix/load site (not based on number of Handlers)
• Immediately available to Handler
• Eye-flush must be:
  – System capable of delivering gently running water at 0.4 gal/min for at least 15 min or
  – At least 6 gallons of water in containers suitable for providing a gentle eye-flush for about 15 min
AGRICULTURAL USE REQUIREMENTS

Use this product only in accordance with its labeling and with the Worker Protection Standard, 40 CFR part 170. This Standard contains requirements for the protection of agricultural workers on farms, 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 (PPE), and restricted-entry interval. The requirements in this box only apply to uses of this product that are covered by the Worker Protection Standard.

**Do not enter or allow workers to enter treated areas during the restricted entry interval (REI) of 12 hours.**

PPE required for early entry to treated areas that is permitted under the Worker Protection Standard and that involves contact with anything that has been treated, such as plants, soil, or water, is: coveralls, chemical-resistant gloves made of any waterproof material, shoes plus socks, protective eyewear.

**Special Eye Irritation Provisions:** Chlorothalonil in this product is a severe eye irritant. Although the restricted entry interval expires after 12 hours, for the next 6.5 days entry is permitted only when the following safety measures are provided:

1. At least one container designed specifically for flushing eyes must be available in operating condition at the WPS required decontamination site intended for workers entering the treated area.
2. Workers must be informed, in a manner they can understand:
   - that residues in the treated area may be highly irritating to their eyes
   - that they should take precautions, such as refraining from rubbing their eyes to keep the residues out of their eyes
   - that if they do get residues in their eyes, they should immediately flush their eyes using the eyewash container that is located at the decontamination site, or using other readily available clean water
   - how to operate the eyewash container
Emergency Assistance
Current WPS

- Employers must provide “prompt” transportation to an emergency medical facility for workers or handlers who may have been exposed to pesticides
- *Upon request*, employers must provide certain information, *if available*, to the exposed person or medical personnel

Revised WPS 170.309(f), 170.313(k)

- Retain “prompt” for provision of transportation
- Require employers to provide for each product the SDS and specific information about the product, as well as the circumstances of the application and exposure, to treating medical personnel
Minimum Age Requirement

- The WPS minimum age is 18 for Handlers and early entry workers

Minimum age provisions are found at:
- 170.309(c): Ag employer duties
- 170.313(c): Commercial pesticide handler duties
- 170.605(a): Ag employer responsibilities to protect early-entry workers
WPS PPE Requirements (170.507)

General
Chemical resistant PPE
Contaminated PPE
Respirator medical evaluation, fit testing, training & recordkeeping
**PPE Exemptions and Exceptions**

- **Exemptions**
  - Owner & immediate family; certified crop advisor

- **PPE Exceptions**
  - Closed systems; enclosed cab; aerial applicators; crop advisors

- **Early-entry exceptions**
  - Minimum age, PPE requirements
Exemptions (170.601)

Owner and immediate family exemption (170.601(a))

Key changes

- Establishments covered
  - Majority ownership versus wholly owned
  - More establishments qualify due to expanded “immediate family” definition

- Immediate family members covered
  - More establishments qualify due to expanded “immediate family” definition

- Provisions covered by the exemption
Owner and Immediate Family Exemption

170.601(a)

Key points about exemption

• There is no exemption for “family farms”

• The “agricultural establishment” is NOT exempt

• Exemption only covers the owner and immediate family members

• Owners and immediate family must still comply with some WPS provisions and all labeling requirements
Owners and immediate family must still comply with the following WPS requirements:

– When respirators are required on the pesticide labeling, following WPS requirements for training, medical evaluation, fit testing, and recordkeeping (170.507(b)(10))

– Providing and using the PPE and other work attire listed on pesticide labeling; but they are eligible for the allowable exceptions to PPE, such as for using a closed system (170.507(a), 170.507(b) and 170.607)
Owners and immediate family must still comply with the following WPS requirements:

- Keeping everyone, including members of the immediate family, out of the application exclusion zone during the application (170.405)
- Ensuring that any pesticide applied is used in a manner consistent with the product’s labeling (170.309(a))
- Keeping immediate family members out of the treated area until the restricted-entry interval (REI) expires (170.407)
WPS Exceptions to Label-Required PPE

Enclosed cabs
Crop advisors
Enclosed cabs (170.607(e))

The existing WPS permits exceptions to the labeling-specified PPE when handling tasks are performed from inside an enclosed cab.
Final rule requirements for enclosed cabs

- Handlers in enclosed cabs *may substitute* a long-sleeved shirt, long pants, shoes and socks for the labeling-specified PPE for skin and eye protection.

- If any type of respirator is required by the pesticide labeling for applicators, other than a particulate filtering respirator (NIOSH approval number prefix TC-84A), the handler *must wear the respirator inside the enclosed cab during handling activities*.
Enclosed cabs (170.607(e))

EPA has retained other existing PPE requirements for handlers using enclosed cabs:

— All of the PPE required by the pesticide product labeling for applicators must be immediately available to handlers in an enclosed cab and be stored in a sealed container to prevent contamination.
Enclosed cabs (170.607(e))

EPA has retained other existing PPE requirements for handlers using enclosed cabs:

– Handlers *must wear* the applicator PPE if they *exit the cab within a treated area during application or when a REI is in effect*

– *Once PPE has been worn in a treated area*, handlers must remove it before reentering the cab to prevent contamination of the cab
Crop Advisors (170.607(g))

EPA has included in the final rule added flexibility in the PPE requirements for crop advisors and their employees.

- Crop advisors and their employees who perform crop advising tasks during the REI may substitute the label-required handler PPE with either:
  - The label-required PPE for early-entry activities; or
  - A “universal” set of crop advisor PPE that may be worn in any situation
The “universal” set of PPE for crop advising tasks included in the final rule consists of:

- coveralls
- shoes plus socks
- chemical-resistant gloves made of any waterproof material
- and
- eye protection if the labeling of the pesticide product applied requires protective eyewear for handlers.
Early Entry Exceptions
**Early Entry Exceptions** (170.603)

**Key Elements**

- *No hand labor* is allowed during early entry exceptions except for “no contact” and “agricultural emergency”
  - Moving irrigation equipment is *not* considered hand labor

- All exceptions are time-limited except for “no contact” and “agricultural emergency” (ag emergency exception is time-limited if a “double notification” product was used)
  - Short term exception – 1 hour in 24 hours
  - Limited contact and irrigation exceptions – 8 hours in 24 hours
  - Ag emergency exception - 4 hours in 24 hours (if double notification required)

- The “Limited Contact” and “Irrigation” exceptions are not allowed to be used if a double notification product applied
Review of WPS Revised Compliance Deadlines

January 2, 2017:

- Annual training for workers and handlers - *no grace period*
- Qualifications for trainers
- Training record keeping
- Minimum age for handlers and early entry workers
- Medical evaluation, fit testing and training before use of respirators
- Amounts of water available for decontamination and eyewash
- All requirements EXCEPT FOR:
Review of WPS Revised
Compliance Deadlines

January 2, 2018:

– Handler suspend applications if a person is in the application exclusion zone [40CFR§170.505(b)]

– Additional training content for workers and handlers [40CFR§170.401(c)(3); 40CFR§170.501(c)(3)]

– New content for safety poster [40CFR§170.311(a)(3)]
So.....Did You Get All That?!
Contact Us!

For more information on the revised WPS contact

Dept. of Pesticide Regulation

864-646-2150

www.clemson.edu/public/regulatory/pesticide_regulation/