

U.S. Environmental Protection Agency

Comparison of Major Requirements in the Existing, Proposed and Final WPS Regulation

This table summarizes key provisions in the existing, proposed and anticipated final WPS regulation. 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	Existing	Proposed	Final
Training			
Frequency of full training for workers and handlers	Every 5 years for workers and handlers.	<i>Annual training.</i>	Same as proposed Annual training. [170.401(a), 170.501(a)]
Training grace period for workers	5-day grace period with abbreviated training.	<i>2-day grace period with expanded abbreviated training. Distribute information sheet.</i>	Changed: <i>No grace period.</i> [170.401(a), 170.501(a)]
Qualifications of trainers for workers	Handlers, certified applicators, State/Tribal/Federal approved trainers, and persons completing an approved train-the-trainer course.	<i>State/Tribal/Federal approved trainers and persons who have completed an EPA-approved train-the-trainer course.</i>	Changed: <i>Certified applicators, State/Tribal/Federal approved trainers, and persons who have completed an EPA-approved train-the-trainer course.</i> [170.401(c)(4)]
Expand training content for workers and handlers	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.	<i>Keep existing and expand content to include information on reducing take-home exposure, preventing exposure to family members, and additional protections provided by the rule. Worker training topics expanded to 23 items, and handler training expanded to 40 items.</i>	Same as proposed: Keep existing and expand content to include most of the proposed points. 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. [170.401(c)(2), 170.501(c)(2)]
Recordkeeping of training	No recordkeeping of training. Voluntary verification card system.	<i>Keep records for 2 years. Give copy to workers and handlers.</i>	Changed: Keep records for 2 years. Give copy of record of training to workers and handlers <i>upon their request.</i> [170.401(d), 170.501(d)]

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Hazard Communication			
Content and Availability of Hazard Communications materials	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.	<i>Eliminate existing requirement. Maintain and make available upon request during normal work hours to workers, handlers or authorized representatives application-specific information, labeling, and safety data sheets (SDSs). Employer must have application records, labeling and SDS available by end of day of application. Keep info/records and make available to workers, handlers or authorized representatives for 2 years from end of REI.</i>	Changed: Employer must display application information and SDS 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. Deleted authorized representative provision. [170.309(h), 170.311(b)]
Notification of Treated Areas			
Notification of treated areas under an REI	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.	Post warning sign <i>when REI is greater than 48 hours (outdoor applications)</i> . Enclosed space applications (e.g., greenhouses): post notification <i>when product(s) used have an REI greater than 4 hours</i> .	Same as proposed: 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. [170.409(a)]
Warning 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."	Red octagon. Replace "Keep out" and "No Entre" with "Entry Restricted" and "Entrada Restringida"	Same as existing: Red circle containing stern face with upraised left hand. At the top: "DANGER" and "PELIGRO", "PESTICIDES", "PESTICIDAS". At the bottom: "KEEP OUT", "NO ENTRE." [170.409(b)(2)]

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Information Exchange			
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 of changes to application plans before application begins.	Agricultural employer must provide application information <i>on any treated area if handlers are on establishment</i> . Handler employer must notify of changes to application plans within 2 hours of end of application, unless the only change was less than 1 hour difference in application time.	Changed: Agricultural employer must provide application information on treated areas <i>the handler may be in (or walk within ¼ mile of)</i> . 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. [170.309(k) and 170.313(i) and (j)]
Minimum Age			
Minimum age for handlers and early-entry workers	No minimum age.	<i>Handlers and early-entry workers must be at least 16 years old.</i> (Members of owner’s immediate family would be exempt from this and most other requirements of the WPS.)	Changed: <i>Handlers and early-entry workers must be at least 18 years old.</i> (Members of owner’s immediate family are exempt from this and most other requirements of the WPS.) [170.309(c), 170.313(c), 170.605(a)]
Entry Restrictions During Application for Outdoor Production			
Ag employers must prohibit entry in areas during applications for outdoor production. (Restrictions for greenhouses/enclosed space production are different.)	Farms and forests: No entry into treated area. Nurseries: No entry into treated area or a 0-100 foot area around the treated area during pesticide application, where the size of the additional area depends on type of application.	All outdoor production: No entry into treated area or a 0-100 foot areas around the treated area during pesticide application <i>on farms, forests, and nurseries</i> (called an entry-restricted area). Size of the additional area depends on type of application.	Changed: All outdoor production: No entry into treated area or <i>the application exclusion zone</i> , which is a 0-100 foot area around the <i>application equipment</i> during pesticide application on farms, forests and nurseries. Size of the application exclusion zone depends on type of application. <i>Revised descriptions of application methods.</i> [170.405(a)]
Handler Suspend Application			
Handler (applicator) must suspend application in certain circumstances	Handler must apply pesticides in a way to not contact workers or other persons. No specific requirement to suspend applications.	Handler must apply pesticides in a way to not contact workers or other persons. <i>Handler must cease or suspend application if a worker or other person is in the treated area or the 25-100 foot area around the treated area.</i>	Changed: Handler must apply pesticides in a way to not contact workers or other persons. Handler must <i>suspend (not cease)</i> application if a worker or other person is in <i>the application exclusion zone, a 0-100 foot area around the application equipment.</i> [170.505(b)]

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Basic Pesticide Safety Information			
Display of pesticide safety information	Display a safety poster at central location.	Display pesticide safety information at central location <i>and wherever decontamination supplies are provided in fields.</i>	Changed: Display pesticide safety information at central location <i>and with decontamination supplies when supplies are located at a permanent site or at a location provided for 11 or more workers or handlers.</i> [170.309(h), 170.311(a)(5)]
Content of pesticide safety information	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.	<i>Added flexibility in how the information must be displayed (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 were poisoned or injured by pesticides; add name, address and telephone number of state or tribal pesticide regulatory agency; revise emergency medical facility to the nearest <u>operating</u> medical care facility. New content for safety information display not required until 2 years from effective date of final rule.</i>	Same as proposed (with a few minor tweaks): 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 were poisoned, injured <u>or made ill</u> by pesticides; add name, address and telephone number of state or tribal pesticide regulatory agency; revise emergency medical facility to <u>a nearby</u> operating medical care facility. New content for safety information display not required until 2 years from effective date of final rule. [170.311(a)(2)-(a)(4)]
Personal Protective Equipment			
Respirators	Employer must provide respirator listed on label and ensure it fits. No recordkeeping required.	<i>Employer must provide respirator and fit testing, training, and medical evaluation that conforms to OSHA standards for any handler required to wear a respirator by the labeling except filtering face piece respirators (i.e., dust/mist filters). Require recordkeeping of completion of fit test, training, and medical evaluation.</i>	Changed: 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. <i>(Expand from proposal to cover filtering face piece respirators.)</i> Require recordkeeping of completion of fit test, training, and medical evaluation. [170.509(b)(10)]

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Definition of chemical-resistant	Made of a material that allows no measurable movement of the pesticide through the material during use.	<i>Made of a material that the manufacturer has declared, in writing, to be chemical resistant.</i>	Changed (same as existing): Made of a material that allows no measurable movement of the pesticide through the material during use. [170.507(b)(1)]
PPE exception for closed systems	Exceptions to the labeling-specified PPE allowed for handlers when using closed systems. No specific criteria for closed systems.	Exceptions to the labeling-specified PPE allowed for handlers when using closed systems. <i>A closed system must meet specific design criteria and operating standards.</i>	Changed: Exceptions to the labeling-specified PPE allowed for handlers when using closed systems. <i>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.</i> [170.607(d)]
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 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.)	No changes were proposed to the exception.	Crop advisors and their employees entering treated areas while a REI is in effect to conduct crop-advisor tasks may wear <i>a standard set of PPE (coveralls, shoes plus socks and chemical-resistant gloves made of any waterproof material, and eye protection if the pesticide product labeling applied requires protective eyewear for handlers outlined in rule), 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.) [170.607(g)]
PPE exception from eyewear for pilots in open cockpits	If product label requires eye protection, pilots in open cockpits may wear visor instead of label-required eye protection.	If product label requires eye protection, pilots in open cockpits <i>may wear a helmet with a lowered face shield instead of label-required eye protection.</i>	Same as proposed: If product label requires eye protection, pilots in open cockpits may wear a helmet with lowered face shield instead of label-required eye protection. [170.607(f)(2)]
PPE exception from gloves for pilots in enclosed cockpits	Gloves are optional when entering and leaving aircraft unless required by product label.	<i>Must wear chemical-resistant gloves when entering and leaving aircraft.</i>	Changed (same as existing): Gloves are optional when entering and leaving aircraft unless required by product label. [170.607(f)(1)]

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PPE exception for enclosed cabs	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.	Maintain exception for dermal PPE as in existing rule with same conditions, <i>but eliminate the requirement for any labeling-specified respiratory protection PPE when applying pesticides from inside an enclosed cab.</i>	Changed: Maintain exception for dermal PPE as in existing rule with same conditions, <i>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.</i> [170.607(e)]
Decontamination Supplies			
Quantity of water	Provide enough water for routine washing and emergency eye flushing for workers and handlers. Also for handlers provide enough to wash entire body in emergency.	Provide <i>1 gallon for each worker and 3 gallons for each handler and each early entry worker.</i>	Clarified proposed requirement: Provide 1 gallon for each worker and 3 gallons for each handler and each early entry worker <i>as measured at beginning of workers' or handlers' work period.</i> [170.411(b), 170.509(b), 170.605(h)]
Use of natural waters	Must provide water for decontamination. May use natural waters in addition to water provided for decontamination.	Tried to clarify that you must provide water for decontamination and that you <i>may supplement required supplies with natural waters if necessary.</i>	Changed: Must provide water for decontamination. <i>There will be 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.</i> [170.411(b). 170.509(b)]

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Eye wash	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.	Provide <i>clean, running water at permanent mix/load sites when using products requiring eye protection</i> . One pint of water in a portable container must be available to each handler if eye protection is required.	Changed: Provide a system capable of delivering <i>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</i> if handlers use products requiring eye protection <i>or use a pressurized closed system</i> . One pint of water in a portable container must be available to handlers <i>applying pesticides</i> if eye protection is required. [170.509(d)]
Emergency Assistance			
Emergency assistance	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.	<i>Within 30 minutes of pesticide-related illness</i> , provide transportation to medical facility and provide <i>copies of the SDS and label (or specific info from the label)</i> and circumstances of exposure to the worker/handler or treating medical personnel.	Same for transportation: Provide prompt transportation to medical facility. Changed for information: <i>Promptly</i> provide the SDS, <i>product information (name, EPA Reg No and active ingredient)</i> and circumstances of exposure <i>to treating medical personnel</i> . [170.309(f), 170.313(k)]

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Exemptions and Exceptions			
<p>Exemption for farm owners and their immediate families</p>	<p>The owner of an agricultural establishment is not required to provide most WPS protections to himself or members of his immediate family who are performing tasks related to the production of agricultural plants on their own agricultural establishment.</p> <p>The owner of the agricultural establishment must provide WPS protections to all workers, handlers and other persons who are not members of his immediate family</p> <p>EPA's interpretation of the exemption required the establishment to be wholly owned by immediate family members.</p> <p>Note: The owner and immediate family members must follow ALL labeling requirements (e.g., PPE use, REIs, use restrictions, etc.) regardless of the exemption. .</p>	<p><i>Expand the immediate family exemption to add exemption from the proposed minimum age requirements for handlers and early-entry workers.</i></p> <p>Expand the definition of "immediate family." (See "Definitions" section below.)</p>	<p>Same: Owner of an agricultural establishment exempt from providing most WPS protections to himself and members of his immediately family who are performing tasks related to production of agricultural plants on their own establishment are exempt from many provisions from the WPS, including exemption from minimum age requirements for handler and early-entry workers.</p> <p>Changed: <i>The owner and immediate family exemption applies on establishments where at least a majority of the establishment is owned by immediate family members, i.e., a majority of the owners are related by one of the relationships contained in the "immediate family" definition. [170.601(a)]</i></p> <p>EPA also expanded the definition of "immediate family." (See "Definitions" section below.)</p>
<p>Exemption for certified crop advisors and their employees</p>	<p>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.</p>	<p>Only certified crop advisors are exempt from labeling PPE and WPS requirements as specified in exemption. Certified crop advisor employees <i>must use label-required PPE while working in a field during an REI, and employer must provide all required WPS protections.</i></p>	<p>Same as Proposed: 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 PPE exception. [170.601(b)]</p>

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Exceptions to REIs for early entry workers – notification requirements	Inform early-entry workers of hazard information from the pesticide label.	Notify early-entry workers <i>of application specifics, tasks, amount of time allowed in treated area, and</i> hazard information from the pesticide label. <i>Keep records of notification for 2 years.</i>	Changed: Notify early-entry workers of application specifics, tasks to be performed, conditions of the early-entry exception, and hazard information from the pesticide label. <i>No recordkeeping requirement.</i> [170.605(b)]
Definitions			
Immediate Family	Includes spouse, parents, stepparents, foster parents, children, stepchildren, foster children, brothers, and sisters.	<i>Expand to include in-laws (parents, siblings, and children), grandparents, and grandchildren.</i>	Changed: Expanded to include in-laws (parents, siblings, and children), grandparents, grandchildren, <i>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.</i> [170.305]
Enclosed space production	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.	<i>Change term to enclosed space production, which is production in a structure or space that is covered in whole or in part and that is large enough to permit a person to enter.</i>	Clarify proposed definition: enclosed space production that is <i>indoors or</i> in a structure or space that is covered in whole or in part <i>by any nonporous covering</i> and that is large enough to permit a person to enter. [170.305]
Employ	No definition of “employ” in existing rule. Definitions of “agricultural employer” and “handler employer” covered aspects of what types of employment covered.	<i>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.</i>	Changed: 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, <i>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.</i> [170.305]

Note: Changes from Existing to Proposed, and Proposed to Anticipated Final, are in italics.