

**Office of Enforcement and Compliance Assurance**

**INSPECTION MANUAL**

**Worker Protection Standard Inspection Manual**

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## Revision History

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This table shows changes to this controlled document over time. The most recent version is presented in the top row of the table. Previous versions of the document are maintained by the Document Control Coordinator.

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Worker Protection Standard Inspection Manual Revisions: <ul style="list-style-type: none"><li>• Appendix B Inspection Checklists, formatting changes and inclusion of references to the How to Comply Manual, pages 80-99.</li><li>• Added compliance date for inclusion of revised worker and handler safety training content of December 19, 2018, page 20.</li></ul>	8/15/2018
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## Inspection Manual Revisions

This Worker Protection Standard (WPS) Inspection Manual is an inspection support tool provided by the U.S. Environmental Protection Agency (EPA), for use by EPA regions, states and tribes conducting federal inspections under the Federal Insecticide, Fungicide, and Rodenticide Act and is a supplement to the EPA FIFRA Inspection Manual released in 2013. States and tribes may also conduct inspections under their own authority and credentials. This document supersedes the EPA WPS Agricultural Inspection Guidance released in February 2012. EPA appreciates the valuable contributions made by EPA Regions, states and tribes to improve the manual.

### DISCLAIMER

This Inspection Manual is not a regulation and, therefore, does not add, eliminate or change any existing regulatory requirements. The statements in this document are intended solely as guidance. This document is not intended, nor can it be relied on, to create any rights enforceable by any party in litigation with the United States. EPA, state and tribal officials may decide to follow the guidance provided in this document, or to act at variance with the guidance, based on analysis of site-specific circumstances. Deviations from this document on the part of any duly authorized official, inspector, or agent shall not be a defense in any enforcement action; nor shall deviation from this manual constitute grounds for rendering the evidence obtained thereby inadmissible in a court of law. This manual may be revised without public notice to reflect changes in EPA's policy.

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# CHAPTER 1. INTRODUCTION

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This manual is a supplement to the Environmental Protection Agency's (EPA) Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Inspection Manual, October 2013. Inspectors should consult that manual for basic information on FIFRA inspections such as health and safety, entry/opening conference, use and for-cause inspection procedures, sample collection, records examination, documentation, report writing and other related topics. This document focuses on elements of a FIFRA inspection that are unique to Worker Protection Standard (WPS) inspections. EPA, states and tribes should follow these procedures for WPS inspections conducted using federal credentials. Inspectors using state or tribal credentials are encouraged to incorporate these procedures into state or tribal procedures. More information on Use Inspections is provided in Chapter 8 of the EPA 2013 FIFRA Inspection Manual.<sup>1</sup>

This manual provides information to EPA and pesticide lead agency inspectors on how to conduct WPS inspections that adequately document compliance with the WPS rule<sup>2</sup> requirements and includes how to involve individuals with limited English proficiency (LEP), required under Title VI of the Civil Rights Act<sup>3</sup>, or disabilities, in conformance with the Rehabilitation Act<sup>4</sup>, in the WPS inspection process. This manual is intended to promote nationally consistent WPS inspections.

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance. As recipients of federal financial assistance, states are obligated to comply with the requirements concerning Limited English Proficiency (LEP). See Section V for more information on how Title VI affects WPS inspections.<sup>2</sup>

The U.S. Rehabilitation Act of 1973 prohibits discrimination on the basis of disability in programs conducted by federal agencies, in programs receiving federal financial assistance, in federal employment, and in the employment practices of federal contractors. As a recipient of federal financial assistance, states are obligated to accommodate a communication barrier due to an individual's disability, such as a vision, hearing or speech impairment. Specifically, states must make a reasonable accommodation for known physical or mental limitations of an individual with a disability. See Section V for more information on how the Rehabilitation Act affects WPS inspections.

## 1.1 THE WORKER PROTECTION STANDARD

The WPS was promulgated in 1992 under Section 25 of the Federal Insecticide, Fungicide, Rodenticide Act (FIFRA), and a revised final WPS rule was published in the *Federal Register* on November 2015, resulting in significant revisions to WPS provisions and requirements.

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 the following WPS reference is included on a

pesticide label within the label's "Agricultural Use Requirements" section, "Use this product only in accordance with its labeling and with the Worker Protection Standard, 40 CFR Part 170", users of the pesticide must comply with all of the applicable requirements of the WPS contained in the Code of Federal Regulations, Title 40, Part 170. Exceptions to the requirement to comply with Part 170 include requirements that are inconsistent with product-specific instructions on the labeling, or as provided for in 40 CFR §170.601, §170.603 and §170.607. A person who fails to comply with or perform the duties required by the WPS is in violation of the label requirements and violates FIFRA section 12(a)(2)(G) and is subject to civil penalty under section 14 of FIFRA. A person who knowingly violates section 12(a)(2)(G) is subject to FIFRA section 14 criminal sanctions. FIFRA section 14(b)(4) provides that a person is liable for a penalty under FIFRA if another person employed by or acting for that person violates any provision of FIFRA.

FIFRA authorizes EPA to grant primary pesticide enforcement responsibility to state pesticide lead agencies or "SLAs" for pesticide use violations (FIFRA §26). EPA may provide similar authority to tribes and territories. Hereafter "SLA" is used to refer to all pesticide lead agencies. A lead agency has responsibility to ensure compliance with the Worker Protection Standard.

## **1.2 GOALS OF WPS USE INSPECTIONS**

WPS agricultural use inspections (hereafter called WPS inspections) are a subset of the overall number of agricultural use inspections (pursuant to 40 CFR part 170). Verifying compliance with WPS requirements is a fundamental element of any pesticide inspection conducted at an establishment where WPS-labeled pesticides are used in or related to the production of agricultural plants.

The WPS compliance monitoring program includes:

- Ensuring employers provide the proper protections from pesticides to workers and handlers required under the WPS regulations;
- Decreasing incidents of pesticide exposure among workers and handlers through increasing employer compliance;
- Ensuring workers and handlers understand appropriate ways, and are allowed to take steps, to protect themselves from pesticides.

The goals of WPS inspections include:

- Strategically targeting inspections to maximize the number of WPS requirements that can be evaluated;
- Obtaining evidence to evaluate compliance, including documenting data to support the determination of violations and any appropriate enforcement actions;
- Identifying problems during the inspection to ensure immediate corrective action as needed;
- Complying with Title VI of the Civil Rights Act and the Rehabilitation Act;
- Providing information to the establishment about the WPS regulatory requirements.

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# CHAPTER 2. TYPES OF WPS INSPECTIONS

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## 2.1 WPS INSPECTIONS

A WPS inspection must meet the following conditions:

- Pesticides with WPS labeling have been used recently on the establishment.
- All the applicable WPS requirements have been covered.
- The inspector has interviewed (or attempted to interview) one or more available employed workers and handlers present on the establishment (or provides an adequate explanation of the reason no workers and handlers were interviewed).

### 2.1.1 Routine (Non-Complaint Based) Inspections

Routine inspections are selected based on a neutral inspection targeting scheme (i.e., they are not based on tips or complaints).

### 2.1.2 For Cause (Complaint Based) Inspections

A “for cause” inspection is conducted in response to suspected pesticide misuse generally from a tip or complaint. For cause inspections require the inspector to indicate on the Notice of Inspection that the inspection is “for cause,” and generally entail more detailed documentation of WPS compliance and potential noncompliance by the employer. For detailed instructions on conducting for cause use inspections, see Chapter 8 of the FIFRA Inspection Manual, 2013.

## 2.2 INSPECTION TIMING – TIER I AND TIER II

The best time to conduct a WPS inspection is when the agricultural establishment is actively engaged in handling pesticides or conducting field worker activities. The majority of WPS requirements apply in the time period that starts with an application and ends 30 days after the REI expires. However, it is possible to conduct a WPS inspection at any time. The 2015 WPS Rule’s recordkeeping provisions for safety training, pesticide application and hazard information, and those related to respirator requirements can be evaluated during any WPS inspection, regardless of the time from application.

To distinguish between inspections conducted during the most optimal time period and those conducted at other times, EPA defined two types of WPS inspections, Tier I and Tier II inspections. **All WPS inspections should cover all the requirements that apply at the time of the inspection and include interviewing workers and handlers, or provide an adequate explanation of the reason no workers and handlers were interviewed, for example, if workers/handlers are not present or did not agree to be interviewed. If these conditions are not met, the inspection may not be considered a WPS inspection, but may be considered an “agricultural pesticide use” inspection.**

### 2.2.1 WPS Tier I

A WPS Tier I compliance monitoring inspection must:

- Be conducted within the time frame that begins when pesticides are applied and extends to 30 days after the expiration of the REI for the last pesticide used that contains the WPS reference statement;

### 2.2.2 WPS Tier II

A WPS Tier II compliance monitoring inspection is:

- Conducted at any time **other than** within the time frame that begins when pesticides are applied and extends to 30 days after the expiration of the REI for the last pesticide used that contains the WPS reference statement;

In general, EPA recommends that Tier II compliance monitoring inspections be conducted within the current growing season or in the next growing season not exceeding six months from the last date of application.

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## CHAPTER 3. TYPES OF REGULATED ESTABLISHMENTS

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The WPS requirements apply to agricultural establishments involved in crop production, commercial pesticide handling establishments and individual handlers that provide crop advising services to, or apply pesticides on, agricultural establishments involved in crop production.

### 3.1 AGRICULTURAL ESTABLISHMENT

An agricultural establishment is a:

- Farm,
- Forest operation, or
- Nursery engaged in the outdoor or enclosed space production of agricultural plants.

An establishment that is not primarily agricultural is an agricultural establishment if it produces agricultural plants for transplant or use (in part or their entirety) in another location instead of purchasing the agricultural plants.

The WPS requirements apply to agricultural establishments that **use a WPS-labeled pesticide product directly related to the production of an agricultural plant and employ workers or handlers**. This definition is explained in detail below:

- **Use a WPS-labeled pesticide product** – WPS requirements are incorporated onto pesticide labeling of agricultural use products by a WPS reference statement contained in the “Agricultural Use Requirements” box;
- Are **directly related to the production** – Directly related to the production includes grown, maintained or otherwise produced for commercial purposes, or for use in part or entirety in another location;
- **Of an “agricultural plant”** – An agricultural plant includes, but is not limited to, grains, oil crops, fruits and vegetables, wood fiber or timber products; flowering and foliage plants and trees; seedlings and transplants and turf grass produced for sod;
- **Employ workers or handlers** -- Under WPS, employing workers or handlers is defined as obtaining the services of a person in exchange for a salary or wages, including piece-rate wages either directly or through a labor contractor (see §170.305). Non-monetary forms of compensation, such as class credit for students, are not considered “employment”. However, a situation where a worker is given some of the product being produced (e.g., a pound of spinach for every 4 hours worked) which is later purchased by the employer for cash is considered employment and is an example of piece-rate wages.

### 3.2 OWNERS OF AGRICULTURAL ESTABLISHMENTS AND THEIR IMMEDIATE FAMILY

Agricultural establishment owners of establishments that are majority-owned by immediate family members (i.e., more than 50% ownership) are covered by a subset of WPS requirements that apply to owners of agricultural establishments and their immediate family (§ 170.305).

When conducting inspections at these types of agricultural establishments, inspectors should identify if the establishment employs any workers or handlers that are not immediate family members. The owners of agricultural establishments must provide all of the applicable protections required by this part for any employees or other persons on the establishment that are not members of their immediate family.

Inspectors should be aware of the following:

- 1) There is no exemption for “family farms”;
- 2) The “agricultural establishment” itself is NOT exempt from the WPS;
- 3) This exemption only covers the owner and immediate family members; and
- 4) The exemption applies to establishments that are majority-owned (i.e., more than 50%

**2015 Change to Exemption for  
Owners of Agricultural  
Establishments and their  
Immediate Family**

Prior to the 2015 revisions to the WPS regulations, farm owners who use WPS-labeled products directly related to the production of an agricultural plant, on establishments that are – wholly owned by immediate family members were covered by a subset of WPS requirements. The 2015 regulation revised these requirements to include establishments that are majority-owned by immediate family members (i.e., more than 50% ownership).

ownership) by immediate family members (rather than wholly-owned by immediate family members as prior to the 2015 revisions).

The definition of “immediate family” (§170.305) is limited to: 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.

Owners and immediate family must still comply with all labeling requirements and the following parts of the WPS:

- When respirators are required on the pesticide labeling, must follow WPS requirements for training, medical evaluation, fit testing, and recordkeeping;
- Must use the PPE and other work attire listed on pesticide labeling (and are eligible for the allowable exceptions to PPE, such as when using a closed system);
- Must keep immediate family members out of the treated area until the restricted-entry interval (REI) expires;
- Must ensure pesticide is applied so it does not contact anyone, including members of the immediate family (requirement on label and in WPS);
- Everyone, including members of the immediate family, must be kept away from the treated area during the application and the application exclusion zone or “AEZ” (for information on the AEZ, see section 5.5.3);
- If any workers are considered Early Entry Workers the owner must ensure each early entry worker is provided with the required PPE, that it is used as intended, properly maintained, and that all required conditions are met.
- If the owner is also the handler, the owner must comply with the handler restrictions concerning the AEZ (for information on the AEZ, see section 5.5.3); and
- Any pesticide applied must be used in a manner consistent with the product’s labeling.

Inspectors should routinely ask if the agricultural establishment being inspected employs any family members. If so, the inspector should ask how many are employed and what relation they are to the owner. In this way, the inspector should be able to identify if the exemption that applies to owners of agricultural establishments and their immediate family applies to all workers and handlers or a subset.

### **3.3 COMMERCIAL PESTICIDE HANDLING ESTABLISHMENT**

Commercial pesticide handling establishment is defined in §170.305 as any enterprise, other than an agricultural establishment, that provides pesticide handler or crop advising services to agricultural establishments. When inspecting a commercial pesticide handling establishment, it is important for the inspector to determine the pesticide handler employer’s compliance with all relevant WPS requirements and to determine the individual handler’s compliance with the unique WPS responsibilities for handlers (e.g., suspending application if there is a person or persons in the application exclusion zone).

### 3.4 FARM LABOR CONTRACTORS (FLC)

A farm labor contractor is a person, other than a commercial pesticide handler, who employs workers or handlers to perform tasks on an agricultural establishment for an agricultural employer or a commercial pesticide handler employer.

The agricultural employer is ultimately responsible for WPS protections for workers and handlers whether they work for the agricultural employer directly, or are hired through a farm labor contractor. The agricultural employer may include in contracts with farm labor contractors, a requirement to comply with some aspects of WPS, for example, to conduct pesticide safety training. However, agricultural employers are ultimately still responsible for ensuring that training is conducted and are required under the revised 2015 WPS regulations to maintain, on-site, the training records for FLC workers and handlers on the establishment, just as they are for workers and handlers who are hired directly.

In situations where the agricultural employer has contracted with an FLC to comply with WPS protections and those protections were not provided, the inspector should interview and obtain statements from both the agricultural employer and the FLC.

The scope of an SLA's inspection of an FLC will depend on whether the SLA has the regulatory authority to take an enforcement action for violations of individual worker protection regulations, including violations by FLCs, or only has authority to enforce against the agricultural employer and handler employer for misuse of the pesticide.

If the SLA has the regulatory authority to take enforcement action for violation of the WPS regulations by FLCs, a WPS inspection should include:

- Evaluation of all applicable WPS requirements; and
- Interviewing workers and handlers, if appropriate.

When inspecting an FLC, the inspector should ask:

- If any WPS responsibilities were required under their contract with the agricultural establishment and if yes, when were they conducted. See section 5.5 on Employer/Supervisor interviews. The inspector should verify this information with workers and handlers during interviews as appropriate.
- Interview FLC workers and handlers to determine if all required WPS safety provisions were provided where applicable. See sections 5.7 and 5.8 on interviewing workers and handlers.

#### Identifying Farm Labor Contractors

All farm labor contractors are required under the Federal Migrant and Seasonal Agricultural Worker Protection Act (MSPA) to obtain federal certification prior to performing any farm labor contracting activities. For the list of certified farm labor contractors, see

<https://www.dol.gov/whd/regs/statutes/FLClist.htm>.

The Department of Labor also maintains a list of individuals who **may not** engage in any activity as a farm labor contractor. For more information see

[https://www.dol.gov/whd/regs/statutes/mspa\\_debar.htm](https://www.dol.gov/whd/regs/statutes/mspa_debar.htm).

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# CHAPTER 4. PRE-INSPECTION PLANNING

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To effectively plan a WPS inspection, inspectors should be familiar with the following:

- The most common pesticide products used on specific crops;
- How applications are typically made;
- Which products contain WPS language on the pesticide labeling (some products used in organic production have a Section 3 label and contain WPS language; others may not);
- Which products have restricted-entry intervals longer than 48 hours (requiring notification by posting) and;
- Personal protective equipment requirements (e.g., respirators, glove material, etc.).

Understanding these agricultural practices will help inspectors plan inspections for key WPS provisions and requirements, and when employees are most likely to be present.

## 4.1 DOCUMENT REVIEW

Become familiar with any relevant documents pertaining to the facility to be inspected, such as previous inspection reports and enforcement actions. This review may provide a historical perspective leading to potential compliance trends that can be investigated during the inspection.

## 4.2 BIOSECURITY, FOOD SAFETY AND PERSONAL SAFETY

For any establishments that maintain livestock or poultry in addition to crop production, the WPS inspector should understand biosecurity procedures.<sup>5</sup> Biosecurity procedures minimize the risk of an inspector transmitting animal diseases from livestock or poultry facilities, to livestock or poultry at another location. SLAs typically have their own biosecurity procedures or may choose to follow EPA's Biosecurity Standard Operating Procedures.

(<https://www.epa.gov/compliance/guidance-biosecurity-procedures-visits-livestock-and-poultry-facilities>)

Some agricultural establishments may restrict access to certain fields for plant biosecurity or food safety purposes (e.g., FDA's Food Safety Modernization Act requirements, or for accreditation under Good Agricultural Practices programs). The inspector should note this in the report.

Follow appropriate health and safety requirements and recommendations (federal requirements are contained in Chapter 2 of the FIFRA Inspection Manual).



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# CHAPTER 5. CONDUCTING THE INSPECTION

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WPS inspectors must present identification, SLA or federal credentials and issue a Notice of Inspection (NOI) (required for inspections using federal credentials) before proceeding to conduct an inspection, or follow appropriate SLA procedures.

When using federal credentials, the inspector must issue the owner, operator, or agent in charge a completed Notice of Inspection (EPA Form 3540-2), which contains the reason for the inspection, whether the inspection is a “neutral scheme inspection” or “for cause” (including any suspected violations) and signed by the inspector and by the owner/operator.

EPA prefers that all routine inspections be unannounced, but acknowledges that some SLAs are required to provide advance notification of inspections, and announced inspections may be needed for good time management to ensure that the establishment is in operation at the time of the visit and that a responsible person is present for the inspection.

Once an inspector is granted consent to conduct an inspection, a typical WPS inspection at an agricultural establishment will consist of an opening conference, a review of required records and interview of the owner/agricultural establishment employer, a site visit, and interviews of workers and handlers.

A typical inspection of a commercial pesticide handler employer will include a review of required records, employer interviews and interviews with handlers (as appropriate).

For more information on gaining access and what to do if entry is refused, see Chapter 5 of the FIFRA Inspection Manual.

## 5.1 OPENING CONFERENCE

It is very important during initial discussions to set the tone of the inspection and establish that the inspector is there to collect the facts. Communication between the employer/owner and the inspector should be encouraged so that the inspector can obtain all needed information and the employer/owner is able to ask questions about the regulations if needed. Inspectors using federal credentials may explain during the opening conference that no compliance determinations will be made during the inspection. Some SLAs, however, have the authority to make compliance decisions in the field and to issue notices of violation.

In the opening conference, the inspector needs to identify the owner, operator and/or agent in charge and identify their responsibilities. It is crucial to understand everyone’s roles at each

establishment as they will determine each person's responsibilities under WPS. Considerations include:

- Is the owner certified to apply the pesticide products?
- Does the owner employ a commercial handler?
- Does the owner hire workers and handlers directly, or a farm labor contractor to provide workers and handlers?
- Does the owner hire family members as workers and handlers?
- If the agricultural employer has workers, it is important to establish if the employer pays them (as opposed to barter, or other non-monetary compensation).

Basic site-specific information should also be obtained.

- It may be helpful to bring an aerial map of the area so the owner/operator can locate important information, such as information display locations, decontamination sites, mixing locations and the furthest fields.

More information on pesticide use inspection procedures is provided in Chapter 8 of the FIFRA Inspection Manual.

## 5.2 DOCUMENTATION

Collecting records that document pesticide use is an essential part of every use inspection.

- Obtain records that contradict or corroborate label statements regarding pesticide use.
- Basic information about the inspection and the establishment should be collected along with documentation of suspected violations.
- Checklists are useful tools to make sure an inspector examines all applicable requirements, indicates which requirements were not applicable, and records elements found to be in compliance.
  - However, a checklist may not be sufficient to later identify violations or to support an enforcement action.
- If violations are suspected at an establishment, the inspector should identify and document each suspected violation to the extent possible.
- Even though the inspector may not be present during the pesticide application to view the application exclusion zone (AEZ) (for information on the AEZ, see section 5.5.3) or identify what PPE was worn, for example, the inspector should collect as much evidence of any suspected past violations as possible, including signed witness statements and photographs, where appropriate.
- In addition, it is also possible to document missing information as required.
- Incomplete safety information may be documented by a photograph, or missing SDSs can be documented by an inventory of pesticides held on the establishment versus the SDSs available.
- **Documentation of both compliance and any noncompliance will be necessary in for cause inspections.**

Document compliance with key requirements:

- Photograph information, such as at the central display, decontamination supplies, and PPE.
- Collect statements to document answers to questions.

In addition to the procedures described in Chapter 8 of the FIFRA Inspection Manual, the following items apply specifically to WPS inspections.

**Basic inspection and establishment information:**

- Date, name of inspector, type of inspection (unannounced/announced, neutral or for cause);
- Owner and manager of the establishment (name, address, email (optional) and telephone). Indicate if immediate family members are employed;
- Applicator (self-apply, employee, or for-hire) and record certification.

**WPS Pesticides Applied:**

- List product names and/or EPA registration numbers for the last three (at a minimum) pesticide products with labeling that included the WPS reference statement that were applied at the establishment;
- To facilitate evaluation of the WPS use requirements during the inspection, for each of the products record:
  - Date applied;
  - Weather conditions at time of application;
  - Method of application (e.g., backpack sprayer, air blast) for AEZ determination (for information on the AEZ, see section 5.5.3);
  - Specific application requirements, precautions and protections;
  - Notification and posting requirements;
  - The REI;
  - PPE requirements.

**Signed statements:**

- Although the inspector may not be present during key events such as the pesticide application or during the REI, the inspector should collect as much evidence of any suspected past violations as possible, including signed witness statements, where appropriate.
  - For example, if PPE required for a recent application is not present on-site during the inspection, the inspector should ask the handler if the required PPE was provided and worn during the application. If the PPE was not provided to the handler, the inspector should note this information and if possible, obtain a signed statement from the handler stating that the required PPE was not provided for that application.

For a more detailed discussion of documentation of use inspections, including for cause inspections, refer to Chapter 8 of the FIFRA Inspection Manual.

### 5.3 REVIEW PESTICIDE LABELS ON SITE

The inspector should review labels of pesticides on site and note appropriate label requirements. The pesticide labels reviewed should be documented in the report. Note key information, such as:

- the date pesticides were applied;
- weather conditions at time of application;
- method of application (e.g., backpack sprayer, air blast) for AEZ determination (for information on the AEZ, see section 5.5.3);
- specific application requirements, precautions and protections;
- notification and posting requirements;
- the REI; and
- PPE requirements.

### 5.4 RECORD REVIEW

Request and review the employer's information on safety training, pesticide application and hazard information (SDSs), and respirator records.

#### 5.4.1 *Application and Hazard Information Records* (§170.311)

All pesticide application and hazard information (SDS) that is required to be displayed must be retained on the establishment for two years after the expiration of the REI applicable to the pesticide application conducted. The records must include the following information for each WPS-covered pesticide applied:

- The safety data sheet;
- The name, EPA registration number, and active ingredient(s);
- The crop or site treated and the location and description of the treated area;
- The date(s) and times the application started and ended;
- The duration of the applicable restricted-entry interval.

#### 5.4.2 *Pesticide Safety Training Records*

(§170.401(d), §170.501(d))

For each worker or handler trained, the agricultural employer must maintain on the agricultural establishment, for two years from the date of the training, a record documenting each worker or handler's training. The records must include:

- The trained worker or handler's printed name and signature;

#### Training Content Revisions Compliance Date

EPA published a Federal Register notice on June 22, 2018 announcing the availability of WPS training materials for both workers and handlers. With this notice, WPS pesticide safety training must have the full expanded content that is in the 2015 WPS (§170.401 and §170.501) as of Dec. 19, 2018.

- The date of the training;
- Information identifying which EPA-approved training materials were used;
- The trainer's name and documentation showing that the trainer met the requirements to be a trainer, at the time of the training;
- The agricultural employer's name.

An agricultural employer who provides, directly or indirectly, safety training must provide to the worker or handler, upon request, a copy of the record of the training.

An agricultural employer may accept copies of training records from outside sources if all required information (listed above) is included and if it appears to be legitimate.

### **5.4.3 Respirator Safety Records** (*§170.509(b)(10)*)

The handler employer must maintain records for two years documenting the completion of the requirements of §170.509(b)(10)(i) through (iii) (i.e., medical evaluation; fit testing; and training as required by OSHA regulations at 29 CFR 1910.134). The records must be kept at the establishment.

The EPA regulations require compliance with certain OSHA regulations. Therefore, it is a violation of FIFRA to violate the OSHA regulations cited below in italics (provided in full in Appendix C):

#### **5.4.3.1 Medical Evaluation (170.509(b)(10)(i))**

Handler employers must provide handlers with a medical evaluation by a physician or other licensed health care professional in accordance with 29 CFR 1910.134(e).

*29 CFR 1910.134(e): (1) General. The employer shall provide a medical evaluation to determine the employee's ability to use a respirator, before the employee is fit tested or required to use the respirator in the workplace. The employer may discontinue an employee's medical evaluations when the employee is no longer required to use a respirator. (2) Medical evaluation procedures. (i) The employer shall identify a physician or other licensed health care professional (PLHCP) to perform medical evaluations using a medical questionnaire or an initial medical examination that obtains the same information as the medical questionnaire.*

The records must include the written medical clearance documentation from the physician or other licensed health care professional, which is called a "written recommendation" in the OSHA regulations.

*29 CFR 1910.134(e)(6): In determining the employee's ability to use a respirator, the employer shall:*

- *Obtain a written recommendation regarding the employee's ability to use the respirator from the PLHCP. 1910.134(e)(6)(i). The recommendation shall provide only the following information:*

- *Any limitations on respirator use related to the medical condition of the employee, or relating to the workplace conditions in which the respirator will be used, including whether or not the employee is medically able to use the respirator; 1910.134(e)(6)(i)(A)*
- *The need, if any, for follow-up medical evaluations; 1910.134(e)(6)(i)(B)*
- *A statement that the PLHCP has provided the employee with a copy of the PLHCP's written recommendation.1910.134(e)(6)(i)(C)*

Ensure all handlers that use respirators have been medically evaluated and approved.

- The handler employer's records should only contain the medical clearance documentation listed above.
- It should **not** include any completed medical questionnaires or detailed notes from a physician's or other licensed health care professional's (PLHCP) medical examination. That information is confidential and should not be in the possession of the owner/employer.
- If the inspector sees any other health records other than the medical clearance documentation, the inspector should not review or copy them and should point out that the employer should not have confidential medical information in their records.

Compare the types of respirators for which handlers have clearance against the respirators required by the pesticide product labels.

- The inspector also should note any restrictions included in the clearance documentation.
  - For example, a condition of clearance may be that the handler can only use the respirator when the temperature is below a specified level. Depending on the situation, the inspector may be able to determine that a handler is or is not following the restrictions in the clearance documentation.

#### **5.4.3.2 Fit Testing (170.509(b)(10)(ii))**

Handler employers must provide handlers with fit testing using the respirator specified on the pesticide labeling in a manner that complies with 1910.134(f).

*29 CFR 1910.134(f): Before an employee may be required to use any respirator with a negative or positive pressure tight-fitting facepiece, the employee must be fit tested with the same make, model, style, and size of respirator that will be used. This paragraph specifies the kinds of fit tests allowed, the procedures for conducting them, and how the results of the fit tests must be used.*

*The employer shall ensure that employees using a tight-fitting facepiece respirator pass an appropriate qualitative fit test (QLFT) or quantitative fit test (QNFT) as stated in this paragraph. 1910.134(f)(1).*

*The employer shall ensure that an employee using a tight-fitting facepiece respirator is fit tested prior to initial use of the respirator, whenever a different respirator facepiece (size, style, model or make) is used, and at least annually thereafter. 1910.134(f)(2).*

Note: Particulate filtering facepiece respirators (formerly known as dust/mist filtering respirators) are considered tight-fitting respirators and therefore require a fit test.

Fit test records must be in accordance, with 29 CFR 1910.134(m)(2)<sup>8</sup>.

*29 CFR 1910.134(m)(2): The OSHA recordkeeping requirements for fit testing are:*

*(2) Fit testing. (i) The employer shall establish a record of the qualitative and quantitative fit tests administered to an employee including:*

*(A) The name or identification of the employee tested;*

*(B) Type of fit test performed;*

*(C) Specific make, model, style, and size of respirator tested;*

*(D) Date of test; and*

*(E) The pass/fail results for QLFTs or the fit factor and strip chart recording or other recording of the test results for QNFTs.*

Review the fit testing records to make sure all handlers have successfully completed fit tests for the respirators they use.

- The inspector may be able to confirm the type of respirator during the handler interview.
- The inspector should only make a copy or take a photo of a fit test record when documenting a suspected violation.
  - For example, if the inspector has determined that a handler is using a respirator but did not pass the fit test using that specific respirator, the inspector should document the violation by obtaining a copy of the fit test records for the different respirator.

#### **5.4.3.3 Respirator Training (170.509(b)(10)(iii))**

Handler employers must provide handlers with training in the use of the respirator specified on the pesticide product labeling consistent with the provisions in 29 CFR 1910.134(k)(1)(i) – (vi).

*29 CFR 1910.134(k)(1)(i) – (vi): Training and information. This paragraph requires the employer to provide effective training to employees who are required to use respirators. The training must be comprehensive, understandable, and recur annually, and more often if necessary. This paragraph also requires the employer to provide the basic information on respirators in appendix D of this section to employees who wear respirators when not required by this section or by the employer to do so. 1910.134(k)*

*The employer shall ensure that each employee can demonstrate knowledge of at least the following*

- *Why the respirator is necessary and how improper fit, usage, or maintenance can compromise the protective effect of the respirator; 1910.134(k)(1)(i)*

- *What the limitations and capabilities of the respirator are; 1910.134(k)(1)(ii)*
- *How to use the respirator effectively in emergency situations, including situations in which the respirator malfunctions; 1910.134(k)(1)(iii)*
- *How to inspect, put on and remove, use, and check the seals of the respirator; 1910.134(k)(1)(iv)*
- *What the procedures are for maintenance and storage of the respirator; 1910.134(k)(1)(v)*
- *How to recognize medical signs and symptoms that may limit or prevent the effective use of respirators; 1910.134(k)(1)(vi)*

OSHA does not identify the specific records that must be kept to document training. Records similar to those specified for the pesticide safety training would suffice, such as the:

- Trained handler's printed name and signature;
- Date of the training;
  - Information identifying what training materials were used or what training points were covered;
  - Trainer's name.

The inspector should review and document whether all handlers who use respirators have completed training.

## **5.5 EMPLOYER/SUPERVISOR INTERVIEWS**

Under the WPS, employers and supervisors include agricultural employers and commercial pesticide handler employers. In situations where the agricultural employer has contracted with the farm labor contractor to comply with WPS protections, the inspector should interview both the agricultural employer and the farm labor contractor to determine if appropriate requirements were met. For more information on farm labor contractors see section 3.4.

A commercial pesticide handler employer is any person other than an agricultural employer, who employs any handler to perform handler activities on an agricultural establishment. A labor contractor who does not provide pesticide application services or supervise the performance of handler activities, but merely employs laborers who perform handler activities at the direction of an agricultural or handler employer, is not a commercial pesticide handler employer.

The term "agricultural employer," as defined by §170.305, may include owners and managers of agricultural establishments, and employers of agricultural workers and handlers. Workers and handlers may be hired directly by the agricultural employer, or through a farm labor contractor. The agricultural employers are responsible for complying with all WPS regulations in Part 170, however, the agricultural employer may contract with a farm labor contractor to provide some WPS protections such as providing training. Even if the agricultural employer requires these services to be provided by the farm labor contractor, the agricultural employer is ultimately still responsible for ensuring compliance with the WPS. The agricultural employer is also required



under the revised WPS to maintain, on-site, the training records for FLC workers and handlers on the establishment, just as they are for workers and handlers who are hired directly.

### **5.5.1 Requirements that Apply to Agricultural Employers of Workers, Agricultural Employers of Handlers, and Commercial Pesticide Handler Employers**

Below are general agricultural employer and commercial pesticide handler responsibilities established under §170.309 and §170.313 of the WPS. The description includes specific requirements and questions that the inspector may ask the employer or supervisor.

#### **5.5.1.1 General Employer Responsibilities (§170.309 and §170.313)**

The applicable regulations are:

Proper Pesticide Use (§170.309(a) and §170.313(a)) – Agricultural employers and commercial pesticide handler employers must: Ensure that any pesticide is used in a manner consistent with the pesticide product labeling when applied on the agricultural establishment.

Handler and Early Entry Worker Minimum Age Requirement (§170.309(c) and §170.313(c)) -- Agricultural employers and commercial pesticide handler employers must ensure that any handler and any early entry worker is at least 18 years old.

The inspector should:

- Ask the employer if any employed handlers or early entry workers are under 18 years old, or if the employer had any handlers or early entry workers who were under 18 after January 2, 2017;
- If, during the inspection, the inspector observes a handler or early entry worker who clearly appears to be under age 18, the inspector may ask the handler or early entry worker for their age. The handler or early entry worker does not need to provide proof of their age. If the handler or early entry worker indicates he or she is under 18, the inspector should document this and follow up with the employer.

#### **Employee Age Verification**

The 1986 Immigration Reform and Control Act requires all employers to maintain the I-9 Employment Eligibility Verification form for all employees hired on or after Nov. 6, 1986, who are working in the United States. The Form I-9 includes the birthdate of each worker and how the birthdate was verified by the employer (e.g., driver's license, birth certificate, etc.). For more information on Form I-9, see <https://www.uscis.gov/i-9-central>

All employers are required under federal law to maintain a record (Form I-9) of each employee's birthdate and how the birthdate was verified (e.g., by driver's license, birth certificate). See box on Employee Age Verification. An employer may show the WPS inspector a Form I-9 to prove the handler or early entry worker is at least 18.

- **The WPS inspector may view I-9 forms** to confirm a handler's or early entry worker's age and should make a copy of the form to document the violation if a handler or early entry worker is under 18.
- If the employer does not provide any documentation of the age of the handler or early entry worker, the inspector should record this and should follow up with the handler or early entry worker to obtain documentation of age (if not provided earlier).

Supervisor Tasks and Directions to Workers or Handlers (§170.309(d) and (e) and §170.313(d) and (e)) -- Agricultural employers and commercial pesticide handler employers must provide to each person, including labor contractors, who supervise any workers or handlers, information and directions sufficient to ensure that each worker or handler receives the protections required by the WPS. Such information and directions must specify the tasks for which the supervisor is responsible in order to comply with the provisions of this part; and require each person, including a labor contractor, who supervises any worker or handler, to provide sufficient information and directions to each worker and handler to ensure that they can comply.

The inspector should ask the agricultural employer:

- How do you relay information, assign tasks, and provide directions to the supervisors or labor contractors to ensure that the WPS protections are provided to their employees?
- How is the label information provided?

The inspector should ask the commercial handler employer:

- How do you relay information, assign tasks, and provide directions to the handler supervisor to ensure that the WPS protections are provided to handlers?

Pesticide Equipment Inspection and Repair (§170.309(g) and §170.313(l)) -- Agricultural employers and commercial handler employers must: ensure that workers or other persons employed by the agricultural establishment do not clean, repair, or adjust pesticide application equipment, unless trained as a handler under §170.501.

Before allowing any person not directly employed by the agricultural establishment or commercial pesticide handling establishment to clean, repair, or adjust equipment that has been used to mix, load, transfer, or apply pesticides, the agricultural employer or commercial pesticide handler employer must provide all of the following information to such person:

- The equipment may be contaminated;
- The potential harmful effects of pesticide exposure;
- Procedures for handling the application equipment to limit exposure; and
- Personal hygiene practices and decontamination procedures.

The inspector should:

- Ask to review handler training records if training records have not already been examined (see section 5.4.2);

- Ask if anyone not directly employed by the establishment ever cleans, repairs, or adjusts pesticide equipment. If so, determine if all appropriate information is provided.

### **5.5.1.2 Pesticide Safety Training**

The applicable regulations are:

Pesticide Safety Training (§§170.401 and 170.501) -- Before any worker performs any task in a treated area on an agricultural establishment where within the last 30 days a pesticide product has been used or a restricted-entry interval for such pesticide has been in effect, the agricultural employer must ensure that each worker has been trained in accordance with this section within the last 12 months (except for certified applicators, trained handlers, or licensed crop advisors).

Before any handler performs any handler activity involving a pesticide product, the handler employer must ensure that the handler has been trained in accordance with this section within the last 12 months (except for certified applicators, or licensed crop advisors).

The inspector should:

- Ask to review training records if they have not already been reviewed (see section 5.4.2);
- Ask the employer when workers and handlers receive pesticide safety training;
- Ask where the training was conducted. The training location must be free of distractions during training. EPA plans to develop interpretive guidance on what situations can be considered to be free of distractions.

The inspector may also at this time:

- Ask what the employer does if a worker or handler requests training records. Training records must be provided to an employee on request by the employee. (§170.401(d)(2))

### **5.5.1.3 Decontamination and Eye Flush Supplies**

The applicable regulations are:

Worker Decontamination (§170.411) — An agricultural employer must provide decontamination supplies for routine washing and emergency decontamination for workers. The decontamination supplies must be reasonably accessible (within ¼ mile or at the nearest vehicular access) and located together and outside of any treated area or area under a REI.

The water must be of a quality and temperature that will not cause illness or injury when it contacts the skin or eyes or if it is swallowed. If a water source is used for mixing pesticides, it must not be used for decontamination, unless equipped with properly functioning valves or

other mechanisms that prevent contamination of the water with pesticides, such as anti-backflow siphons, one-way or check valves, or an air gap sufficient to prevent contamination.

Decontamination supplies must include:

- Water (1 gallon per worker at the start of the work period);
- Soap (no hand sanitizing gels/liquids, no wet towelettes).
- Single-use dry towels.

Decontamination supplies must be provided:

- If pesticides have a REI less than or equal to 4 hours, supplies must be provided for at least 7 days after the end of the REI;
- If pesticides have a REI greater than 4 hours, supplies must be provided for 30 days after the end of the REI.

An inspector should:

- Ask the employer and later verify, where decontamination supplies are located;
- Evaluate the quality (look for the presence of any color, debris, cloudiness) and temperature of the decontamination water, if practical, during the site visit.
- Ask the employer about and later verify the contents of the decontamination supplies;
- Ask the employer if and when the water supply is replenished during the work period to ensure it is sufficient to meet the needs of the workers.
- Ask the employer when decontamination supplies are provided. If possible, verify during site visit.

Handler Decontamination (§170.509) — A handler employer must provide decontamination and eye flushing supplies during any handling activity for removing pesticides and pesticide residues.

Decontamination supplies must be provided as follows:

- The decontamination supplies must be reasonably accessible (within ¼ mile or at the nearest vehicular access) and located together and outside of any treated area or area under a REI;
- Decontamination supplies must be provided at all mixing sites;
- Decontamination supplies must be outside treated areas or areas under a REI unless supplies are contained within a pesticide protected closed container;
- For pilots, the decontamination supplies must be in the aircraft or at the aircraft loading site.

Decontamination supplies for handlers must include:

- Water (3 or more gallons per handler at start of the work period);
- Soap (no hand sanitizing gels/liquids, no wet towelettes);
- Single-use dry towels;
- Clean change of clothing, such as coveralls.

The employer must ensure at least one pint of water is immediately available to applicators using pesticides requiring protective eyewear (i.e., within a few seconds or within a few steps).

At a mix/load site for pesticides requiring protective eyewear or with a closed system operating under pressure, at least one eye flush system must be immediately available. The eye flush system must be capable of delivering gently running water at a rate of at least 0.4 gallons per minute for 15 minutes or be 6 or more gallons of water in containers suitable for providing a gentle eye flush for about 15 minutes. If there is more than one handler, only one eye flush station is required per mix/load site.

An inspector should:

- Ask where routine decontamination supplies for handlers are located and verify later, if possible;
- Ask what decontamination supplies for handlers are provided and verify later, if possible. Ask if and when water supplies are replenished to ensure a sufficient supply to meet handler needs during the work period;
- Ask if the establishment uses pesticides that require protective eyewear. If so:
  - Ask how the employer ensures at least one pint of water is immediately available to applicators using pesticides requiring protective eyewear;
  - Ask if there is an eye flush system at the mix/load sites where pesticides that require protective eyewear are used (or a closed system under pressure is used), and verify later, if possible.

If the inspector has reason to believe the eye flush system may not be operational, (e.g., spigots are heavily rusted) the **inspector should** ask when it was last used or tested.

- If necessary, the inspector can test the eye flush system to see if it is operational; to ensure water actually flows at a reasonable flow and appears to be of sufficient quality.
- However, **before testing the eye flush system, the inspector should ensure that any water removed during testing can be replaced quickly.**

#### 5.5.1.4 Emergency Assistance

The applicable regulations are:

Emergency Assistance (§§170.309(f) and 170.313(k)) -- Once the employer is aware that workers or handlers may have been exposed to pesticides, the agricultural employer or commercial pesticide handler employer must provide:

- Transportation of the worker or handler to a medical care facility;
- Exposure information, including the product name, EPA registration number, active ingredient(s), SDS, the pesticide use, and circumstances of the exposure to medical personnel.

The inspector should:

- Ask the worker or handler employer what is done to respond to pesticide-related illnesses or exposures;
- Inquire if any workers or handlers have been exposed to a pesticide recently. If so, ask how the employer responded.

#### **5.5.1.5 Employee Refusal**

Although the WPS identifies the agricultural employer as responsible for ensuring WPS protections, some workers and handlers may refuse to comply with these requirements (e.g., wearing PPE). The inspector may observe workers or handlers who are not following WPS protections despite the availability of the protections (e.g., not wearing the required PPE although it is available). In these cases, the inspector should ask why the worker or handler is not following the protections, document the handler's or worker's response and follow up with the employer.

The inspector also may learn about these situations through a complaint or injury investigation. In any of these cases the inspector should identify the employer's actions/responses to the employee refusals and whether the employer made any good faith efforts to comply (e.g., holding additional training sessions for handlers/workers who did not attend previously).

### **5.5.2 Requirements that Only Apply to Agricultural Employers of Workers and Agricultural Employers of Handlers**

#### **5.5.2.1 Display of Pesticide Safety, Application and Hazard Information and Providing Establishment Specific Information**

The applicable regulations are:

Establishment-Specific Information (§§170.403 and 170.503) – Before any worker or handler performs any activity in a treated area or an agricultural establishment where in the last 30 days a pesticide product has been used, or an REI has been in effect, the employer must ensure workers and handlers are informed in a manner the workers and handlers can understand:

- location of pesticide safety information;
- location of pesticide application and hazard information; and
- location of decontamination supplies.

The inspector should:

- Ask the employer when they inform workers and handlers about the location of pesticide safety information, pesticide application and hazard information, and the location of decontamination supplies.

Pesticide Safety Information (§170.311(a)) —When workers and handlers are on-site at an agricultural establishment and within 30 days of the end of a REI, the agricultural employer must display, in accordance with this section, pesticide safety information. After January 1, 2018, the content must include all 10 points at (§170.311(a)(3)). See chart below.

## Pesticide Safety Information Requirements

Content required on or before Jan. 1, 2018	Content required after Jan. 1, 2018
Avoid getting on the skin or into the body any pesticides that may be on or in plants, soil, irrigation water, tractors, and other equipment, on used PPE, or drifting from nearby applications. (§170.311(a)(2)(i))	No change in content. (§170.311(a)(3)(i))
Wash before eating, drinking, using chewing gum or tobacco, or using the toilet. (§170.311(a)(2)(ii))	No change in content. (§170.311(a)(3)(ii))
Wear work clothing that protects the body from pesticide residues (long-sleeved shirts, long pants, shoes and socks, and a hat or scarf. (§170.311(a)(2)(iii))	No change in content. (§170.311(a)(3)(iii))
Wash or shower with soap and water, shampoo hair, and put on clean clothes after work. (§170.311(a)(2)(iv))	No change in content. (§170.311(a)(3)(iv))
Wash work clothing separately from other clothes before wearing them again. (§170.311(a)(2)(v))	No change in content. (§170.311(a)(3)(v))
Follow directions about keeping out of treated or restricted areas. (§170.311(a)(2)(vii))	No change in content. ((§170.311(a)(3)(vii))
Name, address and phone number of a nearby operating medical care facility capable of providing emergency medical treatment (identified as emergency medical contact information). <b>Not acceptable to only list 911.</b> (§170.311(a)(2)(viii)) <b>Information must be updated within 24 hours</b> of receiving notice of a change to the information. (§170.311(a)(4))	No change in content. (§170.311(a)(3)(ix))
	<b>New - Name, address and phone number of the State or Tribal pesticide regulatory agency.</b> (§170.311(a)(3)(x))

## Pesticide Safety Information Requirements (continued)

Content required on or before Jan. 1, 2018	Content required after Jan. 1, 2018
Wash immediately in the nearest clean water if pesticides are spilled or sprayed on the body. As soon as possible, shower, shampoo, and change into clean clothes. (§170.311(a)(2)(vi))	Revised – If pesticides are spilled or sprayed on the body <b>use decontamination supplies to wash immediately, or rinse off in the nearest clean water including springs, streams, lakes or other sources</b> if more readily available than decontamination supplies, and as soon as possible, shower with soap and water, shampoo hair, and change into clean clothes. (§170.311(a)(3)(vi))
There are Federal rules to protect workers and handlers, including a requirement for safety training. (§170.311(a)(2)(ix))	Not required.
	<b>New – Instructions to employees to seek medical attention as soon as possible if they believe they have been poisoned, injured or made ill by pesticides.</b> (§170.311(a)(3)(viii))

- The information must be located:
  - Where employees pass or congregate and where it can be readily seen and read;
  - Where decontamination supplies are located at permanent sites;
  - Where a toilet, and handwashing and drinking water supplies are provided to meet the OSHA field sanitation requirements for 11 or more workers. 29 CFR 1928.110.
- The information must be understandable, accessible and legible:
  - Must allow free access to the information at all times during work hours;
  - Must be legible at all times;
  - Must be conveyed in a manner that workers and handlers can understand.

The inspector should:

- Ask what languages are spoken by the workers and handlers and how information is provided to ensure it is understood;
- Ask the agricultural employer when and where pesticide safety information is provided and how employees have access to the information.



If possible during the site visit, verify if there is either an EPA-developed poster or pesticide safety information that includes the correct content.

#### Pesticide Application and Hazard Information

(§170.311(b)) — An agricultural employer shall display the required pesticide application and hazard information about pesticides applied on the establishment until workers or handlers are no longer on the establishment or until at least 30 days after the end of the last applicable REI whichever is earlier. In addition, an agricultural employer must retain the pesticide application and hazard information required to be displayed in records on the establishment for two years after the end of the last applicable REI.

The pesticide application and hazard information must include:

- A copy of the OSHA Safety Data Sheet (SDS) for each pesticide applied within the last 30 days or that had an REI in effect in the last 30 days. The SDS needs to be a current version;
- Name, EPA registration number, active ingredient and REI of each product;
- Crop or site treated;
- Location/description of the treated area(s);
- Date(s) and times application started and ended;
- It must be posted no later than 24 hours after the end of the application and before any workers enter the treated area; (§170.311(b)(5) and §170.309(l))
- The display needs to be at a place that workers and handlers are likely to pass by or congregate and where it can be readily seen and read, and it must remain legible; (§170.311(b)(2) and (4))
- Workers and handlers must be allowed access to the information at all times during work hours. (§170.311(b)(3))

An inspector should:

- Ask what pesticide application and hazard information is displayed and verify later if posted;
- If posted, check during the site visit to see if the application display can be readily seen and read and is located where workers and handlers are likely to see it;
- Ask if it is accessible at all times during normal work hours;
- Ask when the application information is posted;
- Ask when the display is removed;

#### **Electronic Information Display**

An agricultural employer may provide required pesticide safety, pesticide application and hazard information through electronic media only if it meets all the requirements of 170.311. The employer would need to provide each worker and handler with a device or free access to a device that contains all the required information in an understandable format and that all workers and handlers know how to access the information. These situations need to be assessed on a case-by-case basis.

- If not done earlier during the records review, examine the application information and SDSs to ensure retention for 2 years. (A total of 2 years of records will not be required until 2019, i.e., 2 years after the requirement to keep records is effective.)

Access to Pesticide Application and Hazard Information by a Worker or Handler (§170.311(b)(7))

– Upon request, the agricultural employer must provide to a worker or handler the pesticide application information and SDSs that was required to be displayed during the period that worker or handler was employed on the establishment. The information must be provided within 15 days of the request. The request from the worker or handler may be either oral or in writing.

**Repeated Information Requests**

Whenever a record has been previously provided without cost, the agricultural employer may charge a reasonable cost for additional copies.  
(§170.311(b)(7)(ii))

The inspector should:

- Ask if pesticide application and hazard information has been requested by employees. If so, ask how quickly the employer provided the information.

Access to Pesticide Application and Hazard Information by Treating Medical Personnel

(§170.311(b)(8) – The agricultural employer must promptly provide a copy of, or access to, pesticide application and hazard information applicable to a worker’s or handler’s time of employment on the establishment if requested (orally or in writing) by treating medical personnel.

The inspector should:

- Ask if there have been requests from medical personnel. If yes, ask if all information requested was provided to treating medical personnel promptly.

**Limited Role of the Designated Representative under WPS**

170.311(b)(9)

Under the WPS, the role of the designated representative is limited to requesting, on behalf of a worker or handler, a copy of, or access to:

- pesticide application records; and
- hazard information posted during the period of that worker’s or handler’s employment.

Access to Pesticide Application and Hazard Information by

a Designated Representative (§170.311(b)(9)) – The agricultural employer must provide to a worker’s or handler’s designated representative, the pesticide application and hazard information that was required to be displayed during the period that worker or handler was employed on the establishment. The information must be provided within 15 days of the request. A request by a designated representative must be in writing and must contain the following:

- Name of worker or handler being represented;

- Description of specific information being requested (including dates of employment, and type of work conducted);
- Written statement designating the representative (including: printed name of worker or handler and signature; printed name of designated representative, signature and contact information; and date of designation);

The inspector should:

- Ask if pesticide application and hazard information has been requested by designated representatives. If so, ask how quickly the employer provided the information requested.

### 5.5.3 *Restrictions for Agricultural Employers during Applications*

The applicable regulations are:

#### Restrictions during Outdoor Pesticide Applications (Application Exclusion Zone (AEZ))

(§170.405(a)) – An agricultural employer must not allow or direct any worker or other person to enter or remain in the AEZ within the boundary of the establishment.

- AEZ is 100 feet from the dispersion points of the application equipment horizontally in all directions if applied aurally, as air blast, as a spray of extremely fine, very fine or fine spray quality (ASABE S-572.1) or as a fumigant, smoke, mist, or fog. (Note, EPA intends to develop an interpretive policy statement to clarify the definition of “air blast” sprayers as it applies to the AEZ.)
- AEZ is 25 feet from the dispersion points of the application equipment horizontally in all directions if applied from a height greater than 12 inches above the planting medium and spray quality of medium or larger (ASABE S-572.1).

#### **Application Exclusion Zone (AEZ)**

More information on the AEZ can be found in Appendix E: The Interpretive Policy on the AEZ.

See section 5.5.6.2 for Handler responsibilities regarding the AEZ.

More information about the AEZ can be found in Appendix E which includes EPA’s Interpretive Policy Statement regarding the AEZ, questions and answers and a diagram of an AEZ.

The agricultural employer has two responsibilities related to the pesticide applications and the AEZ requirements:

- During any WPS-covered pesticide application, the agricultural employer must keep workers and all other persons (other than appropriately trained and equipped handlers involved in the application) out of the treated area and the AEZ within the boundary of the agricultural establishment. This includes people occupying migrant labor camps or other housing or buildings that are located on the agricultural establishment;
- The agricultural employer may not allow a pesticide to be applied while any worker or other person on the establishment is in the treated area or within the AEZ.

Note that if the agricultural employer is also the handler making the pesticide application, the employer must suspend a pesticide application if any worker or other person is within the AEZ beyond the boundary of the agricultural establishment.

According to EPA's Interpretive Policy, the applicator may resume the application only after taking measures to ensure that workers and other persons who are in the AEZ but located off the establishment, will not be contacted by the pesticide application either directly or through drift. It is the agricultural employer's responsibility to ensure workers or other persons not involved in the application are not in the AEZ on the establishment.

The inspector should:

- Observe applications made during the inspection if possible. Based on the pesticide label instructions, method of application and spray quality, if known, determine the size of the AEZ. If workers or other people appear to be in the treated area or AEZ, notify the employer immediately;
- Ask the employer what instructions have been given to handlers about what to do if there are people close to the application equipment, in the AEZ;
- Ask how the agricultural employer keeps workers or other people out of the AEZ within the establishment;
- Ask the employer if there are any easements on the establishment and if the easements are ever inside the AEZ. Ask how those situations are handled and what actions the employer takes to ensure persons on the easement are not contacted directly or by spray drift. (Note, EPA intends to develop an interpretive policy statement on how the AEZ applies to easements.)

**Note on Nozzle Colors**

The color of spray nozzles do not necessarily correspond to ASABE spray quality charts where a color corresponds to each droplet category: purple-extra fine, red-very fine, orange-fine, yellow-medium, blue-coarse, green-very coarse, white-extremely coarse, and black-ultra coarse.

Restrictions During Enclosed Space Pesticide Applications (§170.405(b)) – During any enclosed space application, an agricultural employer must not allow any worker or other person to enter or remain in the area specified in column B of §170.405(b)(4) until the time specified in column C has expired. See Appendix D for Table on Entry Restrictions During Enclosed Space Production Pesticide Applications.

The inspector should:

- Ask how the agricultural employer keeps workers and other people out of the relevant parts of the enclosed space during pesticide applications;
- Determine the type of ventilation used on the establishment;

- Ask how the agricultural employer determines when the ventilation criteria have been met (i.e., is inhalation exposure level determined, are air exchanges measured, or are mechanical or passive ventilation systems used).

#### **5.5.4 Treated Areas Information from the Agricultural Employer to the Commercial Handler Employer**

The applicable regulations are:

Treated Areas Information from Agricultural Employer to the Commercial Handler Employer (§170.309(k)) -- The client agricultural employer must provide information to the commercial handler about areas (location and description) on the establishment that have been previously treated, the REI in effect, and any label restrictions for any areas that the handler may be in or within ¼ mile. The commercial pesticide handler employer must provide certain information to the agricultural employer before the application. See section 5.5.6.8.

The inspector should:

- Ask if the agricultural employer hires commercial pesticide handlers to apply pesticides on the establishment. If so:
  - Ask how the agricultural employer provides information on treated areas to the handler employer and who provides the information;
  - Ask the agricultural employer what information is provided.

#### **5.5.5 Requirements that Only Apply to Agricultural Employers of Workers**

##### **5.5.5.1 Notice of Application**

The applicable regulations are:

Notification to Workers of Pesticide Applications (§170.409) — Agricultural employers must notify workers of all entry restrictions in accordance with this section. No notification is needed if from the application start to the expiration of the REI, no worker will enter or travel within ¼ mile of the treated area for outdoor production or no worker will enter any part of the enclosed space for enclosed space production.

For outdoor and enclosed space applications:

- If the label requires both types of notification, the employer must post and orally notify workers.

Otherwise, for outdoor applications:

- If product REI is 48 hours or less, then employer may either post or orally notify workers;
- If product REI more than 48 hours, then employer must post to notify workers;

Otherwise, for enclosed space applications:

- If product REI is 4 hours or less, then the employer may post or orally notify workers;
- If product REI is greater than 4 hours, then employer must post to notify workers;

The warning sign must meet the following restrictions:

- Standard Sign is 14 X 16 inches; letters 1 -inch height:
  - Outdoor posting at all visible points of entry to treated area (access road, footpath, border within 100 feet of worker housing), or corners of treated area;
  - Indoor posting at all visible points of entry to the structure/space, or at corners of treated area, or at entry points to the treated subsection within a larger space.
- Medium-sized Sign Letters 7/8 inches height; red circle 3 inches diameter:
  - Post 50 feet apart around the treated area, and at all locations as specified for the standard outdoor/indoor sign above.
- Smallest Sign Letters 7/16 inches height; red circle 1 ½ inches diameter:
  - Post minimum 25 feet apart around treated area, and at all locations as specified for the standard outdoor/indoor sign above.

#### **Electronic Notification**

Agricultural employers may notify workers of pesticide applications electronically, for example, using text messaging, in addition to other required methods, but not instead of those methods.

Warning signs must meet the following required content:

- Stern face and raised hand in red circle, DANGER PESTICIDES (PELIGRO PESTICIDAS), KEEP OUT (NO ENTRE); Spanish language may be replaced with another language read by most workers.

Warning signs must be:

- Posted before, but no more than 24 hours before the application;
- Removed or covered within 3 days after the end of the application or any REI expires, whichever is later.

Exception: signs may remain posted more than 3 days after the REI as long as workers are kept out of the treated area and any workers that may come within ¼ mile of the treated area know not to enter the treated area while signs are posted.

Oral warning must be provided:

- Before the application begins;
- At the start of the worker's work period if workers arrive during the application or before the end of the REI;
- And must include:
  - Location and description of the treated areas(s);

- Dates and times of restricted entry;
- Instructions not to enter the treated area(s) or application exclusion zone.

An inspector should:

- Ask what notification was given for recent (at a minimum, the last three if possible) WPS pesticide applications. Verify with label information;
- Ask when the employer gives oral notification and when posted notification is used for applications in outdoor spaces;
- Ask when the employer gives oral notification and when posted notification is used for applications in enclosed spaces;
- Inquire how oral warnings are communicated to non-English speaking workers;
- Ask what information is provided through oral warnings;
  - During site visit, examine the warning sign if possible, to assess if it meets the WPS size, content and location requirements;
  - Ask how the employer assures that workers do not enter treated areas while the signs are posted;
- Ask when warning signs are posted and when they are removed;
- Look for posted warning signs on the establishment and inquire about the specific pesticide for which that sign has been posted;
- Compare the pesticide product label and the time of application to determine if the sign should be posted at the time of the inspection or if it should be removed;
- Ask when and how oral warnings are given. §170.409(c))

#### 5.5.5.2 Restrictions to Worker Entry after Pesticide Applications

The applicable regulations are:

Worker Entry Restrictions After Pesticide Applications (§170.407(a) and (b) and §170.309(l)) – After the application of any pesticide to an area of **outdoor production**, the agricultural employer must not allow or direct any worker to enter or to remain in the treated area before the REI has expired, all warning signs have been removed or covered, and the pesticide application information and SDS have been displayed, except for permitted early-entry activities.

After the application of any pesticide to an area of **enclosed space production**, the agricultural employer must not allow or direct any worker to enter or to remain in the areas specified in Column D of the Table in §170.405(b)(4) (see Appendix D for Table) before the REI has expired, all warning signs have been removed or covered, and the pesticide application information and SDS have been displayed, except for permitted early-entry activities.

For outdoor applications the inspector should:

- Ask how the agricultural employer assures that no worker enters the treated area before allowed.

For enclosed space applications the inspector should:

- Ask how the agricultural employer assures that no worker enters the enclosed space before allowed.

#### **Applicable REI**

When two or more pesticides are applied to a treated area at the same time, the applicable REI is the longest. (170.407(c))

### **5.5.5.3 Early Entry**

The applicable regulations are:

Exceptions for Entry by Workers During the REI (§170.603) -- An agricultural employer may direct workers to enter treated areas under an REI to perform certain activities as listed below and in conformance with special protections provided to the workers.

- Worker No Contact – early entry is allowed if:
  - Workers will have no contact with any pesticide treated areas (soil, water, plants), even with PPE; and
  - Entry is not allowed until labeled inhalation exposure is met or ventilation criteria at §170.405(b)(3) is met.
- Worker Short-term Activities – early entry is allowed if:
  - No hand labor is performed;
  - The time in treated area does not exceed 1 hour in every 24 hours;
  - Entry is not allowed until 4 hours after application; and
  - Entry is not allowed until labeled inhalation exposure is met or ventilation criteria at §170.405(b)(3) are met.
- Agricultural Emergency – Entry under the REI by a worker is allowed, only when:
  - The agricultural employer could not have anticipated the circumstances for the emergency and has no control but requires entry under REI to prevent/mitigate substantial economic loss. Losses due to mismanagement cannot be included, and;
  - The state department of agriculture or other agency responsible for pesticide enforcement declared the agricultural emergency;
  - If early entry is allowed under an agricultural emergency, the agricultural employer must meet the follow requirements:
    - Entry is not allowed until 4 hours after application; and
    - Entry not allowed until labeled inhalation exposure is met or ventilation criteria at §170.405(b)(3) is met.
    - If the label requires double notification, a worker can only work in treated area for maximum of 4 hours in any 24 hours.
- Worker Limited Contact and Irrigation – Workers may enter treated areas under the REI for limited contact or irrigation activities, provided that:
  - Without this exception, there would be substantial economic loss;
  - There are no alternative tasks to prevent the loss.



- The need for the work was not anticipated (except for irrigation);
- No hand labor was performed;
- Worker will have no contact with any pesticide treated areas (soil, water, plants), other than minimal to feet, lower legs, hands, and forearms;
- The time in treated area does not exceed 8 hours in a 24-hour period;
- Entry is not allowed until 4 hours after application;
- Entry not allowed until labeled inhalation exposure is met or ventilation criteria at §170.405(b)(3) are met;
- The pesticide's labeling DOES NOT require double notification.

Inspectors should:

- Ask if workers are ever directed to enter treated areas under an REI.
- If so, ask what justification was there to allow the early entry. Depending on the response, the inspector should ask if the conditions above were met as appropriate.

Protection of Workers in a Treated Area during the REI (§170.605) - Early entry workers must be provided the following protections:

- The agricultural employer must provide the following required information before the early entry:
  - Location of the early entry area for work activities;
  - Pesticides applied;
  - Dates and times that REI begins and ends;
  - The specific early entry exception taken, and tasks to be performed;
  - If contact with treated surfaces is permitted;
  - Length of time the worker is allowed to be in the treated area;
  - Early entry PPE required;
  - Specific location on the establishment of the central posting and decontamination supplies.
- The employer must ensure the following before workers enter a treated area:
  - Workers have read the applicable pesticide labeling or are informed of labeling requirements and statements related to human hazards or precautions, first aid, and user safety.
- The employer must ensure:
  - Workers are provided with the appropriate PPE required on the product labeling for early entry, must ensure workers use the PPE as intended, and workers follow any other label-specified requirements;
  - The early entry PPE is maintained properly;
  - Measures to prevent heat stress are implemented, and the workers are instructed in the prevention, recognition, and first aid treatment for heat stress;
  - Workers are instructed on the proper use, removal, cleaning, maintenance, and disposal of the early entry PPE;
  - Workers do not take their pesticide contaminated PPE home;

- Decontamination supplies are provided at a location which is not within the area under the REI;
- Eye-flush water (at least 1 pint) is immediately available in a portable container for each worker when the label requires protective eyewear;
- Decontamination supplies (soap, single-use towels, and at least 3 gallons of water per worker) are available where they remove the early entry PPE.

The inspector should:

- Ask the employer if workers were directed to enter treated areas during the REI during the recent pesticide applications. If so, and if not already discussed, ask the employer if any early entry workers are under 18 years old, or were under 18 after January 2, 2017;
- Ask the employer what protections were provided to the early entry workers.

### **5.5.6 Requirements That Only Apply to Agricultural Employers of Handlers and Commercial Pesticide Handler Employers**

#### **5.5.6.1 Safe Operation of Equipment**

The applicable regulations are:

Training on Pesticide Equipment (170.309(i) and 170.313(f)) -- Pesticide handler employers must ensure that before any handler uses any equipment for mixing, loading, transferring, or applying pesticides, the handler is instructed in the safe operation of such equipment.

The inspector should:

- Ask the handler employer if and when the handlers receive training on the safe use of the equipment.

Pesticide Equipment Inspection and Repair (170.309(j) and 170.313(g)) -- Pesticide handler employers must ensure that before each day of use, equipment used for mixing, loading, transferring, or applying pesticides is inspected for leaks, clogging, and worn or damaged parts, and any damaged equipment is repaired or replaced.

The inspector should:

- Ask the handler employer how often the equipment is checked to ensure pesticide equipment integrity and safety.

#### **5.5.6.2 Restrictions for Handlers and Handler Employers during Applications**

The applicable regulations are:

Restrictions During Applications to Protect Employees and Other Persons (§170.505) – The handler employer and the handler must ensure that no pesticide is applied so as to contact,

directly or through drift, any worker or other person, other than an appropriately trained and equipped handler involved in the application.

The handler performing the application must immediately suspend a pesticide application if any worker or other person, other than an appropriately trained and equipped handler involved in the application, is in the application exclusion zone (AEZ). (This requirement is effective January 2, 2018.)

- AEZ is 100 feet from the dispersion points of the application equipment horizontally in all directions if applied aerially, as air blast, as a spray of extremely fine, very fine or fine spray quality (ASABE S-572.1) or as a fumigant, smoke, mist, or fog. (Note, EPA intends to develop an interpretive policy statement to clarify the definition of “air blast” sprayers as it applies to the AEZ.)
- AEZ is 25 feet from the dispersion points of the application equipment horizontally in all directions if applied from a height greater than 12 inches above the planting medium and spray quality of medium or larger (ASABE S-572.1).

#### Effective Dates for the AEZ

The effective date for agricultural employers is **January 1, 2017**. After that date, agricultural employers must keep workers and all other persons (other than appropriately trained and equipped handlers involved in the application) out of the treated area and the AEZ within the boundary of the establishment. See 5.5.3.

The effective date for handlers is **January 2, 2018**. After this date, handlers must immediately suspend a pesticide application if any worker or other person other than an appropriately trained and equipped handler involved in the application, is in the AEZ. §170.505

More information about the AEZ can be found in section 5.5.3 and Appendix E which includes EPA’s Interpretive Policy regarding the AEZ, questions and answers and a diagram of an AEZ.

According to EPA’s Interpretive Policy, the handler may resume the application only after taking measures to ensure that workers and other persons who are in the AEZ but located off the establishment, will not be contacted by the pesticide application either directly or through drift.

Examples of such measures include:

- Assessing the wind and other weather conditions to confirm they will prevent workers or other persons from being contacted by the pesticide either directly or through drift;
- Adjusting the application method or employing drift reduction measures in such a way to ensure that resuming the application will not result in workers or other persons off the establishment being contacted by the pesticide;

- Asking the workers or other persons to move out of the AEZ until the application is complete; or
- Adjusting the treated area or the path of the application equipment away from the workers or other persons so they would not be in the AEZ.

Note, it is the agricultural employer's responsibility to ensure no workers or other people are in the AEZ *on the establishment*. If a handler were to resume an application while workers, or other persons *on the establishment* are still within the AEZ, that would give rise to a violation of §170.405 (i.e., a violation by the agricultural employer).

The inspector should:

- Observe applications made during the inspection, if possible. Based on the pesticide label instructions, method of application and spray quality, if known, determine the size of the AEZ. If workers or other people appear to be in the treated area or AEZ, notify the employer immediately;
- Ask the employer what handlers have been instructed to do if there are workers or people in the AEZ;
- Ask what the handler employer has instructed the handler to do to assess the situation, and make necessary changes before resuming the application to ensure pesticides will not contact people or workers.

### **5.5.6.3 Handler Knowledge of Labeling and Application-Specific Information**

The applicable regulations are:

Ensure Handlers Understand Labels 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.

The inspector should:

- Ask how and when the handler employer provides the pesticide label to handlers, or the handlers read or are informed of label requirements and use directions.

### **5.5.6.4 Applications Involving Highly Toxic Pesticides**

The applicable regulations are:

Monitoring Handlers Applying Highly Toxic Pesticides (§170.505(c)) – The handler employer must ensure handlers are monitored visually or by voice every 2 hours during handling of skull and crossbones labeled products.

The inspector should:

- Ask the handler employer if highly toxic pesticides are used. If so, ask how the application of products with the skull and crossbones symbol are managed and how the employer ensures the safety of the handler.

#### **5.5.6.5 Fumigant Applications in Enclosed Space Production**

The applicable regulations are:

Fumigant Applications in Enclosed Space Production (§170.505(d)) – The handler employer must ensure handlers applying a fumigant in an enclosed space are monitored continually visually or by voice by another handler outside who uses and has immediate access to labeled PPE for a rescue.

The inspector should:

- Ask the handler employer if fumigants are used in enclosed space production. If so, ask what safety precautions are taken.

#### **5.5.6.6 Personal Protective Equipment (PPE) for Handlers**

The applicable regulations are:

Handler Responsibilities (§170.507(a)) -- Handlers must use the clothing and personal protective equipment required by the product labeling, except when under an exception (§170.607).

The inspector should:

- Ask how the employer ensures that a handler follows the labeled PPE requirements.

PPE Equipment Provided by Handler Employer (§170.507(b)) -- The handler employer must provide to the handler the label required PPE, in clean and operating condition. Shirts, pants, shoes, and socks are not considered PPE, but may still be required by the labeling.

The inspector should:

- Ask how the handler employer ensures the correct PPE is available and in operating condition when needed for applications;
- If not conducted during an earlier record review, examine the handler employer's respirator fit testing, medical evaluation and training records (handlers must be fit tested, trained and medically evaluated before they use any respirator). See section 5.4.3.

Use of PPE (§170.507(c)) -- Handler employers must ensure that PPE is used correctly, has been inspected before each day of use, and damaged equipment is repaired or replaced.

The inspector should:

- Ask how the employer ensures that the PPE is inspected before use, damaged PPE is replaced, contaminated PPE is made unusable and the PPE is used correctly.

Cleaning and Maintenance of PPE (§170.507(d)) -- Handler employers must ensure that all PPE is cleaned according to manufacturer's instructions or pesticide product labeling before each day of

reuse (or if none, washed in detergent and hot water). In addition, handler employers must ensure:

- Contaminated PPE is kept separate from cleaned PPE, cleaned separately from other clothing, and dried thoroughly before storage;
- Clean PPE must be kept separate from pesticide contaminated areas and personal clothing;
- Handlers must have a place away from pesticide storage or pesticide use areas to:
  - Store personal clothing;
  - Put on and remove PPE.
- Particulate filtering respirators must be replaced after 8 hours of use if not earlier;
- Particulate filtering respirators also must be replaced when:
  - Breathing resistance is excessive;
  - The filter has damage or tears;
  - Required by manufacturer's directions or the label.
- Gas or vapor respirators must have canisters or cartridges replaced at the end of 8 hours of use if not earlier. Gas or vapor removing respirator canisters or cartridges also must be replaced when:
  - There is the first indication of odor, taste, or irritation;
  - Maximum use time is reached as per OSHA 29 CFR §1910.134(d)(3)(iii)(B)(2) (see box);
  - Breathing resistance is excessive;
  - Required by manufacturer's directions or the label.
- The following information must be provided to the person who cleans/launders the PPE:
  - PPE may be contaminated;
  - Correct way to clean the PPE and how to protect themselves;
  - Proper decontamination methods after handling the PPE.
- The employer must ensure employees do not take PPE home.

#### **OSHA Maximum Use Time**

**OSHA 29 CFR §1910.134(d)(3)(iii)(B)(2)** states, *"If there is no ESLI [end-of-service-life-indicator] appropriate for conditions in the employer's workplace, the employer implements a change schedule for canisters and cartridges that is based on objective information or data that will ensure that canisters and cartridges are changed before the end of their service life. The employer shall describe in the respirator program the information and data relied upon and the basis for the canister and cartridge change schedule and the basis for reliance on the data."*

The inspector should:

- Ask how the employer ensures PPE is cleaned, stored and maintained properly;
- Ask how often the PPE is cleaned, how it is cleaned and how and where it is stored;
- Ask to see where PPE is stored and check the following:
  - Is visibly contaminated PPE stored with clean PPE or clean clothing?
- If PPE is being donned, doffed or cleaned during the inspection, check the following if possible:

- Are workers or handlers donning PPE that is damaged with holes or tears?
- Are workers or handlers donning PPE in an area away from pesticide use or storage?
- Is PPE being washed according to manufacturer's instructions or pesticide labeling or if none, with detergent and hot water?
- Is clean PPE being stored or donned while still wet?
- Is contaminated PPE being kept separate from clean PPE and other clothing?
- Is contaminated PPE being washed separately from other clothing or laundry?
- Are workers or handlers taking contaminated PPE with them when leaving the establishment?
- Ask the handler employer if particulate filtering facepiece or gas- or vapor-removing respirators are used. If so, ask how the employer knows when to replace particulate filtering facepiece respirators or replace canisters or cartridges in gas- or vapor-removing respirators. (Records are not required.)

Handler Heat Stress (§170.507(e)) -- Whenever PPE is required during a handler activity, the handler employer must take measures to prevent heat-related illnesses.

- Ask how the employer prevents heat stress.

#### **5.5.6.7 PPE Exceptions**

The applicable regulations are:

PPE Exceptions and Substitutions (§170.607(a-c)) -- A chemical-resistant suit may be substituted for coveralls or a chemical-resistant apron. Leather boots may be worn in place of chemical-resistant footwear only in rough terrain. Leather gloves may be worn over chemical-resistant glove liners only when working with plants with thorns.

The inspector should:

- Inquire if any labeled PPE substitutions are made by handlers and what the substitutions are.

Closed System PPE Substitutions (§170.607(d)) – When pesticides are being mixed or loaded using a closed system that meets all of the requirements in §170.607(d)(2) and the handler employer meets the requirements of §170.607(d)(3) specific exceptions to label specified PPE are permitted. If the products are not contained, the system cannot qualify for PPE substitutions. Water soluble packaging that is compromised is no longer considered a closed system, and then full labeled PPE must be worn.

The following conditions must be met to apply the closed system PPE exceptions.

- The closed system removes the pesticide from its original container and transfers the pesticide product through connecting hoses, pipes and coupling that are sufficiently tight to prevent exposure of handlers to the product, except for the negligible escape associated with normal operation of the system or the pesticide is loaded in intact, sealed water soluble packaging;

- The closed system operating instructions are available at the mix/load site;
- The operating instructions are clearly legible and include procedures for use, safe removal of any probe, maintenance, cleaning, repair, known restrictions/limits relating to the system such as incompatible pesticides or unsuitable containers, limits on the ability to measure a pesticide, and procedures dealing with partially-filled containers;
- Handlers must be trained and use the system according to the written instructions;
- The closed system must be cleaned and maintained according to the written instructions;
- All label specified PPE must be immediately available;
- Protective eyewear must be worn if the closed system operates under pressure.

When the above conditions are met, the following exceptions to PPE are permitted:

- Handlers using a closed system to mix/load pesticides with signal words “DANGER” or “WARNING” may substitute a long-sleeved shirt, long pants, shoes and socks, chemical-resistant apron, protective eyewear, and protective gloves for any labeled PPE;
- Handlers using a closed system to mix/load pesticides with signal word other than above may substitute a long-sleeved shirt, long pants, shoes and socks, and protective eyewear, and for any labeled PPE.

The inspector should:

- Inquire if closed systems are used by handlers for any mixing/loading of pesticides and if they operate under pressure. If so, ask what PPE is used;
- Ask if and when handlers are trained in the use of the closed system;
- Ask the handler employer what, if any, PPE substitutions the handlers make;
- During the site visit, if substitute PPE is being used, see if written operating instructions for the closed system are available at the mix/load site and check that all labeled PPE is available immediately to a handler in an emergency;

Enclosed Cab PPE Exceptions (§170.607(e)) -- If a handler applies a pesticide from inside a vehicle’s enclosed cab, and if the conditions listed below (§170.607(e)(2)) are met, the following exceptions to the label specified PPE are permitted. However, all label required PPE must still be immediately available and stored in a sealed container in the vehicle and handlers must wear full PPE required by the label when they exit the vehicle in the treated area, and must remove PPE before reentering the cab.

- Handlers may substitute long-sleeved shirt, long pants, shoes and socks for required skin and eye protection.
- A particulate filtering respirator (NIOSH TC-84A) is not required if the enclosed cab has a functioning air ventilation system maintained per manufacturer instructions. (Note older labels may refer to dust/mist filtering respirators instead of the current terminology using particulate filtering respirator.) Other required respirators must be worn inside an enclosed cab.

The inspector should:



- Inquire if the application equipment includes enclosed cabs. If so, ask what PPE is used when handlers are using enclosed cabs;
- Ask the handler employer if the handlers ever exit the vehicle within a treated area during applications or within the REI and what PPE is used.

Aerial Applicator PPE Exceptions (§170.607(f)) -- For aerial applications, substitutions of label specified PPE is permitted under certain conditions:

- For open cockpit (rare), labeled PPE must be worn, except chemical-resistant footwear is not needed; a helmet with a face shield may substitute for headgear or protective eyewear;
- For enclosed cockpit, long-sleeved shirt, long pants, shoes, socks may substitute for labeled PPE;
- Chemical-resistant gloves are optional unless required on the label. If chemical-resistant gloves have been used, they must be stored in an enclosed container to prevent contamination of the cockpit.

The inspector should:

- Ask the handler employer what PPE is used during aerial applications and if any substitute PPE is used;
- Ask the employer where the gloves are kept if used.

Crop Advisors (§170.607(g)) -- Crop advisors may substitute the PPE required on the label for handler activities under certain conditions. Entry into a treated area during the REI using substitute PPE can only be done:

- At least 4-hours post-application;
- When the inhalation exposure level on the label is reached, or ventilation in §170.405(b)(3) is met. See Appendix D for the Table on Entry Production Restrictions During Enclosed Place Pesticide Application;
- The crop advisor or employees are only performing crop advising tasks;
- Crop advisors and employees in a field under the REI may substitute the items below for handler PPE:
  - Early entry PPE;
  - Coveralls, shoes plus socks, chemical-resistant gloves made of any waterproof material, and, if the labeling requires protective eyewear for handlers, eye protection.

The inspector should:

- Ask the crop advisor or crop advisor employer what PPE the crop advisor or his employees wear and if they substitute any items from those required;
- Ask the crop advisor or crop advisor employer under what conditions PPE exceptions are made.

Note, this PPE exception applies to all crop advisors, not just those who are licensed/certified crop advisors under a program acknowledged as appropriate by EPA or a state or tribal agency.

#### **5.5.6.8 Treated Areas Information from the Commercial Handler Employer to the Agricultural Employer**

The applicable regulations are:

Commercial Pesticide Handler Employer Duties (170.313(i)) -- Commercial pesticide handler employers must provide the agricultural employer all required information before the application of any pesticide on an agricultural establishment. The commercial handler employer must provide:

- Specific location and description of area(s) to be treated with pesticides;
- Date of application, and start and estimated end times;
- Product name, EPA registration number, and active ingredient;
- Labeled REI;
- Whether posted or oral notification, or both are required by the label;
- Any restrictions or use directions on the pesticide label that must be followed to protect workers, handlers, or other persons.

If there are changes to the location, REI, method of notification, any other restrictions or use directions, or the start time will be earlier than scheduled, the commercial handler employer must inform the agricultural employer of these changes before the application begins.

If there are changes to other information, the commercial handler employer must inform the agricultural employer of the changes within two hours after completing the application, except changes to the end time less than an hour do not have to be reported.

The inspector should:

- Ask the commercial handler employer if there is communication with the agricultural employer before an application, and what information is provided;
- Ask the commercial handler employer how any changes to the application information are relayed to the agricultural employer, and when.

#### **5.5.6.9 Information from the Agricultural Employer to the Commercial Handler Employer**

The applicable regulation is:

Agricultural Employer Provides Treated Area Information to Commercial Handler Employers (170.309(k)) -- The client agricultural employer must provide information to the commercial handler employer about areas (location and description) on the establishment that have been previously treated, the REI in effect, and any label restrictions for any areas that the handler may be in or within ¼ mile.

Commercial Pesticide Handler Employer Provides Treated Area to the Handler who Goes to the Agricultural Establishment (170.313(h)) -- Ensure that whenever a handler who is employed by a commercial pesticide handling establishment will be on an agricultural establishment, the

commercial pesticide handler employer provides the handler with information about, or ensures the handler is aware of, the specific location and description of any treated areas where a REI is in effect, and the restrictions on entering those areas.

The inspector should:

- Ask if the agricultural employer provides information on treated areas to commercial handler employers and how this information transfer occurs.

## 5.6 EMPLOYEE INTERVIEWS

EPA expects all inspectors will attempt to interview workers and handlers present at the time of inspection as part of the WPS procedures. Whenever conducting interviews, the inspector should verify the identity of the interviewee.

During WPS inspections, interviews of an employee complainant or critical witness should be conducted to adequately support any possible enforcement action, unless they are not present and cannot be located, or they refuse to be interviewed. **If there is a communication barrier (either a language barrier or arising from a disability), the inspector should take steps to make communication possible when conducting interviews of employee-complainants or other critical witnesses.** If an interpreter is used, the interpreter should be an impartial party. Alternatively, a co-worker may serve as an interpreter for the complainant or critical witness if the complainant or witness agrees, and this is documented by the inspector.

Inspectors should be aware of potential WPS retaliation concerns. Some employees may be reluctant to be interviewed on the establishment or during work hours if they fear retaliation. In addition, the employer may refuse to allow his or her employees to be interviewed during normal work hours. Inspectors should be aware of the potential need in these situations to offer to interview employees at another time or location if practical and the employees express such an interest (see “Employee Interviews” Section 5.6). The inspector should be aware that if off-site interviews are conducted, it may not be possible to gather all appropriate information at that time, such as regarding a specific respirator that was used.

In rare circumstances the inspector may be unable to interview a witness, for example, if: (1) an interpreter cannot be obtained or (2) the language at issue is spoken by only a very small percentage of the service population.<sup>7</sup> The inspector should note that he or she attempted to communicate with the individual but was unsuccessful. If a worker speaking that language sought to file a complaint, the inspector has a heightened duty to seek out ways to provide interpretation services. All attempts to contact the complainant/witness should be documented in the inspection report.

Interviews should be conducted in private without the presence of an employer or supervisor. Inspectors should also be aware of potential WPS retaliation concerns. Some employees may be reluctant to be interviewed on the establishment or during work hours if they fear

retaliation. If appropriate and practical, inspectors should offer to interview employees at another time or location.

If the inspector senses that private interviews are not suitable, safe or appropriate on the agricultural establishment during the inspection, then employee interviews may be conducted at a location and time convenient for the worker, such as the labor camp, private residence or other agreed upon location.

Telephone interviews are recommended when the person is unavailable for a face-to-face interview and is willing to discuss the incident with the inspector over the telephone. In addition, telephone interviews can be useful in obtaining preliminary information to initiate or further an ongoing investigation. Additional interview methods also could include using video conferencing if available.

### **5.6.1 Title VI of the Civil Rights Act of 1964 and Limited English Proficiency**

A SLA's obligation to provide meaningful access to limited English proficiency (LEP) individuals stems from Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on national origin. The manner in which a SLA must provide language services may be determined by balancing four factors:

- The number or proportion of LEP individuals eligible to be served or likely to be encountered by the WPS program;
- The frequency that LEP individuals come in contact with the WPS program;
- The nature and importance of the particular activity or service provided by the WPS program; and
- The resources available to the SLA.<sup>9</sup>

### **5.6.2 Addressing Language Barriers**

Providing language interpretation services to interview complainants and critical witnesses is the most common way to address LEP. Inspectors should use their discretion to decide which witnesses are essential for completing an inspection, without regard to their language ability. In each case, the decision about whom to interview will depend on the particular facts of the inspection. For example, if an inspector identifies a witness who is essential to the completion of an inspection and discovers that the witness is LEP, the inspector must take steps to address the language barrier.

In general, inspectors should anticipate the presence of LEP or disabled workers, or both. For example, if the workforce of an area is known to include a high proportion of LEP individuals who are Spanish speakers, the inspector's agency should be prepared to conduct interviews in Spanish, provide a bilingual interpreter, or train non-Spanish-speaking inspectors to interview non-English-speaking field workers and applicators (for example, using EPA's "Breaking Barriers" course). The agency should conduct follow-up interviews to address language or

communication barriers if interviews of the employee-complainant or critical witness could not be conducted at the time of the initial inspection.

### **5.6.3 Addressing Disabilities**

An agency's obligation to accommodate a communication barrier due to an individual's disability, such as a vision, hearing or speech impairment, stems from § 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability. Specifically, the agency must make a reasonable accommodation for known physical or mental limitations of an individual with a disability. For example, when interviewing a worker with a hearing impairment, using a sign language interpreter may be a suitable accommodation. Interviews also could be conducted in writing. If an inspector would have interviewed a particular worker if he or she did not have a disability, then the inspector must make an accommodation for that worker and conduct the interview. If the inspector would not have interviewed that particular worker regardless of his or her disability, then no interview is necessary.

In rare instances, the agency can demonstrate that the accommodation would impose an undue hardship, which the courts have established as a very high burden to meet. Undue hardship means significant difficulty or expense and focuses on the resources and circumstances of the SLA in relationship to the cost or difficulty of providing a specific accommodation. Undue hardship refers not only to financial difficulty, but to reasonable accommodations that are unduly extensive, substantial, and disruptive or those that would fundamentally alter the nature or operation of the business. For further information and technical assistance regarding reasonable accommodations for disabilities, refer to <https://www.ada.gov>.

**SLAs are strongly encouraged to develop ways to overcome communication and language barriers. SLAs may want to become familiar with available bilingual interpreters in the area, consider hiring bilingual inspectors, training English speaking inspectors to communicate with non-English speakers, and using interpreter resources and services or conducting telephone interviews with interpreters when in-person interviews are not feasible.** Advanced planning helps ensure that these resources are in place and available when the need arises.

## **5.7 WORKER INTERVIEWS**

The following lists WPS requirements that affect workers and suggests questions inspectors may want to use to gather information to determine compliance. As discussed in sections 5.6.1 through 5.6.3, SLAs are strongly encouraged to develop ways to overcome communication and language barriers.

When conducting a worker interview, the inspector should ask what specific tasks the individual conducts to identify if any handler tasks were conducted. If the worker does perform any of the handler tasks, then he or she is not considered a worker, and the interview should follow the path of questioning under the "Handler Interview" in section 5.8.

### **5.7.1 Pesticide Safety Training**

The applicable regulation is:

Pesticide Safety Training for Workers (§170.401) -- An agricultural employer shall assure that each worker who is required to be trained has been properly trained according to the WPS requirements. Workers must be trained before doing any worker tasks and within the last 12 months.

The inspector should:

- Ask to review training records to determine if appropriate worker training was provided, if not conducted earlier (see section 5.4.2). However, to verify for individual workers, the inspector may still want to:
  - Ask if workers received the WPS safety training, and if it was within the last 12 months.

### **5.7.2 Decontamination Supplies**

The applicable regulation is:

Worker Decontamination (§170.411) -- An agricultural employer must provide decontamination supplies for workers for routine washing and emergency decontamination for any worker performing an activity in an area where a pesticide was applied and contacts anything that has been treated with the pesticide. Supplies must include soap (no gels or wet towelettes), water (1 gallon per worker), and single use towels.

- Supplies must be within ¼ mile or nearest vehicular access.

An inspector should:

- Ask where and when decontamination supplies are provided;
- Ask the worker what supplies are provided and if all the supplies are available at the start of each work period;
- Ask if the supplies are replenished through the day to maintain an adequate supply.

### **5.7.3 Emergency Assistance**

The applicable regulation is:

Agricultural Employer Duties (§170.309(f)) -- If there is reason to believe that a worker has been exposed to pesticides or shows symptoms of poisoning within 72 hours after working on the agricultural establishment, the agricultural employer must provide emergency assistance. See section 5.5.1.4 for details.

An inspector should:

- Ask the worker if they know what to do in case of a pesticide exposure incident and how to obtain emergency assistance;

- Ask if the worker knows where the nearest emergency medical facility contact information is located. If not, note and follow-up with agricultural employer;
- Ask if he or she is aware of any pesticide exposure incidents at the establishment. If so, the inspector should report the incident if and as appropriate.

#### **5.7.4 Display of Pesticide Safety, Application and Hazard Information**

The applicable regulations are:

Posted Pesticide Safety Information for Workers (§170.311(a)) -- An agricultural employer shall display pesticide safety information when workers are on the agricultural establishment and, within the last 30 days, a pesticide subject to WPS has been applied or a REI has been in effect.

The inspector should:

- Ask if workers know where pesticide safety information is located;
- Ask if workers know where the emergency medical information is located. Emergency medical information is at the bottom of the pesticide safety display.

Specific Information About Pesticide Applications and SDSs (§170.311(b)) -- An agricultural employer shall display required application information about a pesticide and the SDS when workers are on the establishment within 30 days of a pesticide subject to WPS being applied on the establishment or after a REI has been in effect.

The inspector should:

- Ask workers how they would find out where and what applications were made on the establishment;
- Ask workers if they know where the safety data sheets (SDS) are located.

Access to Pesticide Application and Hazard Information by a Worker or Handler (§170.311(b)(7)) – The agricultural employer must provide pesticide application and/or hazard information (or access to the information) if requested by a worker or handler. The scope of what must be provided is that information that had to be displayed and/or retained during the time that worker or handler was employed at the establishment.

This information must be provided within 15 days of the receipt of the request. The worker or handler may make the request in writing or orally.

The inspector should:

- Inquire if the worker has ever requested pesticide application information or SDSs. If yes, did the worker received the information within 15 days?

Access to Pesticide Application and Hazard Information by a Designated Representative (§170.311(b)(9)) – Any worker’s designated representative may request access to or a copy

of the pesticide application and SDSs described above, on behalf of the worker. The agricultural employer must provide pesticide application and SDSs applicable to the worker's time of employment on the establishment within 15 days after receiving the request.

The inspector should:

- Ask if the worker has ever requested information through use of a designated representative and if so, was the information received appropriate and within the time allowed;
- If the worker requested information through a designated representative but did not receive the information, then the inspector may want to contact the representative for an interview about the request.

Access to Pesticide Application and Hazard Information by Treating Medical Personnel (§170.311(b)(8)) – The agricultural employer must promptly provide a copy of, or access to, pesticide application and hazard information applicable to worker's or handler's time of employment on the establishment if requested (orally or in writing) by treating medical personnel.

#### **Access to Electronic Information**

Employers may make SDSs and pesticide application information available through electronic devices or on-site computers only if all the requirements in §170.311 are met. In this case, the inspector should ask if the workers know how to log on to the device, how to locate the correct information and if the device is easily accessible to the worker at all times during the work period and that all workers and handlers know how to access the information. These situations need to be assessed on a case-by-case basis.

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The inspector should:

- Ask if there have been situations where a doctor requested application information and SDSs for a worker. If yes, was the requested information provided?

### **5.7.5 Establishment-Specific Information**

The applicable regulation is:

Knowledge of establishment-specific information (§170.403) -- Before any worker performs any activity in a treated area on an agricultural establishment where within the last 30 days a pesticide product has been used, or a restricted-entry interval for such pesticide has been in effect, the agricultural employer must ensure that the worker has been informed of, in a manner the worker can understand:

- The location of pesticide safety information required by §170.311(b);
- The location of pesticide application and hazard information required by §170.311(b);
- The location of decontamination supplies required by §170.411.



The inspector should:

- Ask the worker if the agricultural employer informed workers where to find pesticide safety information, pesticide application information, SDSs and decontamination supplies, and where these items are located.

### **5.7.6 Notification of Treated Areas and Restrictions During and After Applications**

The applicable regulation is:

Notification to Workers of Pesticide Applications (§170.409) — The agricultural employer shall notify workers of any pesticide application orally or by posting warning signs, or both, depending on the statement on the product labeling. (See section 5.5.5.1 for more information on notification requirements.)

The inspector should:

- Ask workers how they were notified about treated areas for recent applications and compare the response to the label requirements. (Note: No notification is needed if workers are not expected to be within ¼ mile of treated area(s) or will not enter the enclosed treated space until after the REI.)
- If appropriate, ask when oral warnings to the workers were provided. The employer must provide oral warnings before or at the beginning of worker's work period.
- If some workers are non-English speaking, ask how warnings are communicated;
- Ask what information is given to the workers. The employer must provide location of treated areas, dates and times of REI, and instructions not to enter;
- Ask if the worker has been instructed to enter fields or an enclosed space while the warning signs are still posted. Entry is not allowed anytime while the signs are posted.

### **5.7.7 Early Entry**

The applicable regulations are:

Early-Entry (EE) Exceptions (§170.603) – An agricultural employer may direct a worker to enter a treated area under the REI to perform certain tasks under certain conditions (for more information on early entry exceptions and restrictions see 5.5.5.3):

The inspector should:

- Ask if the worker entered a treated area while posted or under the REI. If yes, ask when this happened, what were the conditions, and what tasks were involved/directed;
- Ask if the worker was allowed entry before 4 hours after application. (Entry is not allowed except under No Contact.)
- Ask how long the worker was in the treated area? (Time is unlimited for No Contact, but 1 hour in a 24-hour period, for short-term, 4 hours in 24 for Ag. Emergency, and 8 hrs. in 24 for Limited Contact/Irrigation.)

Early-Entry Worker Protections (§170.605) – If an agricultural employer directs a worker to enter a treated area under the REI to perform certain tasks under certain conditions, then particular protections must be provided to that early entry worker. (For complete information on early-entry protections, see section 5.5.5.3). Agricultural employers must:

- Ensure that any early-entry worker is at least 18 years old; (§170.605(a))
- Advise workers which early-entry exception is applied, the location of the early entry area where work activities will be conducted, provide the pesticides applied, dates/times of REI, the maximum time workers can be in the area if contact with treated surfaces is permitted, and specific location of decontamination supplies and the pesticide safety information; (§170.605(b))
- Provide information on human hazard, precautions, first aid, and user safety from the pesticide label; (§170.605(c))
- Provide PPE specified on the pesticide product labeling; (§170.605(d))
- Provide at least 1 pint of water that is immediately available to each early-entry worker if the pesticide product labeling requires protective eyewear for early entry; (§170.605(i))
- Provide decontamination supplies, but not within the area under the REI unless in closed containers. Decontamination supplies must also be available where workers remove PPE; (§170.605(j))
  - Decontamination supplies must include: 3 gallons of water (per early entry worker at the beginning of the work period); soap; and single use towels; (§170.605(h))
- Not allow workers to take used PPE home; (§170.605(g))
- Convey recognition, prevention, and first aid for heat stress (in addition to information provided in the worker safety training. (§170.605(f))

The inspector should:

- If possible, observe early entry workers and if any clearly appear to be under 18, the inspector may ask the individual worker his or her age. The worker does not have to provide proof of age. If the inspector chooses to ask the worker about age, the inspector may want to make clear that it is the employer's responsibility not to employ early entry workers under 18, and that the worker is not in violation. If the early entry worker informs the inspector he or she is under 18, the inspector should document the information and follow up with the employer; (See section 5.5.1.1)
- Ask if the worker was provided with information prior to the early entry task;
- Ask if the worker had been provided the pesticide label to read, or was informed of its content;
- Ask if the worker wore PPE. If yes, ask what PPE was used, and if information about the proper use, removal, cleaning, and maintenance, of the early entry PPE was provided. The inspector should compare the PPE to that required by the label to verify that the proper PPE was provided;
- Ask where the worker removes the PPE;

- Ask if the worker takes the PPE (not work clothing) home to clean;
- Ask the worker if decontamination supplies were provided during the activity and where they were located;
- Ask if eye flush water was provided. Eye flush is only required if the label requires protective eyewear, then at least 1 pint of water in portable containers must be provided per worker;
- Inquire if the worker was instructed about heat stress.

### **5.7.8 Retaliation**

The applicable regulation is:

Prohibited Actions (§170.315) — An agricultural employer shall not intimidate, threaten, coerce, or discriminate against any worker for complying with the WPS requirements or for providing information to the EPA or SLA.

An inspector should:

- Ask workers if they have experienced problems with their supervisor or employer when workers were trying to comply with the WPS.
  - If yes, discuss and record the details of the problems and determine if the workers believe there was any retaliation involved, then follow-up with the supervisor or employer later.

### **5.7.9 Pesticide Exposure Incidents**

An inspector should:

- Ask if the worker has ever been over exposed and what he or she did in response;
- Ask if the worker is aware of any pesticide exposure incidents at the establishment, including drift. If yes, record the details of incident(s) and report the incident if and as appropriate.

## **5.8 HANDLER INTERVIEWS**

A handler is any person, including a self-employed person, who is employed by an agricultural employer, a commercial pesticide handler employer or a farm labor contractor and performs any of the following tasks:

- Mixing, loading, or applying pesticides;
- Disposing of pesticides;
- Handling open containers of pesticides including: rinsing, cleaning and disposing of containers;
- Acting as a flagger;
- Cleaning, adjusting, handling, or repairing parts of mixing, loading or application equipment;
- Assisting with the application of pesticides;

- Entering an enclosed space after the application of a pesticide and before the inhalation exposure level listed in the labeling has been reached;
- Entering a treated area outdoors after application of any soil fumigant during the labeling-specified entry-restricted period to adjust or remove coverings used in fumigation;
- Performing tasks as a crop advisor during any pesticide application or restricted-entry interval, or before the inhalation exposure level listed in the pesticide product labeling has been reached or one of the ventilation criteria established by §170.405(b)(3) or the pesticide product labeling has been met.

The following lists WPS requirements that affect handlers and questions an inspector may ask to gather information to determine compliance.

Under the WPS, both the handler employer and the handler are responsible for compliance with certain requirements. When the inspector interviews a handler, the inspector is obtaining information:

- On the handler employer's compliance with the requirements of the WPS that provide protections for the handler;
- On the handler's compliance with requirements of the WPS that are the responsibility of the handler.

The inspector should discuss the following items, to the extent they are applicable, with handlers during interviews.

In this section, "handler employer" includes both agricultural employers who employ handlers and commercial pesticide handler employers unless one or the other is specifically mentioned.

### **5.8.1 *Minimum Age***

The applicable regulations are:

Minimum Age (§170.309(c), §170.313(c)) -- Agricultural employers must ensure that any handler is at least 18 years old. Commercial pesticide handler employers must ensure that any handler employed by the commercial establishment is at least 18 years old.

The inspector should:

- Observe handlers and if any clearly appear to be under 18, the inspector may ask the individual handler their age.
  - The handler does not have to provide proof of age.
  - If the inspector chooses to ask the handler about age, the inspector should make clear that it is the employer's responsibility not to employ handlers under 18, and that the handler is not in violation.

- If the handler informs the inspector he or she is under 18, the inspector should document the information and follow up with the employer. (See section 5.5.1.1.)

## **5.8.2 Pesticide Safety Training**

The applicable regulation is:

Pesticide Safety Training for Handlers (§170.501(a)) — Before any handler employee performs any handling task, the handler employer shall assure each handler has been trained. Handlers must be trained before any handling tasks are conducted and within the last 12 months.

The inspector should:

- Determine, if not done previously, if appropriate handler training was provided through the review of training records (see section 5.4.2).
- However, to verify for individual handlers, the inspector may want to ask handlers if they attended WPS safety training in the last 12 months.

Training requirements do not apply to any handler who is currently certified as an applicator of restricted use pesticides §170.501(b)(1) or a handler who is licensed/certified as a crop advisor by a program acknowledged as appropriate by EPA or an SLA (see additional details §170.501(b)(2)).

## **5.8.3 Decontamination and Eye Flushing Supplies**

The applicable regulations are:

Handler Decontamination (§170.509) -- A handler employer shall provide decontamination and eye flushing supplies for removing pesticides and pesticide residues during any handling activity.

- Decontamination supplies must be located:
  - Within ¼ mile or at the nearest vehicular access;
  - At all mixing sites;
  - Outside the treated area or areas under an REI unless the supplies are contained within a closed container protected from pesticides;
  - For pilots, the decontamination supplies must be in the aircraft or at the aircraft loading site.
- Decontamination supplies must include:
  - 3 gallons of water per handler at the beginning of the work period. Water must be replenished as necessary to ensure there is always an adequate supply;
  - soap (no gels or wet towelettes);
  - single use towels; and
  - A clean change of clothing, such as coveralls.
  - An eye-flush system is required if the handler mixes or loads pesticides requiring protective eyewear or uses a closed system operating under pressure. The eye-flush system must be capable of delivering gently running water at a rate of at

least 0.4 gallons per minute for 15 minutes or be 6 or more gallons of water in containers suitable for providing a gentle eye-flush for about 15 minutes.

- A pint of eye-flush water is required for an applicator using pesticides requiring protective eyewear.

An inspector should:

- Ask the handler where the routine decontamination supplies are located;
- Ask the handler if all the routine decontamination supplies are available at the start of each work period and if sufficient water is maintained during the work period;
- Ask if the handler mixes/loads pesticides requiring protective eyewear or uses a closed system operating under pressure. If yes, ask whether an eye-flush system was available at the mix/load site;
- During the site visit, if the inspector has reason to believe the eye-flush system may not be operational, (e.g., spigots are heavily rusted) the inspector should ask when it was last used or tested. If necessary, the inspector can test the eye-flush system to ensure it is operational; to ensure water actually flows at a reasonable flow and appears to be of sufficient quality (odorless, colorless, appropriate temperature). **However, before testing the eye-flush system, the inspector should ensure that any water removed during testing can be replaced quickly;**
- If possible during the site visit, check to see if 1 pint of water is immediately available (i.e., within a few seconds/within a few steps) to applicators using pesticides requiring protective eyewear.

#### **5.8.4 Emergency Assistance**

The applicable regulation is:

Emergency Assistance (§170.309) -- A handler employer shall make available emergency medical assistance to any person employed by an agricultural establishment or commercial pesticide handling establishment to perform pesticide handling tasks, and who has been poisoned or injured by exposure to pesticides as a result of employment. See section 5.5.1.4 for details.

The inspector should:

- Ask the handler(s) how they would obtain assistance in an emergency;
- Ask if the handler knows where the nearest emergency medical facility contact information is located;
- Ask if the handler is aware of any pesticide exposure incidents at the establishment.

#### **5.8.5 Display of Pesticide Safety, Application and Hazard Information**

The applicable regulations are:

Posted Pesticide Safety Information (§170.311(a)) -- An agricultural employer shall display pesticide safety information when handlers are on the agricultural establishment and, within the last 30 days, a pesticide subject to WPS has been applied or an REI has been in effect.

The inspector should:

- Ask handlers if they know where the pesticide safety information is located;
- Ask where the emergency medical information is located. Emergency medical information is at the bottom of the pesticide safety display.

Keeping and Displaying Pesticide Application and Hazard Information (§170.311(b)) -- An agricultural employer shall display required application information about a pesticide and the SDS when handlers are on the establishment within 30 days of a pesticide subject to WPS being applied on the establishment or after an REI has been in effect.

The inspector should:

- Ask handlers how they would find out where and what applications were made on the establishment and where to find SDSs.

Access to Pesticide Application and Hazard Information by a Worker or Handler (§170.311(b)(7)) – The agricultural employer must provide pesticide application and/or hazard information (or access to the information) if requested by a worker or handler. The scope of what must be provided is that information that had to be displayed and/or retained during the time that worker or handler was employed at the establishment. This information must be provided within 15 days of the receipt of the request. The worker or handler may make the request in writing or orally.

The inspector should:

- Ask handlers how they would obtain a copy of pesticide application information and SDSs;
- Inquire if the handler has ever requested pesticide application information or SDSs and when the handler received the information.

Access to Pesticide Application and Hazard Information by a Designated Representative (§170.311(b)(9)) – Any handler’s designated representative may request access to or a copy of pesticide application and hazard information described above, on behalf of the handler.

The agricultural employer must provide pesticide application and hazard information applicable to the handler’s time of employment on the establishment within 15 days after receiving the request.

The inspector should:

- Ask if the handler has ever requested information through use of a designated representative and if the appropriate information was received within the time allowed.
  - If the handler did **not** receive the information, the inspector may want to contact the representative and interview him or her about the request.
- Follow-up any reported problems with information requests with the employer.

Access to Pesticide Application and Hazard Information by Treating Medical Personnel (§170.311(b)(8)) – The agricultural employer must promptly provide a copy of, or access to, pesticide application information and SDSs applicable to a worker’s or handler’s time of employment on the establishment if requested (orally or in writing) by treating medical personnel.

The inspector should:

- Ask if there have been situations where a doctor requested pesticide application information and SDSs for a handler.
  - If yes, ask if the handler knows if the requested information was provided.

### **5.8.6 Establishment-Specific Information**

The applicable regulations are:

Knowledge of Establishment-Specific Information (§170.503(b) and §170.509) -- Before any handler performs any handler activity on an agricultural establishment where within the last 30 days a pesticide product has been used, or a REI for such pesticide has been in effect, the handler employer must ensure that the handler has been informed, in a manner the handler can understand about the location of pesticide safety information, pesticide application and hazard information, and decontamination supplies.

The inspector should:

- Ask the handler where pesticide safety information, pesticide application information, SDSs, and decontamination supplies are located.

### **5.8.7 Information on Treated Areas Provided to a Commercial Pesticide Handler Employer and Handler**

The applicable regulations are:

Information from the Agricultural Employer Provided to the Commercial Pesticide Handler Employer on Treated Areas (§170.309(k)) – The agricultural employer must provide commercial handler employers with information about the specific location and description of any treated areas on the agricultural establishment where a REI is in effect that the handler may be in, or may walk within ¼ mile of, and the restrictions on entering those areas.

Information from the Commercial Pesticide Handler Employer Provided to the Handler on Treated Areas (§170.313(h)) -- Ensure that whenever a handler who is employed by a commercial pesticide handling establishment will be on an agricultural establishment, the commercial

#### **Access to Pesticide Application and Hazard Information**

Employers may make SDSs and other information available through on-site computers only if they meet all the requirements in §170.311. In this case, the inspector should ask if the handlers know how to log on to the computer, how to locate the correct information and if the computers are easily accessible to



pesticide handler employer provides the handler with information about, or ensures the handler is aware of, the specific location and description of any treated areas where a REI is in effect, and the restrictions on entering those areas.

The inspector should:

- Ask if the commercial pesticide handler provided information about the specific location and description of any treated areas on the agricultural establishment where an REI is in effect that the handler may be in, or may walk within ¼ mile of, and any restrictions on entering those areas.

### **5.8.8 Safe Operation of Equipment**

The applicable regulations are:

Safe Operation of Equipment (§170.313(f) and §170.309(i)) -- All pesticide handler employers must ensure that before any handler uses any equipment for mixing, loading, transferring, or applying pesticides, the handler is instructed in the safe operation of such equipment.

Before each day of use, equipment to be used for mixing, loading, transferring, or applying pesticides must be inspected for leaks, obstructions, and worn or damaged parts, and any damaged equipment must be repaired or replaced. §170.313(g) and §170.309(j)

The inspector should:

- Ask if the handler receives instruction on any equipment to be used;
- Ask if the equipment is inspected before each day of use.

### **5.8.9 Restrictions for Handlers and Handler Employers during Applications**

The applicable regulation is:

Requirements during Applications (§170.505) – The handler employer and the handler must ensure that no pesticide is applied so as to contact, directly or through drift, any worker or other person, other than an appropriately trained and equipped handler involved in the application. §170.505(a).

Suspending Applications (§170.505) -- After January 1, 2018, the handler performing the application must immediately suspend a pesticide application if any worker or other person, other than an appropriately trained and equipped handler involved in the application, is in the Application Exclusion Zone described in §170.405(a)(1) or the area specified in column B of the Table in §170.405(b)(4). §170.505(b) See Appendix D for Table.

The Application Exclusion Zone is:

- The area that extends 100 feet horizontally from the application equipment (dispersion points) in all directions during applications made:
  - Aerially;

- By air blast;
- As spray with droplet size of extremely fine, very fine or fine spray quality (ASABE S5722-1);
- As a fumigant, smoke, mist or fog.
- The area that extends 25 feet horizontally from the application equipment (from dispersion points) in all directions during application (when not applied as above) sprayed from a height of greater than 12 inches from the planting medium using a spray quality of medium or larger.
- There is no application exclusion zone when the pesticide is applied in a manner not described above.

**More information on the AEZ**

EPA has developed an interpretive policy on the requirements associated with the AEZ, and a series of questions and answers. See Appendix E and <https://www.epa.gov/pesticide-worker-safety/worker-protection-standard-and-application-exclusion-zone-frequently-asked>

If there are persons in the AEZ, who are on the establishment property, the application cannot continue until those persons have moved. If there are persons in the AEZ outside the boundary of the establishment, the handler cannot continue until he or she can ensure that no pesticide is applied so as to contact, directly or through drift, any worker or other person, other than an appropriately trained and equipped handler involved in the application. For more information, see the Interpretive Policy on the AEZ and Questions and Answers at Appendix E and at <https://www.epa.gov/pesticide-worker-safety/worker-protection-standard-and-application-exclusion-zone-frequently-asked>.

The inspector should:

- Ask the handler to describe the AEZ for a recent application made; Ask if there have ever been people in the AEZ when the handler was applying, and how he or she responded (or what the handler would do if there are people in the AEZ);
- Ask how the handler knows when to continue an application after suspending the application. It is not necessary for the handler to physically stop for a specific length of time;
- Ask if anyone was ever contacted and what the circumstances were. Report the pesticide exposure incident if and as appropriate.

### **5.8.10 Handler Knowledge of Labeling and Application-Specific Information**

The applicable regulations are:

Knowledge of Labeling and Application-Specific Information (§170.503(a)(1)) -- The handler employer must ensure that before any handler performs any handler activity involving a pesticide product, the handler has read the portions of the labeling requirements 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 employer must ensure that the handler has access to the applicable product labeling at all times during handler activities. (§170.503(a)(2))

The handler employer must ensure that the handler is aware of requirements for any entry restrictions, application exclusion zones and restricted-entry intervals as described in §170.405 and §170.407 that may apply based on the handler's activity. (§170.503(a)(3))

The inspector should:

- Ask the handler if and when the labeling information and its requirements were provided for recent applications;
- Ask if the handler was told about any entry restrictions, AEZs, and REIs.

### **5.8.11 Applications of Highly Toxic Pesticides**

The applicable regulation is:

Handlers Using Highly Toxic Pesticides (§170.505(c)) -- A handler employer must ensure that any handler who is performing any handler activity with a pesticide product that has the skull and crossbones symbol on the front panel of the pesticide product label is monitored visually or by voice communication at least every two hours.

The inspector should:

- Ask if the handler uses pesticide products with the skull and crossbones symbol on the label. If yes, ask what safety precautions are taken when using these toxic products.

### **5.8.12 Fumigant Applications in Enclosed Space Production**

The applicable regulation is:

Fumigant Applications in Enclosed Space Production (§170.505(d)) – The handler employer must ensure all of the following: handlers must maintain continuous visual or voice contact with another handler stationed immediately outside the enclosed space, and the handler stationed outside the enclosed space must have immediate access to and must use the label required PPE if rescue is needed.

The inspector should:

- Ask if the handler conducts fumigant applications in enclosed space production. If yes, ask what safety precautions are taken when applying fumigants in enclosed space production;
- Ask what preparations are made in case a rescue is needed.

### **5.8.13 Personal Protective Equipment (PPE) for Handlers**

The applicable regulation is:

PPE Requirements (§170.507) -- Any person who performs handler activities involving a pesticide product must use the clothing and personal protective equipment specified on the pesticide product labeling for use of the product except as provided in §170.607.

The inspector should:

- Ask the handler what PPE was worn for a recent pesticide application;
- Check to see if PPE used was that required;
- Ask the handler if the PPE was clean and dry when donned.

Respirator Use (§170.507(b)(10)) -- Whenever a respirator is required by the pesticide product labeling, the handler employer must ensure that the requirements of paragraphs §170.507(b)(10)(i) through (iii) are met (i.e., provide fit testing, training and a medical evaluation) before the handler performs any handler activity where the respirator is required to be worn.

The inspector should determine if an appropriate medical evaluation, fit testing and training was provided through the review of training records (see section 5.4.2). However, to verify for individual handlers, the inspector may want to:

- Ask if the handler is required to wear a respirator by any pesticide labeling. If yes, ask:
  - If the handler received a medical evaluation before wearing the respirator;
  - If the handler was fit tested on the exact same respirator (same make, model, style and size) that was worn;
  - If the handler was trained before using the respirator and within the last 12 months.

For more information on respirator requirements, see section 5.4.2 and Appendix C for the OSHA regulations.

Use of PPE (§170.507(c)) — Handler employers must ensure that PPE is used correctly, has been inspected before each day of use, and damaged equipment is repaired or replaced.

The inspector should:

- Ask if the handler received training on how to use PPE correctly; §170.507(c)(1)
- Ask if damaged PPE is repaired or replaced.

Cleaning and Maintenance of PPE (§170.507(d)) — Handler employers must ensure that all PPE is cleaned according to manufacturer's instructions or pesticide product labeling before each day of reuse (or if none, washed in detergent and hot water). In addition, handler employers must ensure:

- Contaminated PPE is kept separate from cleaned PPE, cleaned separately from other clothing, and dried thoroughly before storage;
- Clean PPE must be kept separate from pesticide contaminated areas and personal clothing;
- Handlers must have a place away from pesticide storage or pesticide use areas to:

- Store personal clothing;
- Put on and remove PPE.
- Particulate filtering respirators must be replaced after 8 hours of use if not earlier. Particulate filtering respirators also must be replaced when:
  - Breathing resistance is excessive;
  - The filter has damage or tears;
  - Required by manufacturer's directions or the label.

- Gas or vapor respirators must have canisters or cartridges replaced at the end of 8 hours of use, if not earlier. Gas or vapor respirator canisters or cartridges also must be replaced when:
  - There is the first indication of odor, taste, or irritation;
  - Maximum use time is reached as per OSHA 29 CFR §1910.134(d)(3)(iii)(B)(2) (see box);
  - Breathing resistance is excessive;
  - Required by manufacturer's directions or the label.
- The following information must be provided to the person who cleans/launders the PPE:
  - PPE may be contaminated;
  - Correct way to clean the PPE and how to protect themselves;
  - Proper decontamination methods after handling the PPE.
- The employer must ensure employees do not take PPE home.

#### **OSHA Maximum Use Time**

**OSHA 29 CFR §1910.134(d)(3)(iii)(B)(2)** states, "If there is no ESLI [end-of-service-life-indicator] appropriate for conditions in the employer's workplace, the employer implements a change schedule for canisters and cartridges that is based on objective information or data that will ensure that canisters and cartridges are changed before the end of their service life. The employer shall describe in the respirator program the information and data relied upon and the basis for the canister and cartridge change schedule and the basis for reliance on the data."

The inspector should:

- Ask if the handler used a respirator for recent applications and ask what kind of respirator. If yes, and handler uses a particulate filtering facepiece, ask when they are replaced. If the handler uses a gas- or vapor-removing respirator, ask when the canister or cartridge is replaced;
- Ask if the handler is responsible for cleaning, storing or maintaining PPE;
- If appropriate, ask how often the PPE is cleaned, how it is cleaned and how and where it is stored;
- Ask to see where PPE is stored and check the following:
  - Is visibly contaminated PPE stored with clean PPE or clean clothing?
- If PPE is being donned, doffed or cleaned during the inspection, check the following if possible:
  - Are workers or handlers donning PPE that is damaged with holes or tears?

- Are workers or handlers donning PPE in an area away from pesticide use or storage?
- Is PPE being washed according to manufacturer's instructions or pesticide labeling or if none, with detergent and hot water?
- Is clean PPE being stored or donned while still wet?
- Is contaminated PPE being kept separate from clean PPE and other clothing?
- Is contaminated PPE being washed separately from other clothing or laundry?
- Are workers or handlers taking contaminated PPE with them when leaving the establishment?

Handler Heat Stress (§170.507(e)) — Whenever PPE is required during a handler activity, the handler employer must take measures to prevent heat-related illnesses.

The inspector should:

- Inquire what steps, if any, were taken to prevent heat stress, if the handler has suffered from heat stress and what was done in response.

#### **5.8.14 PPE Exceptions**

The applicable regulations are:

PPE Exceptions and Substitutions (§170.607(a-c)) -- A chemical-resistant suit may be substituted for coveralls or a chemical-resistant apron. Leather boots may be worn in place of chemical-resistant footwear only in rough terrain. Leather gloves may be worn over chemical-resistant glove liners only when working with plants with thorns.

The inspector should:

- Inquire if the handler makes any labeled PPE substitutions and what the substitutions are.

Closed System PPE Substitutions (§170.607(d)) -- When pesticides are being mixed or loaded using a closed system that meets all of the requirements in §170.607(d)(2) and the handler employer meets the requirements of §170.607(d)(3) specific exceptions to label specified PPE are permitted. If the products are not contained, the system cannot qualify for PPE substitutions. Water soluble packaging that is compromised is no longer considered a closed system, and then full labeled PPE must be worn.

The following conditions must be met to apply the closed system PPE exceptions.

- The closed system removes the pesticide from its original container and transfers the pesticide product through connecting hoses, pipes and coupling that are sufficiently tight to prevent exposure of handlers to the product, except for the negligible escape associated with normal operation of the system or the pesticide is loaded in intact, sealed water soluble packaging;
- The closed system operating instructions are available at the mix/load site;

- The operating instructions are clearly legible and include procedures for use, safe removal of any probe, maintenance, cleaning, repair, known restrictions/limits relating to the system such as incompatible pesticides or unsuitable containers, limits on the ability to measure a pesticide, and procedures dealing with partially-filled containers;
- Handlers must be trained and use the system according to the written instructions;
- The closed system must be cleaned and maintained according to the written instructions;
- All label specified PPE must be immediately available;
- Protective eyewear must be worn if the closed system operates under pressure.

When the above conditions are met, the following exceptions to PPE are permitted:

- Handlers using a closed system to mix/load pesticides with signal words “DANGER” or “WARNING” may substitute a long-sleeved shirt, long pants, shoes and socks, chemical-resistant apron, protective eyewear, and protective gloves for any labeled PPE;
- Handlers using a closed system to mix/load pesticides with signal word other than above may substitute a long-sleeved shirt, long pants, shoes and socks, and protective eyewear, and for any labeled PPE.

The inspector should:

- Inquire if the handler uses a closed system under pressure for any mixing/loading of pesticides. If so, ask what PPE is used;
- Ask if and when the handler was trained in the use of the closed system;
- Ask the handler if any PPE substitutions were made and if so, what they were;
- During the site visit, if substitute PPE is being used, see if written operating instructions for the closed system are available at the mix/load site and check that all labeled PPE is available immediately to a handler in an emergency.

Enclosed Cab PPE Exceptions (§170.607(e)) – If a handler applies a pesticide from inside a vehicle’s enclosed cab, and if the conditions listed below (§170.607(e)(2)) are met, the following exceptions to the label specified PPE are permitted. However, all label required PPE must still be immediately available and stored in a sealed container in the vehicle and handlers must wear full PPE required by the label when they exit the vehicle in the treated area, and must remove PPE before reentering the cab.

- Handlers may substitute long-sleeved shirt, long pants, shoes and socks for required skin and eye protection.
- A particulate filtering respirator (NIOSH TC-84A) is not required if the enclosed cab has functioning air ventilation system maintained per manufacturer instructions. (Note older labels may refer to dust/mist filtering respirators instead of the current terminology using particulate filtering respirator.) Other required respirators must be worn inside an enclosed cab.

The inspector should:

- Ask if the handler uses an enclosed cab for pesticide applications. If so, ask what PPE is used;
- Ask if the handler ever exits the vehicle within a treated area during applications or within the REI and what PPE is used.

Aerial Applicator PPE Exceptions (§170.607(f)) – For aerial applications, substitutions of label specified PPE is permitted under certain conditions:

- For open cockpit (rare), labeled PPE must be worn, except chemical-resistant footwear is not needed; a helmet with a face shield may substitute for headgear or protective eyewear;
- For enclosed cockpit, long-sleeved shirt, long pants, shoes, socks may substitute for labeled PPE;
- Chemical-resistant gloves are optional unless required on the label;
- If chemical-resistant gloves have been used, they must be stored in an enclosed container to prevent contamination of the cockpit.

**Helicopters**

Helicopters with open sides do not meet the definition of enclosed cockpits and so no substitution of PPE is allowed.

The inspector should:

- Ask the handler what PPE is used during aerial applications and if any substitute PPE is used;
- Ask the handler where the gloves are kept if used.

Crop Advisors (§170.607(g)) – Crop advisors may substitute the PPE required on the label for handler activities under certain conditions. Entry into a treated area during the REI using substitute PPE can only be done:

- At least 4-hours post-application;
- When the inhalation exposure level on the label is reached, or ventilation in §170.405(b)(3) is met. See Appendix D for the Table on Entry Production Restrictions During Enclosed Place Pesticide Application;
- The crop advisor or employees are only performing crop advising tasks;
- Crop advisors and employees in a field under the REI may substitute the items below for handler PPE:
  - Early entry PPE;
  - Coveralls, shoes plus socks, chemical-resistant gloves made of any waterproof material, and, if the labeling requires protective eyewear for handlers, eye protection.

The inspector should:

- Ask the crop advisor what PPE the crop advisor wears and if he or she wears any substitute items from those required;
- Ask the crop advisor under what conditions PPE exceptions are made.



Note, this PPE exception applies to all crop advisors, not just those who are licensed/certified crop advisors under a program acknowledged as appropriate by EPA or an SLA.

### **5.8.15 Retaliation**

The applicable regulation is:

Prohibited Actions (§170.315) — A handler employer shall not intimidate, threaten, coerce, or discriminate against any handler for complying with the WPS requirements or for providing information to the EPA, State, or Tribal government.

The inspector should:

- Ask handlers if they have experienced problems with their supervisor or employer while the handler was trying to comply with the WPS. If yes, discuss and record the details of the problem and determine if the handlers believe there was retaliation involved, then follow-up with the supervisor or employer.

### **5.8.16 Pesticide Exposure Incidents**

The inspector should:

- Ask if there have been any incidents and how they were handled. Report the incident if and as appropriate.

## **5.9 EXIT CONFERENCE**

The exit conference is an important final element of the inspection. The conference is an opportunity for the inspector to answer questions about the regulations, and to provide fact sheets or other compliance assistance information that explain the regulations or aid in maintaining compliance.

At the end of inspections conducted using federal credentials, the inspector should issue a receipt for samples to the employer/manager for samples collected, such as photos, copies of records, etc. While the inspector should note observed variances from the regulations, the inspector should not express any opinions about violations and should not make any conclusions of law. The inspector may explain that compliance determinations are done later by a compliance officer in association with the inspector.

Inspectors who conduct WPS inspections under SLA authority and using SLA credentials should follow appropriate SLA procedures. SLAs may have the authority to make compliance determinations on-site and to issue a warning or field notice of violation.

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## CHAPTER 6. POST INSPECTION

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One of the most important activities after the inspection is to prepare an inspection report. The inspection report is critical to support enforcement actions if violations are found at the establishment. The report should include a written narrative, supportive documentation like photos, interviews and statements, as necessary to support the facts and/or suspected violations. The final inspection report should establish the compliance status of an establishment in a factual, objective and consistent manner. If suspected violations of the WPS are included, the report should be labeled as “Enforcement Sensitive.” Refer to Chapter 16, “Inspection Report and Supporting Documentation” of the FIFRA Inspection Manual for more information.

If an SLA inspection is performed with Federal credentials, then the inspection file should be forwarded to the EPA Region for review and possible enforcement action. If the inspection is performed under SLA credentials, enforcement actions should be taken in accordance with the SLA’s Enforcement Response Policy (ERP) and the nature of the WPS violation. Egregious WPS violations detected on-site may be addressed immediately by the inspector in accordance with SLA protocols, SOPs, and the ERP. In cases with egregious violations, compliance assistance may be provided to the employer/manager on-site, but not in lieu of appropriate enforcement.

If violations of law are detected during an inspection and documented properly, EPA, or the SLA may initiate a civil or criminal enforcement action or suitable notice of warning. See Chapter 17 of the FIFRA Inspection Guidance for more information on enforcement processes and the role of the inspector.

## End Notes

<sup>1</sup> EPA's Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Inspection Manual, October 2013, <https://www.epa.gov/sites/production/files/2014-01/documents/fiframanual.pdf>

<sup>2</sup> WPS Rule at: <https://www.epa.gov/pesticide-worker-safety/revisions-worker-protection-standard>

<sup>3</sup> Title VI of Civil Rights Act of 1964 at: <https://www.epa.gov/civilrights/t6facts.htm>

<sup>4</sup> For information and technical assistance on the Americans with Disabilities Act, see <https://www.ada.gov>

<sup>5</sup> EPA biosecurity procedures for guidelines to be followed when entering and exiting farms or ranches that contain livestock or poultry. (<https://www.epa.gov/compliance/guidance-biosecurity-procedures-visits-livestock-and-poultry-facilities>)

<sup>6</sup> FIFRA requires that a Notice of Inspection (NOI) be provided whenever an inspection is to be conducted under the authority of FIFRA. When federal EPA credentials are used to conduct a FIFRA inspection, the inspector must issue a NOI to the establishment owner or person being inspected. SLAs may have similar requirements when conducting inspections under their authority.

<sup>7</sup> OSHA 29 CFR 1910.134, [https://www.osha.gov/pls/oshaweb/owadisp.show\\_document?p\\_table=STANDARDS&p\\_id=12716](https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=STANDARDS&p_id=12716)

<sup>8</sup> See Guidance to Environmental Protection Agency Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 69 Fed. Reg. 35,602 (June 25, 2004) at: <https://www.epa.gov/ocr/assisting-people-limited-english-proficiency>

<sup>9</sup> For further information regarding LEP, refer to <https://www.lep.gov> and state civil rights resources.

## Worker Protection Standard Inspection Manual

### APPENDIX A: GLOSSARY OF TERMS

#### § 170.305 Definitions.

Terms used in this part have the same meanings they have in the Federal Insecticide, Fungicide, and Rodenticide Act, as amended. In addition, the following terms, when used in this part, shall have the following meanings:

*Agricultural employer* -- means any person who is an owner of, or is responsible for the management or condition of, an agricultural establishment, and who employs any worker or handler.

*Agricultural establishment* -- means any farm, forest operation, or nursery engaged in the outdoor or enclosed space production of agricultural plants. An establishment that is not primarily agricultural is an agricultural establishment if it produces agricultural plants for transplant or use (in part or their entirety) in another location instead of purchasing the agricultural plants.

*Agricultural plant* -- means any plant, or part thereof, grown, *Maintained*, or otherwise produced for commercial purposes, including growing, maintaining or otherwise producing plants for sale or trade, for research or experimental purposes, or for use in part or their entirety in another location. Agricultural plant includes, but is not limited to, grains, fruits and vegetables; wood fiber or timber products; flowering or foliage plants and trees; seedlings and transplants; and turf grass produced for sod. Agricultural plant does not include pasture or rangeland used for grazing.

*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.

*Chemigation* -- means the application of pesticides through irrigation systems.

*Closed system* -- means an engineering control used to protect handlers from pesticide exposure hazards when mixing and loading pesticides.

*Commercial pesticide handler employer* -- means any person other than an agricultural employer, who employs any handler to perform handler activities on an agricultural establishment. A labor contractor who does not provide pesticide application services or supervise the performance of handler activities, but merely employs laborers who perform handler activities at the direction of an agricultural or handler employer, is not a commercial pesticide handler employer.

*Commercial pesticide handling establishment* -- means any enterprise, other than an agricultural establishment, that provides pesticide handler or crop advising services to agricultural establishments.

*Crop advisor* -- means any person who is assessing pest numbers or damage, pesticide distribution, or the status or requirements of agricultural plants.

*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).

*Early entry* -- means entry by a worker into a treated area on the agricultural establishment after a pesticide application is complete, but before any restricted-entry interval for the pesticide has expired.

*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, 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.

*Enclosed cab* -- means a cab with a nonporous barrier that totally surrounds the occupant(s) of the cab and prevents dermal contact with pesticides that are being applied outside of the cab.

*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.

*Fumigant* -- means any pesticide product that is a vapor or gas, or forms a vapor or gas upon application, and whose pesticidal action is achieved through the gaseous or vapor state.

*Hand labor* -- means any agricultural activity performed by hand or with hand tools that causes a worker to have substantial contact with plants, plant parts, or soil and other surfaces that may contain pesticide residues, except that hand labor does not include operating, moving, or repairing irrigation or watering equipment or performing crop advisor tasks.

*Handler* -- means any person, including a self-employed person, who is employed by an agricultural employer or commercial pesticide handler employer and performs any of the following activities:

- (1) Mixing, loading, or applying pesticides.
- (2) Disposing of pesticides.
- (3) 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. The term does not include any person who is only handling unopened pesticide containers or pesticide containers that have been emptied or cleaned according to pesticide product labeling instructions.
- (4) Acting as a flagger.
- (5) Cleaning, adjusting, handling, or repairing the parts of mixing, loading, or application equipment that may contain pesticide residues.
- (6) Assisting with the application of pesticides.
- (7) Entering an enclosed space after the application of a pesticide and before the inhalation exposure level listed in the labeling has been reached or one of the ventilation criteria established

by §170.405(b)(3) or the labeling has been met to operate ventilation equipment, monitor air levels, or adjust or remove coverings used in fumigation.

(8) Entering a treated area outdoors after application of any soil fumigant during the labeling-specified entry-restricted period to adjust or remove coverings used in fumigation.

(9) Performing tasks as a crop advisor during any pesticide application or restricted-entry interval, or before the inhalation exposure level listed in the pesticide product labeling has been reached or one of the ventilation criteria established by § 170.405(b)(3) or the pesticide product labeling has been met.

*Handler employer* -- means any person who is self-employed as a handler or who employs any handler.

*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 a parent's sibling, i.e., the child of an aunt or uncle.

*Labor contractor* -- means a person, other than a commercial pesticide handler, who employs workers or handlers to perform tasks on an agricultural establishment for an agricultural employer or a commercial pesticide handler employer.

*Outdoor production* -- means production of an agricultural plant in an outside area that is not enclosed or covered in any way that would obstruct the natural air flow.

*Owner* -- means any person who has a present possessory interest (e.g., fee, leasehold, rental, or other) in an agricultural establishment. A person who has both leased such agricultural establishment to another person and granted that same person the right and full authority to manage and govern the use of such agricultural establishment is not an owner for purposes of this part.

*Personal protective equipment* -- means devices and apparel that are worn to protect the body from contact with pesticides or pesticide residues, including, but not limited to, coveralls, chemical-resistant suits, chemical-resistant gloves, chemical-resistant footwear, respirators, chemical-resistant aprons, chemical-resistant headgear, and protective eyewear.

*Restricted-entry interval* -- means the time after the end of a pesticide application during which entry into the treated area is restricted.

*Safety data sheet* -- has the same meaning as the definition at 29 CFR 1900.1200(c).

*Treated area* -- means any area to which a pesticide is being directed or has been directed.

*Use* -- as in "to use a pesticide" means any of the following:

(1) Pre-application activities, including, but not limited to:

(i) Arranging for the application of the pesticide.

(ii) Mixing and loading the pesticide.

(iii) Making necessary preparations for the application of the pesticide, including responsibilities related to worker notification, training of workers or handlers, providing decontamination supplies, providing pesticide safety information and pesticide application and hazard information, use and care of personal protective equipment, providing emergency assistance, and heat stress management.

(2) Application of the pesticide.

(3) Post-application activities intended to reduce the risks of illness and injury resulting from handlers' and workers' occupational exposures to pesticide residues during and after the restricted-entry interval, including responsibilities related to worker notification, training of workers or early-entry workers, providing decontamination supplies, providing pesticide safety information and pesticide application and hazard information, use and care of personal protective equipment, providing emergency assistance, and heat stress management.

(4) Other pesticide-related activities, including, but not limited to, transporting or storing pesticides that have been opened, cleaning equipment, and disposing of excess pesticides, spray mix, equipment wash waters, pesticide containers, and other pesticide-containing materials.

*Worker* -- means any person, including a self-employed person, who is employed and performs activities directly relating to the production of agricultural plants on an agricultural establishment.

*Worker housing area* -- means any place or area of land on or near an agricultural establishment where housing or space for housing is provided for workers or handlers by an agricultural employer, owner, labor contractor, or any other person responsible for the recruitment or employment of agricultural workers.

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**APPENDIX B: SAMPLE INSPECTION CHECKLISTS**

**Part 1: Agricultural Establishment Checklist**

DATE		INSPECTION NUMBER	
OWNER/OPERATOR		FIRM OR PREMISE NAME	
APPLICATOR			
<b>Inspector Credentials Presented</b> <input type="checkbox"/> Yes <input type="checkbox"/> No		<b>Routine inspection</b> <input type="checkbox"/>	
<b>Notice of Inspection Provided</b> <input type="checkbox"/> Yes <input type="checkbox"/> No		<b>For Cause inspection</b> <input type="checkbox"/>	
<b>A. AGRICULTURAL ESTABLISHMENT INFORMATION</b>			
<b>Immediate Family Exemption Criteria for Workers and Handlers</b> 170.305, 170.601(a)			
Are ALL the workers and handlers the owner (or majority owner) or immediate family? Exemption applies to: spouses, children, step children, foster children, sons-in-law, daughters-in-law, grandchildren, parents, step parents, foster parents, grandparents, fathers-in-law, mothers-in-law, aunts, uncles, brothers, sisters, brothers-in-law, sisters-in-law, nieces, nephews, first cousins. Workers: Yes <input type="checkbox"/> Handlers: Yes <input type="checkbox"/> If both answers are “yes”, stop using this form and use checklist, “Owners of Agricultural Establishments and Immediate Family.” If one answer is “no,” continue to use this checklist as appropriate.			
<b>B. RECORDS REVIEW:</b>			
<b>Pesticide Application Information and SDSs</b> 170.311(b)			
	WPS Requirement	Reference Page in How To Comply	Regulatory Citation
<input type="checkbox"/> Yes <input type="checkbox"/> No	Are pesticide application information and SDSs retained on the establishment for 2 years? (safety data sheet, product name, EPA registration number, active ingredient, crop or site treated, location and description of treated area, date, start and end time of application, duration of REI)	24	170.311(b)
Identify WPS pesticides applied or REI in effect in the past 30 days (minimum of 3 products if possible) through a record review, interview and visual inspection of products in storage, and record as appropriate to facilitate the inspection: product name/#; date applied; method of application; special requirements; weather conditions during application; PPE required; REI (record and attach).			
<b>Pesticide Safety Training Records</b> 170.401(d), 170.501(d)			
<b>Worker Training Records</b>			
<input type="checkbox"/> Yes <input type="checkbox"/> No	Current workers trained in past 12 months?	27	170.401(a)
<input type="checkbox"/> Yes <input type="checkbox"/> No	Records retained for 2 years on establishment? (worker name, signature, date of training, EPA-approved materials, trainer’s name, trainer’s qualifications, name of ag employer)	27-28	170.401(d)
<b>Handler Training Records</b>			
<input type="checkbox"/> Yes <input type="checkbox"/> No	Current handlers trained in past 12 months?	27	170.501(a)



<input type="checkbox"/> Yes <input type="checkbox"/> No	Records retained for 2 years on establishment? (handler name, signature, date of training, EPA- approved materials, trainer's name, trainer's qualifications, name of ag employer)	27-28	170.501(d)
<b>Respirator Records</b> 170.507(b)(10)			
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Are respirator records retained on the establishment for 2 years?	68	170.507(b)(10)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Have handlers received medical evaluation, fit testing and training for required respirator?	68	170.507(b)(10)
<b>Access and Availability of Records</b> 170.311(b)(7) through (9)			
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Has a worker, handler, or designated representative requested application information or SDS? If so, was it provided within 15 days of receipt of request? Have treating medical personnel requested application information or SDS? If so, was it provided promptly?	25	170.311(b)(7)-(9)
<b>C. MINIMUM AGE FOR HANDLERS AND EARLY ENTRY WORKERS</b> 170.309(c)			
	WPS Requirement	Reference Page in How To Comply	Regulatory Citation
<input type="checkbox"/> Yes <input type="checkbox"/> No	Are all handlers and early entry workers at least 18 years of age?	20	170.309(c), 170.605(a)
<b>D. INFORMATION DISPLAY</b>			
<b>Location of the "Central Display"</b> 170.311(a)(5), 170.311(b)(2) and (3)			
Inspector observation <input type="checkbox"/> Based on interview <input type="checkbox"/>			
	WPS Requirement	Reference Page in How To Comply	Regulatory Citation
<input type="checkbox"/> Yes <input type="checkbox"/> No	Has an appropriate central display been established at a central location in an area where workers and handlers are likely to congregate or pass by and is it accessible during work hours?	21	170.311(a)(5), 170.311(b)(2) & (3)
<b>WPS Safety Information Display</b> 170.311(a)			
<input type="checkbox"/> Yes <input type="checkbox"/> No	Is the EPA WPS safety poster (or equivalent) displayed in central location, easily accessible, and legible? Is all required WPS safety information being provided at the central display? Are the name, address and phone number of an emergency medical facility displayed? Are the name, address and phone number of the state/tribal pesticide agency displayed? Are any changes to required information made within 24 hours of receiving notice of changes?	21-23	170.311(a)

<input type="checkbox"/> Yes <input type="checkbox"/> No	Is the pesticide safety information displayed where decontamination supplies are located at permanent sites and provided at locations where a toilet is provided for 11 or more workers (as required by OSHA Field Sanitation Standards, 29 CFR, Part 1928.110)?	21	170.311(a)
<b>Pesticide Application and Hazard Information (SDS) Display 170.311(b)(1)-(5)</b>			
<input type="checkbox"/> Yes <input type="checkbox"/> No	Is all required pesticide application information provided at central location? Including: Crop or site treated and location and description of treated area, date(s) of application, start and end times, pesticide product name, active ingredient(s), EPA reg. no., re-entry interval (if any)	21	170.311(b)(1)-(5)
<input type="checkbox"/> Yes <input type="checkbox"/> No	Is the Safety Data Sheet (SDS) for each pesticide made available?	21	170.311(b)(1)-(5)
<input type="checkbox"/> Yes <input type="checkbox"/> No	Is the application information and SDS displayed no later than 24 hours after the end of the applications (but before workers enter the treated area) and kept posted for 30 days after the last REI expiration if workers/handlers are present?	22	170.311(b)(1)-(5)
<input type="checkbox"/> Yes <input type="checkbox"/> No	Are the application information and SDSs easily accessible and legible?	22	170.311(b)(1)-(5)
<b>E. KNOWLEDGE OF LABELING, APPLICATION- AND ESTABLISHMENT-SPECIFIC INFORMATION 170.403(a)-(c) and 170.503(a) and (b)</b>			
Inspector observation <input type="checkbox"/> Based on interview <input type="checkbox"/>			
	WPS Requirement	Reference Page in How To Comply	Regulatory Citation
<input type="checkbox"/> Yes <input type="checkbox"/> No	Before a handler performed any handler activity, did the agricultural employer ensure the handler read applicable portions of the label on safe use or was informed in a manner the handler can understand?	59	170.503(a)(1)
<input type="checkbox"/> Yes <input type="checkbox"/> No	Did the handler have access to the labeling at all times, and was the handler aware of any entry restrictions, application exclusion zone and REI?	59	170.503(a)(2) & (3)
<input type="checkbox"/> Yes <input type="checkbox"/> No	Before any worker performs any activity in a treated area where within the last 30 days a pesticide product has been used or an REI has been in effect or any handler performs any handler activity, has the employer informed workers and handlers in a manner workers and handlers can understand, of the location of pesticide safety information, pesticide application and SDSs, and decontamination supplies?	30	170.403(a)-(c), 170.503(b)

<b>F. WORKER DECONTAMINATION 170.411</b>			
Inspector observation <input type="checkbox"/> Based on interview <input type="checkbox"/>			
	WPS Requirement	Reference Page in How To Comply	Regulatory Citation
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Are the appropriate decontamination supplies provided? Including:1 gallon of water provided for each worker at the beginning of work period and replenished to maintain adequate supply, soap, single-use towels?	48	170.411(b)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	If REI is 4 hours or less, are the decontamination supplies provided for 7 days? Or 30 days if REI is more than 4 hours?	48	170.411(c)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Are decontamination supplies located within 1/4 mile of the work site or nearest site of vehicular access and outside a pesticide treated area under an REI and reasonably accessible?	48	170.411(d)
<b>G. HANDLER DECONTAMINATION AND EYEWASH SUPPLIES 170.509</b>			
Inspector observation <input type="checkbox"/> Based on interview <input type="checkbox"/>			
	WPS Requirement	Reference Page in How To Comply	Regulatory Citation
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Are decontamination supplies located at mixing sites?	75	170.509(c)(1)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	For all other handler tasks, are decontamination supplies located within 1/4 mile from handler or nearest place of vehicular access? Are supplies located outside a treated area or area under REI or in a closed container protected from pesticide contamination?	75	170.509(c)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Are the appropriate decontamination supplies provided? Including 3 gallons of water provided for each handler (at the beginning of work period and replenished to maintain adequate supply), soap, single use towels, and a change of clothes?	74	170.509(b)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	At each mixing/loading site for products requiring eye protection or using a closed system under pressure is there an appropriate eyewash system immediately available to a handler? (Either a system to deliver gently running water (at a rate of 0.4 gal/min) for 15 minutes or at least 6 gallons in containers suitable for providing a gentle eye-flush for about 15 minutes)	74	170.509(d)(1)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Does each applicator have at least one pint of water immediately available in a portable container when pesticide label requires eye protection?	74	170.509(d)(2)

H. APPLICATION RESTRICTIONS AND HANDLER PROTECTIONS 170.405 and 170.505			
Inspector observation <input type="checkbox"/> Based on interview <input type="checkbox"/>			
	WPS Requirement	Reference Page in How To Comply	Regulatory Citation
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Do all handlers observed by the inspector appear to be over 18?	20	170.309(c)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Did the handler suspend application because someone was in the application exclusion zone? (for enclosed space, in area in column B in Table in 170.405(b)(4)) and was the application continued properly?	60-61	170.505(b)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Was each pesticide applied so that it did not contact, either directly or through drift, anyone except appropriately trained and equipped handlers?	60	170.505(a)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	If toxic product with skull & crossbones symbol was used, was contact with the handler made at least every 2 hours by voice, sight or another appropriate method?	61	170.505(c)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	If a fumigant was applied in an enclosed space, was continuous visual or voice contact with another handler equipped with PPE maintained? Did the handler outside the enclosed space have immediate access to required PPE in case a rescue is required?	61	170.505(d)
<b>Entry Restrictions</b>			
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	For <b>enclosed space production applications</b> , were workers and other persons kept out of restricted areas for the times specified in the table in 170.405(b)(4) during the application other than appropriately trained and equipped handlers involved in the application?  For <b>outdoor production applications</b> , were workers and other persons (other than appropriately trained and equipped handlers involved with the application) kept out of the treated area and application exclusion zone?	37-40	170.405
<b>I. NOTIFICATION AND ENTRY RESTRICTIONS</b>			
<b>Entry Restrictions after Applications 170.407</b>			
Inspector observation <input type="checkbox"/> Based on interview <input type="checkbox"/>			
	WPS Requirement	Reference Page in How To Comply	Regulatory Citation
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	After application of any pesticide to an <b>outdoor production area</b> , does the employer not allow any worker to enter or remain in the treated area before the REI has expired and all warning signs have been removed or covered? (except for permitted early entry activities)	41	170.407(a)

<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	After application of any pesticide to an area of <b>enclosed space production</b> , does the employer not allow any worker to enter or remain in the area specified in Table 1 in 170.405(b)(4) before the REI has expired and all warning signs have been removed or covered? (except for permitted early entry activities)	41	170.407(b)
<b>Posting &amp; Notification 170.409</b>			
Inspector observation <input type="checkbox"/> Based on interview <input type="checkbox"/>			
	WPS Requirement	Reference Page in How To Comply	Regulatory Citation
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<b>For any double notification pesticide</b> (highly toxic): Was notification <b>provided both orally and by posting? Did the oral notification meet the requirements for outdoor or enclosed space production areas?</b> Did the oral notification include the location, dates and times of restrictions? Did the oral notification include instructions about the restriction in a manner that was understandable to workers? Was the oral notification provided before the application or at the time a worker begins their work period? <b>Did the posting meet the requirements for outdoor or enclosed space production areas?</b> Did signs meet the size and content requirements? Were signs posted in adequate locations? Were signs posted no sooner than 24 hours but before the application? Did signs remain posted until REI expired? Were signs removed within 3 days of REI expiration (or was no entry ensured)?	42	170.409(a)(1)(i)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<b>For any outdoor production area applications with REI of 48 hours or less</b> , was either oral notification or posted warning signs used? <b>If oral notification:</b> Did the notification include the location, dates and times of restrictions? Did the notification include instructions about the restriction that was understandable to workers? Was the notification provided before the application or at the time a worker begins their work period? <b>If posted warning signs:</b> Did signs meet the size and content requirements? Were signs posted in adequate locations? Were signs posted no sooner than 24 hours but before the application? Did signs remain posted until REI expired? Were signs removed within 3 days of REI expiration (or was no entry ensured)?	42	170.409(a)(1)(iii)

<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<p><b>For any outdoor production area applications with REI greater than 48 hours</b> were posted warning signs used?  Did signs meet the size and content requirements?  Were signs posted in adequate locations?  Were signs posted no sooner than 24 hours but before the application? Did signs remain posted until REI expired? Were signs removed within 3 days of REI expiration (or was no entry ensured)?</p>	42	170.409(a)(1)(ii)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<p><b>For any enclosed space production area applications with REI greater than 4 hours</b> were posted warning signs used?  Did signs meet the size and content requirements?  Were signs posted in adequate locations?  Were signs posted no sooner than 24 hours but before the application?  Did signs remain posted until REI expired?  Were signs removed within 3 days of REI expiration (or was no entry ensured)?</p>	42	170.409(a)(1)(iv)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<p><b>For any enclosed space production area applications with REI of 4 hours or less</b> was either oral notification or posted warning signs used?  <b>If oral notification:</b>  Did notification include the location, dates and times of the restriction?  Did notification include instructions about the restriction in a manner that were understandable to the workers?  Was the notification provided before the application or at the time a worker begins their work period?  <b>If posted warning signs:</b>  Did signs meet the size and content requirements?  Were signs posted in adequate locations?  Were signs posted no sooner than 24 hours but before the application?  Did signs remain posted until REI expired?  Were signs removed within 3 days of REI expiration (or was no entry ensured)?</p>	43	170.409(a)(1)(v)
<b>J. INFORMATION EXCHANGE</b> 170.309(k), 170.313(i)			
Inspector observation <input type="checkbox"/> Based on interview <input type="checkbox"/>			
	WPS Requirement	Reference Page in How To Comply	Regulatory Citation
<b>If agricultural employer is employing a commercial handler to make applications:</b>			
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Does the agricultural employer give the location and description of treated areas or REIs and restrictions near (within 1/4 mile) those areas where applications are or will be made on their establishment to a commercial pesticide handler employer?	83	170.309(k)

<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Does the commercial pesticide handler employer inform the agricultural employer of: location and description of areas to be treated, date and time of application, product name, registration number, active ingredient, REI, requirement for oral and/or written notification, and any other restrictions?	84	170.313(i)
<b>K. PERSONAL PROTECTIVE EQUIPMENT (PPE) 170.507</b>			
Inspector observation <input type="checkbox"/> Based on interview <input type="checkbox"/>			
	WPS Requirement	Reference Page in How To Comply	Regulatory Citation
<b>For pesticide products reviewed:</b>			
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Did the handlers use the clothing and PPE specified on the product labeling?	62	170.507(a)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Did the agricultural employer provide clean, operational PPE to the handler to meet label requirements?	62-64	170.507(b)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Before each day of use, did the agricultural employer ensure all PPE was inspected and repaired or discarded as appropriate?	64	170.507(c)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Did the agricultural employer assure that handler wears and uses PPE correctly?	64	170.507(c)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Is the PPE properly cleaned and thoroughly dried before storage? Is clean PPE stored separately from personal clothing and contaminated areas? Is there a clean place for putting on and removing PPE?	64	170.507(d)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Where labeling requires PPE for handler activities, did the agricultural employer take sufficient measures to prevent heat-related illness and instruct each handler in the prevention, recognition and first aid treatment of heat-related illness?	65	170.507(e)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	If respirators are required and handlers are present, did handlers receive medical clearance, fit testing and training?	68	170.507(b)(10)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	If using particulate filtering facepiece respirators, are they replaced appropriately? (i.e., breathing resistance excessive; filter is damaged; according to respirator or product label; after 8 hours of use)	73	170.507(d)(6)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	If using vapor-removing canister/cartridge respirators, are they replaced appropriately? (based on odor, taste, irritation; breathing resistance excessive; according to respirator or pesticide product label; after 8 hours of use)	73	170.507(d)

<b>L. PESTICIDE HANDLING EQUIPMENT 170.313(f), (g) and (l) and 170.309(i) and (j)</b>			
Inspector observation <input type="checkbox"/> Based on interview <input type="checkbox"/>			
	WPS Requirement	Reference Page in How To Comply	Regulatory Citation
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Before use, did the agricultural employer instruct handlers in the safe operation of application and mixing/loading equipment and inspect and repair application and mixing/loading equipment before each day of use?	79	170.313 (f) & (g)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Has any person employed by the agricultural establishment, who cleans, repairs, or adjusts the pesticide equipment, been trained as a handler?	20	170.309(g)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	If any persons not employed by the agricultural establishment, clean, repair, or adjust the pesticide equipment, are they provided the following information: that the equipment may be contaminated; potential harmful effects of pesticide exposure; how to limit exposure; and how to wash to remove contamination?	20	170.309(g)
<b>M. EARLY ENTRY</b>			
<b>Entry Restrictions 170.605</b>			
Inspector observation <input type="checkbox"/> Based on interview <input type="checkbox"/>			
	WPS Requirement	Reference Page in How To Comply	Regulatory Citation
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Do all early entry workers appear to be at least 18?	52	170.605(a) 170.309(c)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Prior to early entry, did the employer provide the following information in a manner understandable to the workers: location of early entry area where work is to be performed; pesticides applied; dates and time the REI begins and ends; which exception is the basis for early entry and tasks that may be performed; whether contact with treated surfaces is allowed; amount of time allowed in the treated area; PPE required by the label for early entry; location of pesticide safety information and decontamination supplies?	52	170.605(b)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Prior to early entry, did the employer ensure that each early entry worker has either read the product labeling or has been informed in a manner that is understandable, of all labeling requirements and statements related to human hazards or precautions, first aid or user safety?	52	170.605(c)



<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Prior to early entry, did the employer ensure each early entry worker is provided with the required PPE, that it is used as intended and is properly maintained?	53	170.605(d)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Prior to early entry, did the employer take sufficient measures to prevent heat-related illness and instruct each worker in the prevention, recognition and first aid treatment of heat-related illness?	53	170.605(f)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Are decontamination supplies located outside any treated area or area under REI or where reasonably accessible to workers conducting early entry tasks?	54	170.605(h)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Are decontamination supplies located where a worker removes personal protective equipment?	54	170.605(j)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Are the appropriate decontamination supplies provided: 3 gallons of water for each early entry worker (at the beginning of work period and replenished to maintain adequate supply); soap and single use towels?	54	170.605(j)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Does each worker have at least one pint of water immediately available for eye-flushing in a portable container when pesticide label requires eye protection?	54	170.605(i)
<b>Exception for Activities with No Contact 170.603(a)</b>			
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	If using the no contact exception, are all the required conditions met: no contact with anything treated with the pesticide even if wearing PPE; no entry before inhalation or ventilation criteria met?	49	170.603(a)
<b>Exception for Limited Contact and Irrigation Activities 170.603(d)</b>			
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	If using the exception for limited contact and irrigation activities, are all the required conditions met: entry must not occur during first 4 hours or before inhalation or ventilation criteria met; no hand labor activity was performed; time did not exceed 8 hours in 24-hour period; a double notification pesticide was not used; situation could not have been foreseen (except irrigation tasks); not doing the activity would result in substantial economic loss?	51	170.603(d)
<b>Exception for Short Term Activities 170.603(b)</b>			
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	If using the short-term activity exception, were all the required conditions met: entry did not occur during first 4 hours or before inhalation or ventilation criteria met; no hand labor activity was performed; time did not exceed 1 hour in 24?	49	170.603(b)

<b>Exception for Agricultural Emergency 170.603(c)</b>			
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	If agriculture emergency exception, were all required conditions met: situation meets criteria for agricultural emergency; entry did not occur during first 4 hours or before inhalation or ventilation criteria met; if double notification pesticide was used, time did not exceed 4 hours in 24-hour period?	50	170.603(c)
<b>N. EMERGENCY ASSISTANCE 170.309(f)</b>			
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Has a worker or handler experienced potential pesticide exposure during or within 72 hours after employment? If so, was transportation to an emergency medical care facility provided and information (SDS, circumstances of application and exposure) provided to medical personnel?	26	170.309(f)
<b>O. ANTI-RETALIATION 170.315</b>			
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Based on information available, no person was threatened, intimidated, coerced, discriminated against or experienced retaliation for complying with or attempting to comply with WPS requirements, or for providing information regarding violative behavior. Check Yes if this is correct.	33	170.315
<b>DISPOSITION OF INSPECTION</b>			
Describe any observations made during the inspection that may require additional attention. Attach relevant documentation.			
Inspector Signature:		Date:	

**Worker Protection Standard Inspection Manual**  
**Part 2: Commercial Pesticide Handling Establishment Checklist**

DATE		INSPECTION NUMBER	
OWNER/OPERATOR		FIRM OR PREMISE NAME	
APPLICATOR			
<b>Inspector Credentials Presented</b> <input type="checkbox"/> Yes <input type="checkbox"/> No		<b>Routine Inspection</b> <input type="checkbox"/>	
<b>Notice of Inspection Provided</b> <input type="checkbox"/> Yes <input type="checkbox"/> No		<b>For Cause Inspection</b> <input type="checkbox"/>	
<b>A. RECORDS REVIEW</b> 170.501 and 170.507(b)(10)			
	WPS Requirement	Reference Page in How To Comply	Regulatory Citation
Handler Pesticide Safety Training Records 170.501			
<input type="checkbox"/> Yes <input type="checkbox"/> No	Current handlers trained in past 12 months?	28	170.501(a)
<input type="checkbox"/> Yes <input type="checkbox"/> No	Records retained on the establishment for 2 years? (handler name, signature, date of training, EPA-approved materials, trainer's name, trainer's qualifications, name of commercial pesticide handler employer)	28	170.501(d)
Respirator Records 170.507(b)(10)			
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Are respirator records retained on establishment for 2 years?	72 & 73	170.507(b)(10)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Have handlers received medical evaluation, fit testing, and training for required respirator?	72 & 73	170.507(b)(10)
<b>B. MINIMUM AGE FOR HANDLERS</b> 170.313(c)			
	WPS Requirement	Reference Page in How To Comply	Regulatory Citation
<input type="checkbox"/> Yes <input type="checkbox"/> No	Are all handlers at least 18 years of age?	20	170.313(c)
<b>C. WPS PESTICIDE APPLICATIONS</b>			
Identify recent WPS pesticide applications through a record review, interview and visual inspection of products in storage and record as appropriate to facilitate the inspection: product name/reg. no., date applied, method of application, special requirements, weather conditions during application, PPE required, REI (record and attach).			
<b>D. INFORMATION EXCHANGE</b> 170.309(k) & 170.313 (h)-(j)			
	WPS Requirement	Reference Page in How To Comply	Regulatory Citation
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Where applicable, does the agricultural employer give the location and description of treated areas or REIs and restrictions near (within 1/4 mile) those areas where applications are or will be made on their establishment to the commercial pesticide handler employer?	31 & 32	170.309(k)

<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Does the commercial pesticide handler employer provide this information about the areas with entry restrictions to the handler who worked on the agricultural establishment?	31 & 32	170.313(h)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Does the commercial pesticide handler employer inform the agricultural employer of the location and description of areas to be treated, date and time of application, product name, registration number, active ingredient, REI, requirement for oral or written notification, and any other restrictions?	31 & 32	170.313(i)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	If there are changes to the location or description of the area to be treated, the REI, the notification requirements, restrictions or use directions, or if the start time will be earlier than scheduled, was updated information provided before the application? If there were changes to any other information, was updated information provided to the agricultural employer within 2 hours after completing the application?	31 & 32	170.313(j)
<b>E. KNOWLEDGE OF LABELING AND APPLICATION SPECIFIC INFORMATION 170.503</b>			
	WPS Requirement	Reference Page in How To Comply	Regulatory Citation
<input type="checkbox"/> Yes <input type="checkbox"/> No	Before a handler performed any handler activity, did the commercial pesticide handler employer ensure the handler read applicable portions of the label on safe use or was informed in a manner the handler can understand?	59	170.503(a)
<input type="checkbox"/> Yes <input type="checkbox"/> No	Did the handler have access to the label at all times, and was the handler aware of any entry restrictions, AEZ and REIs?	59	170.503(a)
<b>F. HANDLER DECONTAMINATION AND EYEWASH SUPPLIES 170.509</b>			
Inspector observation <input type="checkbox"/> Based on interview <input type="checkbox"/>			
	WPS Requirement	Reference Page in How To Comply	Regulatory Citation
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Are decontamination supplies located at mixing sites?	74 & 75	170.509(c)(1)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	For all other handler tasks, are decontamination supplies located within 1/4 mile from handler or nearest place of vehicular access? Are the supplies located outside a treated area or area under a REI or in a closed container protected from pesticide contamination?	74 & 75	170.509(c)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Are the appropriate decontamination supplies provided: including 3 gallons of water provided for each handler (at the beginning of work period and replenished to maintain adequate supply), soap, single use towels, and a change of clothes?	74 & 75	170.509(b)

<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	At each mixing/loading site for products requiring eye protection or using a closed system under pressure is there an appropriate eyewash system immediately available to a handler? (Either a system to deliver gently running water (at a rate of 0.4 gal/min) for 15 minutes or at least 6 gallons in containers suitable for providing a gentle eye-flush for about 15 minutes)	74 & 75	170.509(d)(1)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Does each applicator have at least one pint of water immediately available in a portable container when pesticide label requires eye protection?	74 & 75	170.509(d)(2)
<b>G. PERSONAL PROTECTIVE EQUIPMENT (PPE) 170.507(a)-(d)</b>			
Inspector observation <input type="checkbox"/> Based on interview <input type="checkbox"/>			
<b>For pesticide products on site or recently applied</b>			
	WPS Requirement	Reference Page in How To Comply	Regulatory Citation
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Did the handlers use the clothing and PPE specified on the product labeling?	62	170.507(a)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Did the commercial pesticide handler employer provide clean, operational PPE to the handler to meet label requirements?	62 & 63	170.507(b)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Before each day of use, did the commercial pesticide handler employer ensure all PPE was inspected and repaired or discarded as appropriate?	64	170.507(c)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Did the commercial pesticide handler employer assure that handler wears and uses PPE correctly?	64	170.507(c)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Is the PPE properly cleaned and thoroughly dried before storage? Is clean PPE stored separately from personal clothing and contaminated areas? Is there a clean place for putting on and removing PPE?	64	170.507(d)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Where labeling requires PPE for handler activities, did the commercial pesticide handler employer take sufficient measures to prevent heat-related illness and instruct each handler in the prevention, recognition and first aid treatment of heat-related illness?	65	170.507(e)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	If respirators are required and handlers are present, did handlers receive medical evaluation, fit testing and training?	68	170.507(b)(10)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	If using particulate filtering facepiece respirators, are they replaced appropriately? (i.e., breathing resistance excessive; filter is damaged; according to respirator or product label; after 8 hours of use)	73	170.507(d)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	If using vapor-removing canister/cartridge respirators, are they replaced appropriately? (based on odor, taste, irritation; breathing resistance excessive; according to respirator or pesticide product label; after 8 hours of use)	73	170.507(d)

<b>H. PESTICIDE HANDLING EQUIPMENT 170.313(f), (g) and (l)</b>			
Inspector observation <input type="checkbox"/> Based on interview <input type="checkbox"/>			
	WPS Requirement	Reference Page in How To Comply	Regulatory Citation
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Before use, did the commercial pesticide handler employer instruct handlers in the safe operation of application and mixing/loading equipment and inspect and repair application and mixing/loading equipment before each day of use?	79	170.313(f) & 170.313(g)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Has any person employed by the commercial pesticide handling establishment, who cleans, repairs, or adjusts the pesticide equipment, been trained as a handler?	79	170.313(l)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	If persons not employed by the commercial pesticide handling establishment clean, repair, or adjust the pesticide equipment, are they provided with the following information: that the equipment may be contaminated; potential harmful effects of pesticide exposure; how to limit exposure; and how to wash to remove contamination?	79	170.313(l)
<b>I. APPLICATION RESTRICTIONS AND HANDLER PROTECTIONS 170.313(c) &amp; 170.505 (a)-(d)</b>			
Inspector observation <input type="checkbox"/> Based on interview <input type="checkbox"/>			
	WPS Requirement	Reference Page in How To Comply	Regulatory Citation
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Do all handlers observed by the inspector appear to be over 18?	20	170.313(c)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Did the handler suspend application because someone was in the AEZ? (for enclosed space, see area in column B in table in 170.405(b)(4)) and was the application continued properly?	60	170.505(b)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Was each pesticide applied so that it did not contact, either directly or through drift, anyone except appropriately trained and equipped handlers?	60	170.505(a)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	If toxic product with skull-and-crossbones symbol was used, was contact made at least every 2 hours by voice, sight or another appropriate method?	61	170.505(c)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	If a fumigant was applied in an enclosed space, was continuous visual or voice contact with another handler equipped with PPE maintained? Did the handler outside the enclosed space have immediate access to required PPE in case a rescue is required?	61	170.505(d)
<b>J. EMERGENCY ASSISTANCE 170.313(k)</b>			
	WPS Requirement	Reference Page in How To Comply	Regulatory Citation
<input type="checkbox"/> Yes <input type="checkbox"/> No	Has a handler experienced potential pesticide exposure during or within 72 hours after employment? If so, was transportation to an emergency medical care facility provided and information (SDS, circumstances of application and exposure) provided to medical personnel?	80	170.313(k)

K. ANTI-RETIALIATION 170.315			
	WPS Requirement	Reference Page in How To Comply	Regulatory Citation
<input type="checkbox"/> Yes <input type="checkbox"/> No	Based on information available, no person was threatened, intimidated, coerced, discriminated against or experienced retaliation for complying with or attempting to comply with WPS requirements, or for providing information regarding violative behavior. Check yes if correct.	85	170.315
<b>DISPOSITION OF INSPECTION</b>			
Describe any observations made during the inspection that may require additional attention. Attach any relevant documentation.			
Inspector Signature:		Date:	

**WORKER PROTECTION STANDARD INSPECTION WORKSHEET**  
**Part 3: Owners of Agricultural Establishments and Immediate Family**

DATE		INSPECTION NUMBER	
OWNER/OPERATOR		FIRM OR PREMISE NAME	
APPLICATOR			
Inspector Credentials Presented <input type="checkbox"/> Yes <input type="checkbox"/> No		Routine Inspection <input type="checkbox"/>	
Notice of Inspection Provided <input type="checkbox"/> Yes <input type="checkbox"/> No		For Cause Inspection <input type="checkbox"/>	
<b>A. AGRICULTURAL ESTABLISHMENT INFORMATION</b>			
<b>Immediate Family Exemption Criteria for Workers and Handlers 170.305, 170.601(a)</b>			
Are ALL the workers and handlers the owner (or majority owner) or owner's immediate family? Exemption applies to spouse, children, stepchildren, foster children, sons-in-law, daughters-in-law, grandchildren, parents, stepparents, foster parents, grandparents, fathers-in-law, mothers-in-law, aunts, uncles, brothers, sisters, brothers-in-law, sisters-in-law, nieces, nephews, first cousins. If yes, use this checklist. If no, use "Agricultural Establishment" checklist.			
<b>B. APPLICATION RESTRICTIONS 170.405, 170.505</b>			
Inspector observation <input type="checkbox"/> Based on interview <input type="checkbox"/>			
	WPS Requirement	Reference Page in How To Comply	Regulatory Citation
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	For <b>enclosed space production applications</b> , were workers and other persons (other than appropriately trained and equipped handlers involved in the application) kept out of restricted areas in table in 170.405(b)(4) during the application? For <b>outdoor production applications</b> , were workers and other persons (other than appropriately trained and equipped handlers involved with the application) kept out of the treated area and application exclusion zone during the application?	37-40	170.405
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Did the handler suspend application because someone was in the AEZ? (for enclosed space, see area in column B in table in 170.405(b)(4)) and was the application continued properly?	60-61	170.505(b)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Was each pesticide applied so that it did not contact, either directly or through drift, anyone except appropriately trained and equipped handlers?	60	170.505(a)
<b>C. ENTRY RESTRICTIONS AFTER APPLICATIONS 170.407</b>			
Inspector observation <input type="checkbox"/> Based on interview <input type="checkbox"/>			
	WPS Requirement	Reference Page in How To Comply	Regulatory Citation
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	After application of any pesticide to an <b>outdoor production area</b> , did the owner keep workers out of the treated area before the REI has expired and all warning signs have been removed or covered? (except for permitted early entry activities)	41	170.407



<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	After application of any pesticide to an <b>area of enclosed space production</b> , did the owner keep workers out of the area specified in the table in 170.405(b)(4) before the REI has expired and all warning signs have been removed or covered? (except for permitted early entry activities)	41	170.407(b)
<b>D. INFORMATION EXCHANGE</b> 170.309(k), 170.313(l)			
If agricultural employer is employing a commercial handler to make applications			
Inspector observation <input type="checkbox"/> Based on interview <input type="checkbox"/>			
	WPS Requirement	Reference Page in How To Comply	Regulatory Citation
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Does the owner give to a commercial pesticide handler employer the location and description of any treated areas where an REI is in effect that the handler may be in (or within 1/4 mile of) and any restrictions on entering those areas?	31 & 83	170.309(k)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Does the commercial pesticide handling establishment inform the owner of location and description of areas to be treated, date and time of application, product name, registration number, active ingredient, REI, requirement for oral or written notification, and any other restrictions?	31 & 84	170.313(i)&(j)
<b>E. ENTRY RESTRICTIONS</b> 170.603 and 170.605(d)			
Inspector observation <input type="checkbox"/> Based on interview <input type="checkbox"/>			
	WPS Requirement	Reference Page in How To Comply	Regulatory Citation
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Are any workers considered early-entry workers? If yes, prior to early entry, did the employer ensure each early-entry worker is provided with the required PPE, that it is used as intended and is properly maintained?	49 & 53	170.603 & 170.605(d)
<b>Exception for Limited Contact and Irrigation Activities</b> 170.603(d)			
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	If using the exception for limited contact or irrigation activities, are all the required conditions met? (entry must not occur during first 4 hours or before inhalation or ventilation criteria met; no hand labor activity was performed; time did not exceed 8 hours in 24-hour period; a double notification pesticide was not used; situation could not have been foreseen (except irrigation tasks); not doing the activity would result in substantial economic loss)	51	170.603(d)
<b>Exception for Short Term Activities</b> 170.603(b)			
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	If using the short-term activity exception, were all the required conditions met? (entry did not occur during first 4 hours or before inhalation or ventilation criteria were met; no hand labor activity was performed; time did not exceed 1 hour in 24 hours)	49	170.603(b)
<b>Exception for Agricultural Emergency</b> 170.603(c)			
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	If agriculture emergency exception, were all required conditions met? (situation meets criteria for agricultural emergency; entry did not occur during first 4 hours or before inhalation or ventilation criteria were met; if double notification pesticide was used, time did not exceed 4 hours in 24 hours)	50	170.603(c)

F. PERSONAL PROTECTIVE EQUIPMENT 170.507(a) and (b)			
Inspector observation <input type="checkbox"/> Based on interview <input type="checkbox"/>			
	WPS Requirement	Reference Page in How To Comply	Regulatory Citation
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Did the handler employer/owner provide clean, operational PPE to the handler to meet label requirements?	62	170.507(a)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Did the handler use the clothing and PPE specified on the pesticide product labeling?	62	170.507(a)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	If respirators are required and handlers are present, did handlers receive medical evaluation, fit testing and training?	68 - 73	170.507(b)
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	If respirators are required, are medical evaluation, fit testing and training records maintained on the establishment for 2 years?	68 - 73	170.507(b)

**DISPOSITION OF INSPECTION**  
Describe any observations made during the inspection that may require additional attention. Attach any relevant documentation.

Inspector Signature: \_\_\_\_\_

Date: \_\_\_\_\_

# Worker Protection Standard Inspection Manual

## Part 4: Sample List of WPS Pesticide Products

WPS Pesticide Products							
Product Name	Product #	Date Applied	Method of Application	Special Requirements/Restrictions	Weather Conditions	PPE Required	REI

## Worker Protection Standard Inspection Manual

### APPENDIX C: OSHA REGULATIONS ON RESPIRATORS

#### **Replacement of canisters or cartridges**

The WPS regulations (§170.507(d)) refer to OSHA regulations in describing when gas- or vapor-removing respirators must have canisters or cartridges replaced. The WPS regulations state that canisters or cartridges must be replaced when:

- There is the first indication of odor, taste, or irritation;
- Maximum use time is reached as determined by a change schedule conforming to OSHA 29 CFR §1910.134(d)(3)(iii)(B)(2) (see below);
- Breathing resistance is excessive;
- Required by manufacturer's directions or the label; or
- At the end of 8 hours of use if not earlier.

#### **29 CFR §1910.134(d)(3)(iii)(B)(2)**

If there is no end-of-service-life indicator (ESLI) appropriate for conditions in the employer's workplace, the employer implements a change schedule for canisters and cartridges that is based on objective information or data that will ensure that canisters and cartridges are changed before the end of their service life. The employer shall describe in the respirator program the information and data relied upon and the basis for the canister and cartridge change schedule and the basis for reliance on the data.

#### **Respirator medical evaluation, fit testing and training**

The WPS regulations require a medical evaluation, fit testing and training before a handler performs any handler activity where the respirator is required to be worn (§170.507(b)(10)(i)-(iii)) and refer to OSHA regulations at §1910.134(e). These regulations are included below:

#### **§1910.134(e)**

**Medical evaluation.** Using a respirator may place a physiological burden on employees that varies with the type of respirator worn, the job and workplace conditions in which the respirator is used, and the medical status of the employee. Accordingly, this paragraph specifies the minimum requirements for medical evaluation that employers must implement to determine the employee's ability to use a respirator.

#### **1910.134(e)(1)**

**General.** The employer shall provide a medical evaluation to determine the employee's ability to use a respirator, before the employee is fit tested or required to use the respirator in the

workplace. The employer may discontinue an employee's medical evaluations when the employee is no longer required to use a respirator.

**1910.134(e)(2)**

***Medical evaluation procedures.***

**1910.134(e)(2)(i)**

The employer shall identify a physician or other licensed health care professional (PLHCP) to perform medical evaluations using a medical questionnaire or an initial medical examination that obtains the same information as the medical questionnaire.

**1910.134(e)(2)(ii)**

The medical evaluation shall obtain the information requested by the questionnaire in Sections 1 and 2, Part A of Appendix C of this section.

**1910.134(e)(3)**

***Follow-up medical examination.***

**1910.134(e)(3)(i)**

The employer shall ensure that a follow-up medical examination is provided for an employee who gives a positive response to any question among questions 1 through 8 in Section 2, Part A of Appendix C or whose initial medical examination demonstrates the need for a follow-up medical examination.

**1910.134(e)(3)(ii)**

The follow-up medical examination shall include any medical tests, consultations, or diagnostic procedures that the PLHCP deems necessary to make a final determination.

**1910.134(e)(4)**

***Administration of the medical questionnaire and examinations.***

**1910.134(e)(4)(i)**

The medical questionnaire and examinations shall be administered confidentially during the employee's normal working hours or at a time and place convenient to the employee. The medical questionnaire shall be administered in a manner that ensures that the employee understands its content.

**1910.134(e)(4)(ii)**

The employer shall provide the employee with an opportunity to discuss the questionnaire and examination results with the PLHCP.

**1910.134(e)(5)**

***Supplemental information for the PLHCP.***

**1910.134(e)(5)(i)**

The following information must be provided to the PLHCP before the PLHCP makes a recommendation concerning an employee's ability to use a respirator:

**1910.134(e)(5)(i)(A)**

(A) The type and weight of the respirator to be used by the employee;

**1910.134(e)(5)(i)(B)**

The duration and frequency of respirator use (including use for rescue and escape);

**1910.134(e)(5)(i)(C)**

The expected physical work effort;

**1910.134(e)(5)(i)(D)**

Additional protective clothing and equipment to be worn; and

**1910.134(e)(5)(i)(E)**

Temperature and humidity extremes that may be encountered.

**1910.134(e)(5)(ii)**

Any supplemental information provided previously to the PLHCP regarding an employee need not be provided for a subsequent medical evaluation if the information and the PLHCP remain the same.

**1910.134(e)(5)(iii)**

The employer shall provide the PLHCP with a copy of the written respiratory protection program and a copy of this section.

**Note to Paragraph (e)(5)(iii):** When the employer replaces a PLHCP, the employer must ensure that the new PLHCP obtains this information, either by providing the documents directly to the PLHCP or having the documents transferred from the former PLHCP to the new PLHCP. However, OSHA does not expect employers to have employees medically reevaluated solely because a new PLHCP has been selected.

**1910.134(e)(6)**

**Medical determination.** In determining the employee's ability to use a respirator, the employer shall:

**1910.134(e)(6)(i)**

Obtain a written recommendation regarding the employee's ability to use the respirator from the PLHCP. The recommendation shall provide only the following information:

**1910.134(e)(6)(i)(A)**

Any limitations on respirator use related to the medical condition of the employee, or relating to the workplace conditions in which the respirator will be used, including whether or not the employee is medically able to use the respirator;

**1910.134(e)(6)(i)(B)**

The need, if any, for follow-up medical evaluations; and

**1910.134(e)(6)(i)(C)**

A statement that the PLHCP has provided the employee with a copy of the PLHCP's written recommendation.

**1910.134(e)(6)(ii)**

If the respirator is a negative pressure respirator and the PLHCP finds a medical condition that may place the employee's health at increased risk if the respirator is used, the employer shall provide a PAPR if the PLHCP's medical evaluation finds that the employee can use such a respirator; if a subsequent medical evaluation finds that the employee is medically able to use a negative pressure respirator, then the employer is no longer required to provide a PAPR.

**1910.134(e)(7)**

**Additional medical evaluations.** At a minimum, the employer shall provide additional medical evaluations that comply with the requirements of this section if:

**1910.134(e)(7)(i)**

An employee reports medical signs or symptoms that are related to ability to use a respirator;

**1910.134(e)(7)(ii)**

A PLHCP, supervisor, or the respirator program administrator informs the employer that an employee needs to be reevaluated;

**1910.134(e)(7)(iii)**

Information from the respiratory protection program, including observations made during fit testing and program evaluation, indicates a need for employee reevaluation; or

**1910.134(e)(7)(iv)**

A change occurs in workplace conditions (e.g., physical work effort, protective clothing, temperature) that may result in a substantial increase in the physiological burden placed on an employee.

**1910.134(f)**

**Fit testing.** This paragraph requires that, before an employee may be required to use any respirator with a negative or positive pressure tight-fitting facepiece, the employee must be fit tested with the same make, model, style, and size of respirator that will be used. This paragraph specifies the kinds of fit tests allowed, the procedures for conducting them, and how the results of the fit tests must be used.

**1910.134(f)(1)**

The employer shall ensure that employees using a tight-fitting facepiece respirator pass an appropriate qualitative fit test (QLFT) or quantitative fit test (QNFT) as stated in this paragraph.

**1910.134(f)(2)**

The employer shall ensure that an employee using a tight-fitting facepiece respirator is fit tested prior to initial use of the respirator, whenever a different respirator facepiece (size, style, model or make) is used, and at least annually thereafter.

**1910.134(f)(3)**

The employer shall conduct an additional fit test whenever the employee reports, or the employer, PLHCP, supervisor, or program administrator makes visual observations of, changes in the employee's physical condition that could affect respirator fit. Such conditions include, but are not limited to, facial scarring, dental changes, cosmetic surgery, or an obvious change in body weight.

**1910.134(f)(4)**

If after passing a QLFT or QNFT, the employee subsequently notifies the employer, program administrator, supervisor, or PLHCP that the fit of the respirator is unacceptable, the employee shall be given a reasonable opportunity to select a different respirator facepiece and to be retested.

**1910.134(f)(5)**

The fit test shall be administered using an OSHA-accepted QLFT or QNFT protocol. The OSHA-accepted QLFT and QNFT protocols and procedures are contained in Appendix A of this section.

**1910.134(f)(6)**

QLFT may only be used to fit test negative pressure air-purifying respirators that must achieve a fit factor of 100 or less.

**1910.134(f)(7)**

If the fit factor, as determined through an OSHA-accepted QNFT protocol, is equal to or greater than 100 for tight-fitting half facepieces, or equal to or greater than 500 for tight-fitting full facepieces, the QNFT has been passed with that respirator.

**1910.134(f)(8)**

Fit testing of tight-fitting atmosphere-supplying respirators and tight-fitting powered air-purifying respirators shall be accomplished by performing quantitative or qualitative fit testing in the negative pressure mode, regardless of the mode of operation (negative or positive pressure) that is used for respiratory protection.

**1910.134(f)(8)(i)**

Qualitative fit testing of these respirators shall be accomplished by temporarily converting the respirator user's actual facepiece into a negative pressure respirator with appropriate filters, or by using an identical negative pressure air-purifying respirator facepiece with the same sealing surfaces as a surrogate for the atmosphere-supplying or powered air-purifying respirator facepiece.

**1910.134(f)(8)(ii)**

Quantitative fit testing of these respirators shall be accomplished by modifying the facepiece to allow sampling inside the facepiece in the breathing zone of the user, midway between the nose and mouth. This requirement shall be accomplished by installing a permanent sampling probe onto a surrogate facepiece, or by using a sampling adapter designed to temporarily provide a means of sampling air from inside the facepiece.

**1910.134(f)(8)(iii)**

Any modifications to the respirator facepiece for fit testing shall be completely removed, and the facepiece restored to NIOSH-approved configuration, before that facepiece can be used in the workplace.

**1910.134(g)**

**Use of respirators.** This paragraph requires employers to establish and implement procedures for the proper use of respirators. These requirements include prohibiting conditions that may result in facepiece seal leakage, preventing employees from removing respirators in hazardous environments, taking actions to ensure continued effective respirator operation throughout the work shift, and establishing procedures for the use of respirators in IDLH atmospheres or in interior structural firefighting situations.

**1910.134(g)(1)****Facepiece seal protection.****1910.134(g)(1)(i)**

The employer shall not permit respirators with tight-fitting facepieces to be worn by employees who have:

**1910.134(g)(1)(i)(A)**

Facial hair that comes between the sealing surface of the facepiece and the face or that interferes with valve function; or



**1910.134(g)(1)(i)(B)**

Any condition that interferes with the face-to-facepiece seal or valve function.

**1910.134(g)(1)(ii)**

If an employee wears corrective glasses or goggles or other personal protective equipment, the employer shall ensure that such equipment is worn in a manner that does not interfere with the seal of the facepiece to the face of the user.

**1910.134(g)(1)(iii)**

For all tight-fitting respirators, the employer shall ensure that employees perform a user seal check each time they put on the respirator using the procedures in Appendix B-1 or procedures recommended by the respirator manufacturer that the employer demonstrates are as effective as those in Appendix B-1 of this section.

**1910.134(g)(2)**

***Continuing respirator effectiveness.***

**1910.134(g)(2)(i)**

Appropriate surveillance shall be maintained of work area conditions and degree of employee exposure or stress. When there is a change in work area conditions or degree of employee exposure or stress that may affect respirator effectiveness, the employer shall reevaluate the continued effectiveness of the respirator.

**1910.134(g)(2)(ii)**

The employer shall ensure that employees leave the respirator use area:

**1910.134(g)(2)(ii)(A)**

To wash their faces and respirator facepieces as necessary to prevent eye or skin irritation associated with respirator use; or

**1910.134(g)(2)(ii)(B)**

If they detect vapor or gas breakthrough, changes in breathing resistance, or leakage of the facepiece; or

**1910.134(g)(2)(ii)(C)**

To replace the respirator or the filter, cartridge, or canister elements.

**1910.134(g)(2)(iii)**

If the employee detects vapor or gas breakthrough, changes in breathing resistance, or leakage of the facepiece, the employer must replace or repair the respirator before allowing the employee to return to the work area.

**Training Requirements**

**1910.134(k)**

***Training and information.*** This paragraph requires the employer to provide effective training to employees who are required to use respirators. The training must be comprehensive, understandable, and recur annually, and more often if necessary. This paragraph also requires the employer to provide the basic information on respirators in Appendix D of this section to employees who wear respirators when not required by this section or by the employer to do so.

**1910.134(k)(1)**

The employer shall ensure that each employee can demonstrate knowledge of at least the following:

**1910.134(k)(1)(i)**

Why the respirator is necessary and how improper fit, usage, or maintenance can compromise the protective effect of the respirator;

**1910.134(k)(1)(ii)**

What the limitations and capabilities of the respirator are;

**1910.134(k)(1)(iii)**

How to use the respirator effectively in emergency situations, including situations in which the respirator malfunctions;

**1910.134(k)(1)(iv)**

How to inspect, put on and remove, use, and check the seals of the respirator;

**1910.134(k)(1)(v)**

What the procedures are for maintenance and storage of the respirator;

**1910.134(k)(1)(vi)**

How to recognize medical signs and symptoms that may limit or prevent the effective use of respirators; and

**1910.134(k)(1)(vii)**

The general requirements of this section.

**1910.134(k)(2)**

The training shall be conducted in a manner that is understandable to the employee.

**1910.134(k)(3)**

The employer shall provide the training prior to requiring the employee to use a respirator in the workplace.

**1910.134(k)(4)**

An employer who is able to demonstrate that a new employee has received training within the last 12 months that addresses the elements specified in paragraph (k)(1)(i) through (vii) is not required to repeat such training provided that, as required by paragraph (k)(1), the employee can demonstrate knowledge of those element(s). Previous training not repeated initially by the employer must be provided no later than 12 months from the date of the previous training.

**1910.134(k)(5)**

Retraining shall be administered annually, and when the following situations occur:

**1910.134(k)(5)(i)**

Changes in the workplace or the type of respirator render previous training obsolete;

**1910.134(k)(5)(ii)**

Inadequacies in the employee's knowledge or use of the respirator indicate that the employee has not retained the requisite understanding or skill; or

**1910.134(k)(5)(iii)**

Any other situation arises in which retraining appears necessary to ensure safe respirator use.

**1910.134(k)(6)**

The basic advisory information on respirators, as presented in Appendix D of this section, shall be provided by the employer in any written or oral format, to employees who wear respirators when such use is not required by this section or by the employer.

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**APPENDIX D: TABLE—ENTRY RESTRICTIONS DURING  
ENCLOSED SPACE PRODUCTION PESTICIDE APPLICATIONS  
170.405(B)(4)**

A. When a pesticide is applied:	B. Workers and other persons, other than appropriately trained and equipped handlers, are prohibited in:	C. Until:	D. After the expiration of time specified in column C, the area subject to the restricted-entry interval is:
(1) As a fumigant	Entire enclosed space plus any adjacent structure or area that cannot be sealed off from the treated area	The ventilation criteria of paragraph (b)(3) <sup>a</sup> of this section are met	No post-application entry restrictions required by §170.407 after criteria in column C are met.
(2) As a (i) Smoke, or (ii) Mist, or (iii) Fog, or (iv) As a spray using a spray quality (droplet spectrum) of smaller than medium	Entire enclosed space	The ventilation criteria of paragraph (b)(3) <sup>a</sup> of this section are met	Entire enclosed space.
(3) Not as in (1) or (2), and for which a respiratory protection device is required for application by the pesticide product labeling	Entire enclosed space	The ventilation criteria of paragraph (b)(3) <sup>a</sup> of this section are met	Treated area.
(4) Not as in (1), (2) or (3), and: (i) From a height of greater than 12 inches from the planting medium, or	Treated area plus 25 feet in all directions of the treated area, but not outside the enclosed space	Application is complete	Treated area.

(ii) As a spray using a spray quality (droplet spectrum) of medium or larger			
5) Otherwise	Treated area	Application is complete	Treated area.

<sup>a</sup> When Column C of the Table under paragraph (b)(4) of this section specifies that ventilation criteria must be met, ventilation must continue until the air concentration is measured to be equal to or less than the inhalation exposure level required by the labeling. If no inhalation exposure level is listed on the labeling, ventilation must continue until after one of the following conditions is met:

- (i) Ten air exchanges are completed.
- (ii) Two hours of ventilation using fans or other mechanical ventilating systems.
- (iii) Four hours of ventilation using vents, windows, or other passive ventilation.
- (iv) Eleven hours with no ventilation followed by one hour of mechanical ventilation.
- (v) Eleven hours with no ventilation followed by two hours of passive ventilation.
- (vi) Twenty-four hours with no ventilation.

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### APPENDIX E: WPS APPLICATION ZONE REQUIREMENTS QUESTION AND ANSWER FACT SHEET

#### U.S. Environmental Protection Agency

#### Question and Answer Fact Sheet

#### Worker Protection Standard (WPS)

#### Application Exclusion Zone (AEZ) Requirements

##### **Q: What is the “Application Exclusion Zone” or AEZ?**

A: The “Application Exclusion Zone” or AEZ is a new term used in the WPS rule and refers to the area surrounding the pesticide application equipment that must be free of all persons other than appropriately trained and equipped handlers during pesticide applications.

##### **Q: How is the AEZ measured and the size of the AEZ determined?**



*The AEZ is the purple area around the application equipment. It moves with the application equipment as it proceeds. The AEZ is generally within the treated area, except when the application equipment is near the edges of the treated area.*

A: The AEZ is measured from the application equipment. The AEZ also moves with the application equipment like a halo around the application equipment.

The size of an AEZ varies depending on the type of application and other factors, including droplet size, and height of nozzles above the planting medium. The AEZ is 100 feet for aerial, air blast, fumigant, smoke, mist and fog applications, as well as spray applications using very fine or fine droplet sizes (a volume median droplet diameter (VMD) size of less than 294 microns). An AEZ of 25 feet is required when the pesticide is sprayed using droplet sizes of medium or larger and from more than 12 inches above the plant medium. An application that does not fall into one of these categories does not require an AEZ.

**Q: I am confused as to whether the new WPS requirements related to the AEZ apply to the agricultural employer or the handler making the application. Please clarify.**

A: There are several different requirements regarding the AEZ in the revised WPS. First, the WPS provision at 170.405(a)(1) establishes the applicable AEZ distances. This is a generic description of the AEZ and is independent of the location (on or off the establishment).

Second, the WPS provision at 170.405(a)(2) establishes a requirement for the agricultural employer to not allow any workers or other persons in the AEZ within the boundaries of the establishment until the application is complete. Compliance is required with this requirement beginning January 2, 2017.

Third, the provision at 170.505(b) establishes a requirement for the handler to suspend the application if any workers or other persons are anywhere in the AEZ. This requirement is NOT limited to the boundaries of the establishment. This applies to any area on or off the establishment within the AEZ while the application is ongoing. Please note that this is one of the WPS provisions that is delayed in implementation until January 2, 2018, to allow time for the handlers to receive training on the new requirement.

The requirement for the agricultural employer to keep persons out of the AEZ only applies within the boundaries of the establishment because the agricultural employer cannot be expected to control persons off the establishment. The “suspend application” provision does apply beyond the boundaries of the establishment because the handler (applicator) and handler employer DO have control over the pesticide application and are subject to a WPS requirement to apply the pesticide in a way that will not contact workers or other persons on or off the establishment.

**Q: What are the agricultural employer’s responsibilities related to the pesticide applications and the new AEZ requirements, and when does this requirement go into effect?**

A: The agricultural employer has two responsibilities related to the pesticide applications and the new AEZ requirements:

- During any WPS-covered pesticide application, the agricultural employer must keep workers and all other persons (other than appropriately trained and equipped handlers involved in the application) out of the treated area and the AEZ within the boundary of the agricultural establishment. This includes people occupying migrant labor camps or other housing or buildings that are located on the agricultural establishment.
- The agricultural employer may not allow a pesticide to be applied while any worker or other person on the establishment is in the treated area or within the AEZ.

(Note that if the agricultural employer is also the handler making the pesticide application, he or she must suspend a pesticide application if any worker or other person is within the AEZ beyond the boundary of the agricultural establishment.) The requirements related to the AEZ will go into effect January 2, 2017.

**Q: Does the agricultural employer have WPS responsibilities related to the new AEZ requirements if workers or other persons are off his/her establishment?**

A: The AEZ requirement at §170.405(a) imposes no responsibilities on an agricultural employer in regard to workers or other persons who are not on the agricultural establishment as long as the agricultural employer is not the pesticide applicator. If the agricultural employer is also the handler making the pesticide application, then §170.505 would require him/her to suspend a pesticide

application if any worker or other person is within the AEZ beyond the boundary of the agricultural establishment.

**Q: What are the applicator's/pesticide handler's responsibilities related to the pesticide applications and the new AEZ requirements, and when does this requirement go into effect?**

A: Starting January 2, 2018, the handler performing the application must immediately suspend the pesticide application if any worker or other person, other than an appropriately trained and equipped handler involved in the application, is in the AEZ, regardless of whether such persons are on or off the establishment.

**Q: Why is the implementation date for the handler's requirement to suspend a pesticide application if workers or other persons are in the AEZ delayed until January 2, 2018?**

A: The implementation date for this requirement is delayed until January 2, 2018, to allow time for pesticide handlers to receive training on the new requirement.

**Q: As noted above, the pesticide handler performing the application must immediately suspend the pesticide application if any worker or other person, other than an appropriately trained and equipped handler involved in the application, is in the AEZ, regardless of whether such persons are on or off the establishment. When and under what circumstances can a handler resume a pesticide application?**

A: If the AEZ stretches beyond the property of the agricultural establishment being treated, and a worker or other person is in this portion of the AEZ, the applicator must temporarily suspend the application, and may not proceed until the applicator can ensure that the pesticide will not contact any persons that are in the AEZ area that extends beyond the boundary of the establishment. This is explained in more detail in EPA's Interpretive Policy below.

The agricultural employer may not allow a pesticide to be applied, or a suspended application to be resumed, while any worker or other person on the establishment is in the treated area or within the AEZ. Note that both the handler employer and the handler are required to ensure that no workers or other persons, other than appropriately trained and equipped handlers involved in the application, are ever contacted by a pesticide, either directly or through drift, regardless of whether such persons are on or off the establishment or beyond the boundary of the AEZ.

## **Interpretive Policy on when a handler may resume a suspended application when a person is in the AEZ**

**Q:** The final WPS rule contains a provision at 170.505(b) that says: After January 2, 2018, the handler performing the application must immediately suspend a pesticide application if any worker or other person, other than an appropriately trained and equipped handler involved in the application, is in the application exclusion zone (AEZ) described in § 170.405(a)(1) or the area specified in column B of the Table in § 170.405(b)(4). We understand this requirement for the handler to suspend the application if workers or other persons are in the AEZ applies even when the workers or other persons are not on the agricultural establishment. However, the rule does not state when the handler may resume a pesticide application if the application was suspended because workers or other persons were in the AEZ but off the establishment property. In this situation, the employer does not have WPS responsibility to keep those other persons out of the AEZ, but also does not have control over those other persons and cannot make them move. Please clarify when the handler may resume the application.

**A:** If workers or other persons are within the AEZ, the handler must suspend the application whether the workers and other persons are located on or off the agricultural establishment. Before resuming the application when workers and other persons are in the AEZ but located off the establishment, the handler must take measures to ensure that such workers and other persons will not be contacted by the pesticide application either directly or through drift. Examples of such measures include assessing the wind and other weather conditions to confirm they will prevent workers or other persons from being contacted by the pesticide either directly or through drift; adjusting the application method or employing drift reduction measures in such a way to ensure that resuming the application will not result in workers or other persons off the establishment being contacted by the pesticide; asking the workers or other persons to move out of the AEZ until the application is complete; or adjusting the treated area or the path of the application equipment away from the workers or other persons so they would not be in the AEZ. The handler may resume the pesticide application when a worker or other person is in the AEZ only if the handler can ensure that it can be carried out in compliance with all of the pesticide's applicable labeling requirements and restrictions, and that workers and other persons on and off the establishment will not be contacted by the pesticide as a result of the application except as may be permitted by the pesticide's labeling. It is important to note that this answer *only* applies in regard to workers and other persons beyond the boundaries of the establishment; if a handler were to resume an application while workers or other persons *on* the establishment are still within the AEZ, that would give rise to a violation of § 170.405.



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### APPENDIX F: ADDITIONAL RESOURCES

1. Title VI of Civil Rights Act of 1964 at: <https://www.epa.gov/civilrights/t6facts.htm>
2. EPA's Title VI - Policies, Guidance, Settlements, Laws and Regulations:  
<https://www.epa.gov/ocr/epas-title-vi-policies-guidance-settlements-laws-and-regulations>
3. Limited English Proficiency federal home page at: <https://www.lep.gov/>
4. Pesticides Educational Resources Collaborative: <http://www.pesticideresources.org/>