

# How to Comply with the 2015 Revised Worker Protection Standard



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M2166

## How to Comply With the 2015 Revised Worker Protection Standard For Agricultural Pesticides

What Owners and Employers Need To Know

Available as publication M2166 from MSU Extension  
([extension.msstate.edu](http://extension.msstate.edu))

# What you need to know as an agricultural establishment owner or producer:

- Does the WPS apply to me?
- How does the WPS apply to me?
- What are the rules I need to follow?

# Does the WPS apply to me?

- As an owner or person responsible for management of an **agricultural establishment that employs workers or handlers**
  - **Yes**, in all key points
- As an owner of a **family-owned agricultural establishment** where you and your immediate family members are the only people who work on the establishment
  - **Yes**, but **with significant exemptions**

# Focusing on the Details

- Pesticide Safety Training
- Notification
- Hazard Communication
- Pesticide Safety Information
- Minimum Age Requirements
- Respirators
- Exceptions to PPE Requirements
- Application Exclusion Zones (AEZ)
- Decontamination Supplies
- Emergency Assistance

# Pesticide Safety Training

Obligation to train workers falls on employers

- Train workers and handlers annually (18 yrs. old minimum)
- Keep records of training for two years
  - Provide worker or handler a copy upon request
- All current certified applicators are qualified to train workers and handlers
- All training materials must be EPA approved
- Private applicator certification will substitute for annual WPS training

# Notification Onsite

Posting is required for:

- all outdoor treated areas when restricted entry interval (REI) is greater than 48 hours
- enclosed space production (such as greenhouses) when REI is greater than 4 hours
- Early-entry workers must be provided personal protective equipment (PPE) and oral notification of:
  - information about the pesticide application
  - specific task to be performed
  - amount of time that the worker is allowed to remain in the treated area
  - the PPE required by the label

**No recordkeeping is required for information provided to early-entry workers in this requirement.**



# Hazard Communication

- Hazard information = application-specific information + safety data sheets (SDS)
  - Application information must include time and date application started and ended
- Post hazard information at central display for 30 days after REI expires and retain for 2 years
- Access available from display period through retention period to:
  - employee (oral or written request)
  - treating medical personnel and persons working under their supervision (oral or written request)
  - designated representative (written request only)

# Pesticide Safety Information

- Safety information displayed at central location and certain decontamination sites (where 11 or more workers are at sites other than the central location)
- Can be a poster developed by EPA or an equivalent way of providing the required WPS information
- Must add establishment-specific (name, address and telephone number of nearby emergency medical treatment facility)

# Protect Yourself from Pesticides

## IN AN EMERGENCY:

Get medical help nearby.



Name:

Address:

Phone number:

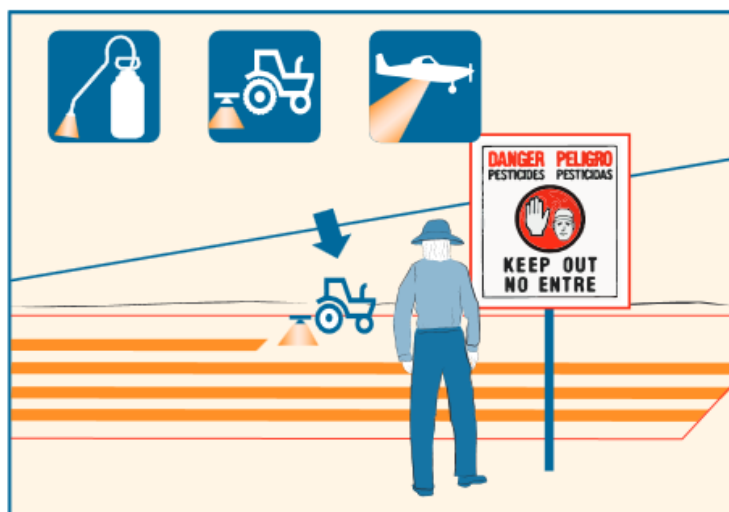
If you need an ambulance, tell them where you are.



Facility name:



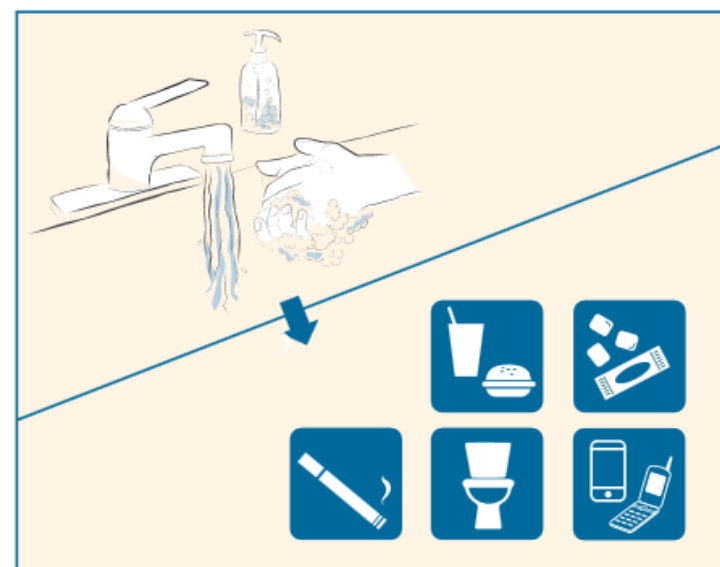
**Avoid getting pesticides on your skin or in your body.** Pesticides can be in many places. They can be on plants, in plants, in soil, and in irrigation water. Pesticides can drift in the air from nearby applications. They can also be on tractors and other equipment. Pesticides can also be found on used goggles, gloves, boots, and other personal protective equipment.



**Stay out of treated areas when told, and**



**Protect your body from pesticide residue.** Wear long-sleeved shirts and long pants when working. Also, wear shoes, socks, and a hat or scarf.



**Wash your hands before you eat, drink, or chew**

# Minimum Age for Handlers and Early-entry Workers

Pesticide handlers and early-entry workers (entering during REI) must be at least 18 years old.

*Members of the owner's immediate family are exempt from this requirement*

# Respirators

- All respirator users, including owner-operators and immediate family members, must:
  - be cleared to wear a respirator by a licensed physician or a competent medical provider
  - be fit tested annually for every kind of respirator they use
  - receive respirator training annually
- All costs must be borne by the agricultural employer
- Employers must keep records for at least 2 years:
  - medical clearance
  - fit testing (including size, make, and model of respirator(s))
  - respirator training

# How do I know if I need to wear a respirator for the chemicals I use?

- **READ THE LABEL** (sample labels at [kellysolutions.com/MS](http://kellysolutions.com/MS))
- All information needed to comply with the WPS can be found on the product labeling
- Refer especially to the **Personal Protective Equipment (PPE) section**
  - Covers respirator use requirements for all procedures when using the product (for example, mixing, applying), which may be done by several individuals
- **Engineering control statements** will list any modifications in PPE, including respirator use, when using enclosed cabs or closed mixing/loading systems, or when making aerial applications

# Why is medical testing and evaluation required for WPS compliance?

Breathing through a respirator is more difficult than breathing in open air.

- Burden varies with the:
  - type of respirator worn
  - job conditions the employee operates in
  - medical status of the employee (for example, history of asthma, emphysema, or claustrophobia)
- Medical evaluations are conducted to determine whether or not a hindrance for using a respirator exists
- The employee must be medically cleared prior to using a respirator

Where can I get a medical clearance  
and fit test in Mississippi?



P3023

## Providers of Medical Clearance and Respirator Fit Testing in Mississippi



With the January 2, 2017, enforcement of the 2015 revised Worker Protection Standard for Agricultural Pesticides (WPS), employers and owners of agricultural establishments must ensure that every employee using a WPS-labeled pesticide that requires the use of a respirator (as stated on the pesticide labeling) is medically cleared to wear a respirator AND fit tested annually for each type of respirator required. In addition, employers must provide annual respirator training for these handlers. *Employers are responsible for the cost of the medical clearance (including any related testing or office visits) and the respirator fit testing.* Under the revised standard, employers must keep records of the annual fit testing and respirator training for at least 2 years. The written medical clearance must be kept for at least 2 years or until another medical clearance is conducted. See the *How to Comply* manual in the Resources section for full details.

### Medical Clearance

All employees (including immediate family members of agricultural establishment owners) who need to wear respirators must first receive medical clearance to do so. The employee must fill out a confidential questionnaire (the "OSHA long form") online, in person at a medical

Regulatory agencies will enforce the requirements of the federal Worker Protection Standard (Code of Federal Regulations, Title 40, Part 170) when you use a pesticide product with labeling that refers to the Worker Protection Standard. ***If you do not comply with the Worker Protection Standard requirements, you will be in violation of federal law, since it is illegal to use a pesticide product in a manner inconsistent with its labeling.***

### Fit Testing

After the employee receives medical clearance to wear a respirator, the next step is to be fitted for the mask(s) required by the product labels. *While the WPS does not require the testing to be done by a certified technician, employers should be aware that, for liability reasons, it may be preferable to do so.* A qualitative fit test, where the employee is asked to detect an odor while wearing the mask, is less expensive and less accurate, and test subjects can influence the results. A quantitative fit test requires more sophisticated equipment, but the person being tested cannot influence the results. Some providers charge more for quantitative fit tests. If employers choose to do the testing of their employees, qualitative fit test kits, including

Available as publication P3023 from MSU Extension  
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# Annual Respirator Training

- Handlers must be provided with training in the use of the respirator(s) specified on the pesticide labeling for products they will be using
- Training is required for all respirator types and levels of protection, whether they are loose or tight fitting

# Annual Respirator Training

Handlers must annually (or more often if problems are noted) demonstrate knowledge of:

1. Why the respirator is necessary and how improper fit, usage, or maintenance can compromise its protective effect
2. Limitations and capabilities of the respirator
3. How to select and change correct cartridges or canisters, and know the schedule for changing them out
4. Protocols for equipment in the event of an emergency (i.e., when the respirator malfunctions)
5. How to inspect, put on and remove, use, and check the seals of the respirator
6. Respirator maintenance and storage
7. How to recognize medical signs and symptoms that may limit or prevent effective use of respirators

# What are the respirator changes designed to achieve?

- **Fewer pesticide exposure incidents for workers** means:
  - healthier workforce
  - fewer lost wages, medical bills, and absences from work and school
- **Limiting repetitive low-level pesticide exposures** that are major contributors to chronic illnesses among agriculture workers, such as:
  - those involved in hand-labor tasks in handling pesticides while harvesting, thinning, and pruning crops
  - those involved in mixing, loading, and applying pesticides

# Exceptions to PPE Requirements

For **closed mixing/loading systems**, modified PPE is allowed as noted on the pesticide label **IF**:

- the system is sufficiently tight to protect handlers from exposure during its normal operation
- legible written instructions for the system are accessible to handlers at the mix/load site
- handlers are trained to use the system according to those written instructions
- the system is cleaned and maintained per the written instructions
- all PPE on the label is immediately available to the handler in case of emergency
- protective eyewear is worn if the system operates under pressure

# Exceptions to PPE Requirements

## For enclosed cabs:

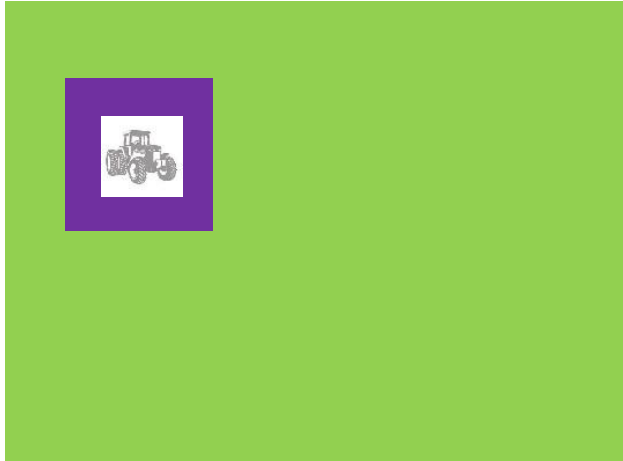
- Maintain the same exception for dermal PPE
- Handlers in enclosed cabs must wear the respirators identified on the label, except for particulate filtering facepiece respirators (also called dust/mist filtering respirators)

*Currently there are NO enclosed cab products available that are warranted by manufacturers for other than requirements for particulate filtering facepiece respirators.*

# Application Exclusion Zones in Outdoor Production

- Establishes application exclusion zones (AEZ) based on distance from the application equipment for farms and forests; also applies in nurseries
- Agricultural employers must keep workers and other persons out of the AEZs that are WITHIN the boundary of the establishment owner's property
- Handler must temporarily suspend application if persons are in the AEZ
  - Requirement to suspend application is NOT limited by the boundary of the establishment owner's property

# Application Exclusion Zones in Outdoor Production



*The **application exclusion zone (AEZ)** is in purple. It moves with the applicator and ceases to exist when the application is finished.*

**Aerial/air blast or mist applications:** 100-foot minimum required from spray equipment

**Ground applications:** 25-foot minimum required from spray equipment IF applied from greater than 12 inches above planting medium with spray quality of medium or greater



# Decontamination Supplies

- Provide 1 gallon of water for each worker and 3 gallons for each handler and each early-entry worker, measured at the beginning of the work period
- If handler is using a product that requires eye protection, eye-flush water must be immediately available at each mix/load site
- If applicator is using a product that requires eye protection, 1 pint of water must be immediately available to each applicator
- Decontamination supplies must be available as follows:
  - If REI > 4 hr: maintain for 30 days post REI
  - If REI ≤ 4 hr: maintain for 7 days post REI

# Emergency Assistance

Agricultural owner/employer must provide:

- “**prompt**” transportation for exposed employees
- **Safety data sheet (SDS)** and specific information about each product, as well as the circumstances of the application and exposure, **to treating medical personnel**

# Definitions

- **Added** definitions to rule for the following terms:
  - application exclusion zone, closed system, commercial pesticide handler employer, designated representative, **employ**, enclosed cab, enclosed space production, labor contractor, outdoor production, personal protective equipment, safety data sheet, use, worker housing area
- **Revised** the following key definitions:
  - agricultural establishment, agricultural plant, handler, **immediate family**, worker

# Definitions

***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**.
- 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.

# Definitions

***Immediate family*** is now **limited to:**

- spouse
- parents (including step and foster)
- father- and mother-in-law
- children (including step and foster)
- sons- and daughters-in-law
- grandparents
- grandchildren
- brothers and sisters
- brothers- and sisters-in-law
- aunts and uncles
- nieces and nephews
- first cousins\*

\****First cousin*** means the child of a parent's sibling, in other words, the child of an aunt or uncle.

# Definitions

***Owner*** is defined as ‘any person who has a present possessory interest (for example, fee, leasehold, rental or other) in an agricultural establishment.’

# WPS Compliance by Owners of Agricultural Establishments

While eligible for some exemptions, note that:

- no agricultural establishments that use WPS-labeled pesticides are completely exempt from WPS requirements
- owners/agricultural employers must provide full WPS protections for workers and handlers who are not in the owners' immediate families
- owners and their immediate family members that qualify for the exemption must comply with some of the WPS requirements

# Who Qualifies for the Exemption?

- The exemption applies only to the owners and their immediate family members on any agricultural establishment where a **majority of the establishment** is owned by one or more members of the same immediate family.
- ‘Majority of the establishment’ means that more than 50% of the equity in the establishment is owned by one or more members of the same immediate family.
- If the remaining portion of ownership of that establishment is owned by members of another immediate family, the owner/immediate family exemption applies to both families and their immediate family members.



# What Is Covered Under the Exemption?\*

Agricultural establishment owners and their immediate family members do **NOT** have to follow:

- minimum age requirement for handlers and early-entry workers
- training requirements and recordkeeping for workers and handlers
- maintaining decontamination sites and supplies
- oral and posted notification of worker entry restrictions
- keeping records of pesticide application and hazard information required by WPS (does not include recordkeeping required for other purposes)
- providing emergency assistance

\*See the *How to Comply* manual for the FULL list of exemptions

# What Is NOT Covered Under the Exemption?

Agricultural establishment owners and their immediate family members **MUST**:

- follow WPS requirements for training, medical clearance, fit testing, and recordkeeping when respirators are required
- ensure that any WPS-labeled pesticide applied is used in a manner consistent with the product's labeling
- ensure that the product is applied so it does not contact anyone, and temporarily suspend application if anyone is in the AEZ or enclosed space
- use PPE and other work attire listed on pesticide labeling
- keep everyone away from the treated area and AEZ during application

# Pesticide Uses NOT Covered by WPS

- For mosquito abatement or similar wide-area public pest control programs sponsored by governmental entities
- For cooperative programs in which the growers themselves make or arrange for pesticide applications
- On livestock or other animals, or in or about animal premises
- On plants grown for other than commercial or research purposes, which may include plants in habitations, home fruit and vegetable gardens, and home greenhouses

# Pesticide Uses NOT Covered by WPS

- On plants that are in ornamental gardens, parks, and public or private lawns and grounds that are intended only for aesthetic purposes or climatic modification
- By injection directly into agricultural plants (direct injection does not include "hack and squirt," "frill and spray," chemigation, soil-incorporation, or soil-injection)
- In a manner not directly related to the production of agricultural plants, such as structural pest control, control of vegetation along rights-of-way and in other non-crop areas, and pasture and rangeland use
  - **Hay production is a WPS use** (including as feed for your own animals)

# Pesticide Uses NOT Covered by WPS

- For control of vertebrate pests not related to production of the agricultural crop
- As attractants or repellents in traps
- On the *harvested* portions of agricultural plants or on *harvested* timber
- For research uses of unregistered pesticides



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# Additional Resources

**MSU Extension Pesticide Applicator Certification page**

<http://extension.msstate.edu/content/revise-worker-protection-standard>