

APPENDIX A

WORKER PROTECTION STANDARD DEFINITIONS

These definitions will help you determine whether you are affected by the WPS.

The following key terms have very specific meanings in the WPS. 170.305
Note: These definitions may be different from definitions found in state and other federal laws and regulations.

Agricultural employer - 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 - 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 - any plant, or part thereof, grown, maintained, or otherwise produced for commercial purposes, including growing, maintaining or otherwise producing plants for sale, 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 and 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 (AEZ) - the area surrounding the application equipment that must be free of all persons other than appropriately trained and equipped handlers during pesticide applications.

Chemigation - the application of pesticides through irrigation systems.

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

Commercial pesticide handler employer (CPHE) - 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 commercial pesticide handling establishment is the business that is owned or operated by the commercial pesticide handler employer.

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

The definition of “Crop Advisor” applies to either certified or non-certified crop advisor.

Pesticide distribution as used in the definition of a crop advisor refers to assessing the pesticide coverage, dispersal, dissemination, pattern, etc., to determine if there was appropriate distribution of the material during application.

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

Designated representative – 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 40 CFR 170.309(h) in accordance with 40 CFR 170.311(b).

Early entry – 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 - 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 – 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 - 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 – any pesticide 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 – any agricultural activity performed by hand or with hand tools that causes a worker to have substantial contact with plants, plant parts, or soil or 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 – 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:

- Mixing, loading or applying pesticides,
- Disposing of a pesticide,
- 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,
- Acting as a flagger,
- Cleaning, adjusting, handling, or repairing the parts of mixing, loading or application equipment that may contain pesticide residues,

The term “Handler” does not include any person who is only handling unopened pesticide containers or pesticide containers that have been emptied and cleaned according to pesticide product labeling instructions.

- 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 or one of the ventilation criteria established by WPS or the labeling has been met to operate ventilation equipment, monitor air levels, or adjust or remove coverings used in fumigation,
- 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, and
- 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 WPS or the pesticide product labeling has been met.

Handler employer – 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 – 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 – production of an agricultural plant in an outside area that is not enclosed or covered in any way that would obstruct the natural airflow.

Owner - any person who has a present possessory interest (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 (PPE) – 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 (REI) - the time after the end of a pesticide application during which entry into the treated area is restricted.

Safety data sheet (SDS) – has the same meaning as the definition at 29 CFR 1910.1200(c).

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

The SDS (formerly called a MSDS) is written or printed material concerning a hazardous chemical that is prepared by the manufacturer or the company importing the product describing the physical and chemical properties of the product according to specific guidelines.

Use – as in “to use a pesticide” means any of the following:

- Pre-application activities, including, but not limited to:
- Arranging for the application of the pesticide,
- Mixing and loading the pesticide,
- 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.
- Application of the pesticide.
- 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.
- 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 – 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 – 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.