

Worker Protection Standard regulation update

By Laurie Ann Hurner

This article grants one continuing education unit (choose from the following categories: Ag Row Crop Pest Control, Ag Tree Crop Pest Control, Forest Pest Control, Ornamental and Turf Pest Control or Private Applicator Ag Pest Control) when submitted and approved toward the renewal of a Florida Department of Agriculture and Consumer Services restricted-use pesticide license.

The Worker Protection Standard (WPS) regulation was created to reduce the risk of illness or injury to agricultural workers and handlers resulting from exposures to pesticides in areas where agricultural plants are produced — farms, forests, nurseries and enclosed-space production facilities, such as greenhouses.

WPS was originally issued by the U.S. Environmental Protection Agency (EPA) in 1992. It was most recently revised in 2015, with most of the revisions taking effect January 2, 2017. Farmers and ranchers have been trained according to the original specifications of the regulation, but now will need to be retrained on the new requirements. It is very important to understand that if you were trained as a Worker Protection Standard Trainer under the previous WPS “Train the Trainer” program, you must be retrained/recertified to be compliant with the revised rule. A person who is currently certified as an applicator of restricted-use pesticides, in any category or certification, may also conduct training.

DUTIES AND DEFINITIONS

In the new rule, there are some new duties and definitions that warrant a closer look.

The requirements of the rule apply to agricultural employers and commercial pesticide handler employers, except for pesticide safety, application and hazard information requirements that apply only to the agricultural employer.

WPS defines workers as any person employed by an agricultural employer who perform tasks related to growing and harvesting plants on farms or in greenhouses, nurseries or forests. By definition, agricultural workers do not apply pesticides or handle pesticide containers or equipment. Workers include anyone employed for any type of compensation (including self-employed) doing tasks such as carrying nursery stock, repotting plants, watering or other tasks directly related to the production of agricultural plants in an agricultural establishment.

A **commercial pesticide handling establishment (CPHE)** is defined as an enterprise, other than an agricultural establishment, that provides pesticide-handler or crop-advising services to agricultural establishments. In other words, this is usually a custom pesticide application business that is hired by a farm, forest, nursery or enclosed-space agricultural production facility to apply pesticides or to provide crop-consulting services.

The **commercial pesticide handler**

employer is defined as any person, other than an agricultural employer, who employs any handler to perform handler activities on an agricultural establishment. A crop advisor is considered a “handler” under WPS only if conducting handler tasks, which include entering into a treated area that is under a restricted-entry interval (REI) to do crop advisor tasks. Crop advisors are *not* allowed to be early-entry workers.

The CPHE must ensure that all workers and handlers receive the protections required by WPS. They also must assure that other persons (not employed by the agricultural establishment) do not clean, repair or adjust pesticide application equipment until they are properly trained to do so. There are additional requirements for CPHEs, but these are the two major ones. Commercial pesticide handler establishments and employers were not identified in the previous version of the rule.

MAJOR REVISIONS

The WPS covers the general areas of pesticide safety training, information at a central location, decontamination supplies, employer information exchange, emergency assistance, notice about applications, ventilation criteria for greenhouses and early-entry work situations. According to “Quick Reference Guide to the Worker Protection Standard (WPS) as Revised in 2015” [Electronic Data Information Source (EDIS) P1270] by Frederick M. Fishel, the major revisions to the rule are:

- Annual mandatory training to inform workers and handlers about the required protections afforded them is necessary. (Prior to the change, the employer had five days to train workers. In addition, a trainer must now be in the room during the entire training, even during a video, so that all questions can be answered in a timely manner.)
- Expanded training that includes instructions to reduce take-home exposure from pesticides on work clothing and other safety topics has been added. (Worker training will

now cover 23 safety training points instead of 11, and handler training will now cover 36 points instead of 13. The training materials, including the new safety training points, will not be available until January 2018. If the materials are not ready at that time, the EPA will extend the implementation date out further.) **NOTE: This revision does not become effective until January 2, 2018.**

- Anyone under 18 years old is prohibited from being a pesticide handler or doing early-entry work during an REI.
- Expanded mandatory posting of no-entry signs for outdoor production (e.g. farms, forests and nurseries) is required if the REI is greater than 48 hours. (Warning signs must be posted for all REIs longer than 48 hours for outdoor production and four hours for enclosed-space production.)
- New application exclusion zones up to 100 feet surrounding pesticide application equipment are intended to protect workers and others from pesticide exposure during pesticide applications. **NOTE: This revision does not become effective until January 2, 2018.**
- More than one way for workers and handlers to gain access to pesticide application information and safety data sheets — centrally posted or by requesting records themselves through medical personnel or through a designated representative — is provided. (Workers and handlers can now identify, *in writing*, a designated representative who can receive pesticide application information and safety data sheets on his or her behalf.)
- If a respirator is required by the labeling, the employer must provide the handler with a medical evaluation, fit testing and respirator training in compliance with the Occupational Safety and Health Administration's (OSHA) Respiratory Protection Standard. (This portion of the regulation is very new to most companies and is causing some difficulty in

becoming compliant.)

- Mandatory record-keeping to improve states' ability to follow up on pesticide violations and enforce compliance is required. Records of application-specific pesticide information, safety data sheets, worker/handler pesticide safety training and respirator training must be kept for two years. (The prior version of the rule was not specific about the time frame of record retention.)
- Anti-retaliation provisions that are comparable to the U.S. Department of Labor are now in place. (Employers must not retaliate against a worker or handler who attempts to comply with the WPS, files a complaint or provides information in an investigation or alleged WPS noncompliance.)
- If protective eyewear is required by the labeling, the employer must provide water for emergency eye flushing for handlers at pesticide mixing/loading sites. (The rule states 6 gallons of eye-wash water is to be stationed at every mixing/loading site, and all handlers should have 1 pint of eye-wash-quality water with them during their work shift.)
- There is an expanded definition of immediate family and criteria for agricultural establishments that are eligible for the exemption for owners and their immediate families. (The following WPS requirements *do not* need to be met by owners or members of their immediate family *but must be provided to any worker or handler they may hire*: pesticide information at a central location, pesticide safety training, decontamination sites, emergency assistance, notice about pesticide applications, monitoring of handler's actions and health, specific handling instructions, duties related to early entry (training, instructions and decontamination sites) and all the specific duties related to the need, use, management and inspection of personal protective equipment. *All other WPS* requirements must be met by owners and members of



their immediate family.)

- The term “greenhouse” has been replaced with “enclosed-space production,” which includes greenhouses, mushroom houses, hoop houses, high tunnels and grow houses.

SUPERVISORS AND LABOR CONTRACTORS

One last section that is really important to consider is employer responsibilities for supervisors and labor contractors. The rule now states that employers must provide sufficient information to supervisors and/or labor contractors to ensure compliance with the revised WPS. Specifically, this includes the tasks supervisors/labor contractors must do and the information they must provide to workers/handlers.

Employers are liable for a penalty under the Federal Insecticide, Fungicide, Rodenticide Act (FIFRA) if a supervisor or labor contractor acting for them fails to comply with the revised WPS requirements.

These changes are a lot to read at one time and may appear overwhelming on first pass. WPS is not new, however, and the changes only specify more clearly most of the topics that were already included in the earlier version of the regulation.

SEEK RELIABLE SOURCES

There are a lot of sources of worker protection information that can be retrieved from internet information

sources. Do not assume all are credible or trustworthy. Please do not go out on a limb and trust unfounded sources or websites. The new area of respirator medical evaluation, fit-testing and training is a foreign language to many and can bring about some frustration. There are legitimate companies with websites that will provide a first-round, respirator medical evaluation for a small fee. These websites are legal as long as they indicate they have been certified to meet OSHA and EPA requirements. Some citrus Extension agents are working on putting together training for respirator fit-testing. After completing this training, growers will be able to train their workers in-house.

For more information regarding the complete details of WPS, refer to "How to Comply with the 2015 Revised Worker Protection Standard for Agricultural Pesticides: What Owners and Employers Need to Know" (see <https://nepis.epa.gov/Exec/zyPURL.cgi?Dockey=P100PIRI.TXT>).

Most University of Florida/Institute of Food and Agricultural Sciences citrus Extension agents are providing WPS "Train the Trainer" courses and can assist with worker training. See http://citrusagents.ifas.ufl.edu/Citrus_Agents_Home_Page/index.shtml for more information on upcoming trainings and how to contact the citrus agents.

Information for this article was collected from the "Private Applicator Agricultural Pest Control" manual (SM 53, 3rd edition) by Fred Fishel, University of Florida Department of Agronomy, and EDIS document "Quick Reference Guide to the Worker Protection Standard (WPS) as Revised in 2015" (EDIS P1270), also by Fishel (<http://edis.ifas.ufl.edu/pi270>).

Mail the answer sheet or a copy of the form to:

Laurie Ann Hurner
UF/IFAS Extension Highlands
County, 4509 West George Blvd.
Sebring, FL 33875

If you have questions regarding this form, test or CEUs, e-mail Laurie Ann Hurner at lhurner@ufl.edu or call 863-402-7150. Please allow two weeks to process your CEU request.

'Worker Protection Standard regulation update' test

To receive one continuing education unit (CEU), read "Worker Protection Standard regulation update" in this issue of Citrus Industry magazine. Answer the 20 questions on the magazine's website (www.citrusindustry.net) or mail the answers and application information to the address at the bottom of the page. The article and test set are valid for up to one year from the publication date. After one year, this test will no longer grant a CEU.

1. If protective eyewear is required by labeling on a pesticide product, the employee must purchase the protective eyewear from his employer. T F
2. Supervisor and labor contractor responsibility is now addressed in WPS. T F
3. The WPS rule has very specific definitions for workers and handlers at agricultural operations. T F
4. The revised WPS rule now contains only 11 safety topics that need to be covered in WPS training. T F
5. Anyone who is going to be a pesticide handler at an agricultural establishment now has to be 16 years or older. T F
6. The Worker Protection Standard must be followed on every agricultural establishment, even if no pesticides are applied. T F
7. Central posting and decontamination supplies are two of the general areas that the Federal Insecticide, Fungicide, and Rodenticide Act covers. T F
8. Certified Crop Advisors are not covered under the Worker Protection Standard and do not have to follow any pesticide safety rules. T F
9. Workers and handlers can now identify a designated representative to receive application information and safety data sheets on their behalf. T F
10. Landowners and immediate family do not have to follow any of the requirements of the Worker Protection Standard. T F
11. The Worker Protection Standard was created to reduce the risk of illness or injury to ag workers and handlers resulting from exposures to pesticides in areas where ag plants are produced. T F
12. Greenhouses are no longer included in the types of businesses/establishments that must follow the Worker Protection Standard. T F
13. A commercial pesticide handling establishment is an enterprise, other than an agricultural establishment, that provides pesticide-handler or crop-advising services to ag establishments. T F
14. Every change to the Worker Protection Standard takes effect on January 2, 2018. T F
15. Application exclusion zones up to 100 feet were created to make sure that equipment lasts longer. T F
16. Posting of no-entry signs for outdoor production if the restricted-entry interval is longer than 48 hours is now mandatory. T F
17. If a respirator is required by the labeling, the employer must now provide handlers with medical evaluations and fit-testing. T F
18. Employers are allowed to retaliate against an employee only after the employee's complaint has been proven false. T F
19. If you were trained as a WPS trainer under the previous rule, you must be trained again as a WPS trainer under the new rule. T F
20. If an employee carries nursery stock, repots plants and waters, they must complete the WPS handler training. T F

Select **one** CEU category:

- Ag Row Crop Pest Control Ag Tree Crop Pest Control Forest Pest Control
 Ornamental and Turf Pest Control Private Applicator Ag Pest Control

Pesticide Applicator CEU Form

First Name: _____ Last Name: _____

E-mail: _____

Pesticide License Number: _____

Address: _____

City: _____ Street: _____ Zip: _____

Phone: _____