



2003 Handbook of Employment Regulations Affecting Florida Farm Employers and Workers: Worker Protection Standard -- EPA [Federal]¹

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Purpose

To provide federal safety standards for users, employers, workers, and handlers of agricultural pesticides.

Who Must Comply

Agricultural pesticide users, employers of agricultural workers, and/or pesticide handlers are required to comply with EPA Worker Protection Standards (WPS).

More specifically, the EPA Worker Protection Standard (WPS) applies to you if:

- You own or manage a farm, forest, nursery, or greenhouse where pesticides are used in the production of agricultural plants and where workers are employed.
- You have a contract for the services of agricultural workers to do tasks related to the production of agricultural plants on a farm, forest, nursery, or greenhouse. This includes labor contractors and others who contract with growers to supply agricultural laborers.
- You operate a business in which you or people you employ apply pesticides that are used for the production of agricultural plants.

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- You operate a business in which you or people you employ perform tasks as a crop advisor on any farm, forest, nursery, or greenhouse.

Family farmers with no employees and their immediate family members are exempt from many WPS provisions. Family farmers, however, must observe the appropriate restricted-entry intervals (REIs) and must use the proper personal protective equipment (PPE) listed on pesticide labels.

The Worker Protection Standard

The *information* component of WPS is designed to ensure that employees will be informed about exposure to pesticides, including:

- Pesticide safety training for workers and handlers.
- Pesticide safety posters for workers and handlers.
- Access to labeling information for pesticide handlers and early entry workers.
- Access to specific information of pesticide treatments at each establishment.

The *protection* component ensures that employees will be protected from exposures to pesticides by requiring employers to:

- Prohibit handlers from applying pesticides in a way that exposes workers or other persons.
- Exclude workers from areas being treated with pesticides.
- Exclude workers from areas that remain under a restricted entry interval (REI) with narrow exceptions.
- Protect early-entry workers who are doing permitted tasks in treated areas during an REI via special instructions and personal protective equipment.
- Notify workers about treated areas so they can avoid inadvertent exposure.

- Protect handlers during handling tasks via personal protective equipment and monitoring while handling highly toxic pesticides.

The *mitigation* of pesticide exposure component requires that employees have an opportunity to receive:

- Decontamination facilities with ample supplies of water, soap, and towels for routine washing and emergency decontamination.
- Emergency assistance concerning transportation to a medical care facility if poisoned or injured by a pesticide.
- Information about the pesticide(s) to which they may have been exposed.

Pesticide Users Not Covered by WPS

The EPA Worker Protection Standard does not cover pesticides applied for the following:

- On pastures or rangelands.
- For control of vertebrate pests such as rodents.
- As attractants or repellents in crops.
- For mosquito abatement via government-sponsored public pest control programs.
- On livestock or other animals or in or around animal premises.
- Home fruit and vegetable gardens and home greenhouses (non-commercial).
- On plants in parks, golf courses, etc. intended only for decorative or environmental benefit.
- Control of vegetation along rights-of-way, other non-crop areas, termite control, and wood preservation.
- Research uses of unregistered pesticides.

Standards for Workers

The WPS is directed toward the working conditions of employees who handle agricultural pesticides (mix, load, apply, clean, or repair equipment, flaggers, etc.) and employees who perform tasks related to cultivation and harvesting of plants on farms or in greenhouses, nurseries, or forests.

Entry Restrictions During Pesticide Application

Agricultural employers may not allow or direct any person, other than appropriately trained and equipped handlers, to enter or to remain in the treated area(s). Specific entry rules are promulgated separately for nurseries and greenhouses.

Entry Restrictions After Pesticide Application

After the application of any pesticide on an agricultural establishment, the agricultural employer may not allow or direct any worker to enter or to remain in the treated area before the restricted-entry interval specified on the pesticide labeling has expired. Some exceptions to this re-entry rule are permitted, such as no-contact activities, certain short-term activities, and agricultural emergencies.

For additional exceptions or waivers from the early entry requirements, contact:

Director, Office of Pesticide Programs

U.S. Environmental Protection Agency

401 M Street, SW

Washington, D.C. 20460

<http://www.epa.gov/pesticides>

Decisions regarding these petitions are published in the Federal Register. Contact the EPA for guidelines in submitting requests.

Notice of Pesticide Applications

Notification to workers of pesticide applications is required as follows:

- For greenhouse operations, all pesticide applications must be posted with an approved EPA poster and, if the pesticide label has a statement requiring both the posting and oral notification to workers, the employer must also provide oral notification.
- For farms, nurseries, and/or forests, notification of pesticide application must consist of an approved EPA poster and oral notification if required by the pesticide label. If the pesticide label does not require both posting and oral notification, the employer must give notice of the application to the workers *either* by posting the sign or orally.

Posted Warning Signs

When posted warning signs are required, they must have the same legend and design as the standard fourteen inches by sixteen inches (14"x16") EPA WPS warning sign. EPA allows the use of smaller warning signs in nurseries and greenhouses under certain conditions.

Oral Warnings

The agricultural employer must provide oral warnings to workers in a manner understandable to the worker.

The oral warning must consist of:

- The location and description of the treated area.
- The time during which entry is restricted.
- Instructions not to enter treated areas until restricted entry interval has expired.

Specific Information About Applications

The WPS requires that employers post the following specific information within the last thirty days a pesticide has been applied or restricted entry interval has been in effect:

- Location and description of the treated area.
- The product name, EPA registration number, and active ingredients.
- The time and date pesticide is to be applied.
- The restricted entry interval for the pesticide.
- Emergency information, including the name, phone number, and address of the nearest emergency medical facility.
- EPA's WPS pesticide safety poster or its equivalent. (Refer to Florida's "Pesticide Safety Sheet: A Guide for Florida Farm Workers," Florida Department of Agriculture and Consumer Services, 1(800) 435-7352).

The above information must be displayed in a central location on the farm, nursery, or greenhouse where it can be readily seen and read by workers.

Pesticide Safety Training for Workers

Each worker must be trained at least once every five years, unless the person is a certified applicator or a trained handler working under the supervision of a certified applicator.

General pesticide worker safety information must be presented to workers either orally from written materials or audio/visually. The information must be presented in a manner that the worker can understand using nontechnical terms. The person conducting the training must meet certain prescribed criteria.

Since January 1, 1996, employers have been required to provide workers with complete WPS pesticide safety training before their sixth day of entry into an area where a restricted entry interval (REI) was in effect in the last thirty days.

Decomination Facilities

Employers and handlers must provide facilities for decontamination in the event of pesticide exposure. The decontamination facility must remain available for thirty days beyond the expiration of the restricted entry interval.

The employer is required to provide workers with enough water for routine washing and emergency eye flushing. Also, the employer must provide soap and single use towels at each decontamination facility in quantities sufficient to meet workers' needs.

In addition, the employer must assure that at least one pint of water is immediately available to each worker performing *early entry* activities for which pesticide labeling requires protective eyewear.

The decontamination facility must be reasonably accessible to and not more than one-fourth mile from where workers are working. In most cases where employers are in compliance with the OSHA Field Sanitation Standard, they are in compliance with the EPA decontamination standard for workers.

Emergency Assistance

In the event a worker or handler becomes ill while working and there is reason to believe pesticide exposure may be the cause, employers must make arrangements to transport the individual to an emergency medical facility.

The employer must also ensure that certain information be made available to medical personnel, including product name, EPA registration number and active ingredient, the antidote or recommended treatment listed on the chemical's label, and the circumstances of the exposure.

Standards for Pesticide Handlers

Given the EPA's WPS definition of a handler of pesticides, the regulations cover the application, information about the application, and notice of application to agricultural employers.

Restrictions During Application

The handler's employer and the handler must assure that no pesticide is applied so as to come in contact any worker or other person other than an appropriately trained and equipped handler.

Information About Applications

When handlers (except those employed by commercial pesticide handling establishments) are on an agricultural establishment and within the last thirty days a pesticide has been applied on the establishment or a restricted entry interval has been in effect, the handler's employer must display specific information about the pesticide. (See *Standards for Workers* section for details.)

Notice of Application to Agricultural Employees

Before the application of any pesticide on or in an agricultural establishment, the handler's employer must provide specified information to any agricultural employee for the establishment. (See *Standards for Workers* section for types of information required.)

For posted pesticide safety information, refer to *Standards for Workers* section for details.

Safety Training for Handlers

Pesticide handlers must be trained before performing any handling task. EPA has specific concepts that must be included in that training. Anyone who teaches the complete WPS worker training or handler training must:

- Present the training orally or audiovisually with the aid of written materials, audiovisual materials, or both.
- Present the information in a manner trainees can understand, using a translator, if necessary.
- Be able to respond to trainees' questions.

Labeling and Site Specific Information

The handler's employer must assure that, before the handler performs any handling activities, the handler has either read the product labeling or has been informed in a manner the handler can understand of all labeling requirements related to the safe use of the pesticide.

Safe Operation of Equipment

The handler's employer must assure that, before the handler uses any equipment for mixing, loading, transferring, or applying pesticides, the handler is instructed in the safe operation of such equipment.

Personal Protective Equipment

Any person who performs tasks as a pesticide handler must use the clothing and personal protective equipment (PPE) specified on the labeling for use of the pesticide. The EPA's WPS regulations permit certain exceptions to the PPE specified on the product labeling.

The handler's employer must assure that all PPE is used correctly for its intended purpose and is used according to the manufacturer's instructions.

Also, the handler's employer must assure that all PPE is cleaned according to the manufacturer's instructions or pesticide product labeling instructions before each day of reuse.

Who Is Responsible / Liable

EPA's compliance position is that agricultural establishment overseers, operators, and/or employers, including labor contractors, are jointly responsible for providing WPS protection to workers. They are also jointly responsible for compliance with the various WPS requirements. The responsible (liable) party could possibly be narrowed by consideration of the following ten factors:

- Who has control over pesticide use.
- Who directs pesticide use.
- Who has control over the agricultural establishment for posting and other WPS-related responsibilities.
- Who gives directions on the agricultural establishment for posting and other WPS-related responsibilities.
- Who has control over the practices used by agricultural workers in the establishment.

- Who directs the practices used by agricultural workers in the establishment.
- What are the measures taken to comply with provisions of the WPS.
- What are the actions taken in response to incidents of noncompliance.
- What is the history of prior violations.
- What is the ability to assure continuing compliance with the WPS.

WPS Protections to Workers Employed by Labor Contractors

In the WPS, the agricultural employer is responsible for providing protections. When agricultural workers are employed on an establishment through a labor contractor, the establishment owner/operator and the labor contractor are jointly responsible for providing WPS protections to workers. EPA, however, will likely decide on a case-by-case basis who should be held accountable for a given violation.

The EPA agency suggests that when workers are hired through a labor contractor, the contract between the owner or operator of the establishment and the labor contractor should specify which protections under the WPS are to be provided by each party.

Enforcement

Penalties for failure to comply with the WPS are the same as those for using a pesticide inconsistent with the label.

Generally, fines are up to \$1,000 per offense for private applicators, including owners/operators of agricultural operations, and up to \$5,000 per offense for commercial applicators.

Criminal penalties may apply for knowingly violating the standard. They can be up to \$1,000 and thirty days in jail for owner/operators and up to \$25,000 and one year in jail for commercial applicators.

Retaliation Prohibited

Employers must not prevent or discourage any worker or handler from complying or attempting to comply with the WPS. Also, employers must not fire nor otherwise retaliate against any worker or handler who attempts to comply.

Related Information

- **Protect Yourself From Pesticides: Guide for Pesticide Handlers**, U.S. EPA, EPA 735-B-93-003, Washington, D.C., December 1993.
- **The Worker Protection Standard For Agricultural Pesticide: How to Comply: What Employers Need to Know**, U.S. EPA, EPA 735-B-93-001, Washington, D.C., July 1993.
- **Labor Bulletins No. 495, 496, 497, 503, 504, 508 and 511**. Florida Fruit and Vegetable Association, Orlando, FL.

Responsible Agency

National Office

Director, Office of Pesticide Programs
U.S. Environmental Protection Agency
401 M Street, SW
Washington, D.C. 20460
<http://www.epa.gov/pesticides>

Regional Office

U.S. Environmental Protection Agency, Region 4
61 Forsyth Street SW
Atlanta, GA 30303-3104
(404) 562-9900 or
dial toll-free 1(800) 241-1754
<http://www.epa.gov/region4/home/phonenumbers.html>

State Agency

Florida Department of Agriculture and Consumer
Services [FDACS]

Division of Agriculture and Environmental Services

Bureau of Compliance Monitoring

3125 Conner Boulevard

Tallahassee, FL 32399

(850) 488-8731

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