

Agricultural Worker Protection Standard Update

**EPA's Certification and Work Protection Branch
Pesticide Re-Evaluation Division
Office of Pesticide Programs**

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**AAPCO's 74th Annual Meeting
April 13, 2021**



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Outline

- **Worker Protection Standard (WPS) Update**
 - WPS and Application Exclusion Zone (AEZ) Rule Update
 - Covid-19 Memos Related to WPS
- **Other Worker Related Updates**
 - Certification Plan Review Dates and Status
 - Early Detailed Review Feedback
 - Pesticide Applicator Certification and Training Meeting



Update on Worker Protection

Agricultural Worker Protection Standard (WPS) 40 CFR Part 171



WPS AEZ Rule Update

- **Until further notice from OPP or OGC, the 2015 WPS remains in effect with no changes to the AEZ provisions**
- Final Rule published Oct. 30, 2020
- Dec. 2020 - Lawsuits filed challenging AEZ Final Rule; proceedings stayed by the court
- No implementation of the 2020 AEZ Rule
 - Preliminary injunction has stayed the effective date
 - EPA enjoined from implementing the provisions
- Preliminary injunction in effect until April 19, 2021
 - Ongoing litigation could extend injunction



OECA/OCSP Respirator Statement

Enforcement

- Enforcement Home
- Enforcement Basics
- Enforcement
- Enforcement
- Chemical and Pesticide Enforcement
- Global Enforcement
- Enforcement at Federal Facilities
- Enforcement Results
- Guidance and Regulations

Statement Regarding Respiratory Protection Shortages and Reduced Availability of Respirator Fit Testing Related to Pesticide Uses Covered by the Agricultural Worker Protection Standard during the COVID-19 Public Health Emergency

EPA has heard from states and stakeholders about Personal Protective Equipment shortages in the agricultural sector. To respond to these reports and to help ensure the health and safety of America's farmers, EPA is providing temporary guidance regarding respiratory protection requirements for agricultural pesticide handlers. Our guidance aligns with recent OSHA memos on respirators while addressing EPA's responsibilities under FIFRA and the Agricultural Worker Protection Standard (WPS).

You may need a PDF reader to view some of the files on this page. See EPA's [About PDF page](#) to learn more.

- [Statement Regarding Respiratory Protection Shortages and Reduced Availability of Respirator Fit Testing Related to Pesticide Uses Covered by the Agricultural Worker Protection Standard during the COVID-19 Public Health Emergency \(PDF\)](#)

(14 pp, 573 K)



Respirator Statement – Temporary Guidance

- Label Requirements and WPS provisions remain in effect. EPA encourages the following WPS compliant approaches:
 - Use of respirators approved by NIOSH that are equally or more effective than the respirator required on the label
 - Use pesticide products intended for the same use that do not require the use of respiratory protection
 - Secure the services of a commercial applicator with sufficient supplies of the required PPE
 - When possible, delay use of pesticides until one or more compliance options are available



Respirator Statement – Temporary Guidance

- Minimize Handler Risk when all other Compliance Options have been Exhausted
 - Access to Respiratory Protection
 - Extended use or reuse of disposable N95 FFRs;
 - Use of FFRs beyond their recommended service life
 - Use of FFRs that have been certified in certain countries/jurisdictions
 - Completion of Respiratory Fit Testing
 - ~~Annual fit test delay~~ **expired Dec 30, 2020***
 - Fit test delay for handlers who have been previously fit tested for a different but equivalent FFR

* Under review



Update on Certification Plans

**Certification of Pesticide Applicators Rule
40 CFR Part 171**



Certification Rule Dates

- Modified certification plans were due to EPA by **March 4, 2020**
- Successfully submitted:
 - 56 State Lead Agency plans
 - 6 Tribal plans
 - 5 Federal agency plans, plus 1 EPA-administered plan
- **Existing plans remain in effect** until EPA approves or rejects the modified plan or **March 4, 2022**, whichever is earlier.
- EPA-approved modified plans are to be implemented according to the schedule in the plans.



HQ/Regional Coordination for Plan Reviews

- Program staff & legal counsel coordination
- Weekly conference calls
- HQ point of contact assigned to each Region



Certification Plan Status at HQ

- SLA/Tribal Plans
 - 16 Detailed Reviews complete at EPA Regional level
 - HQ Detailed Reviews under way
 - Remainder on pace for May 2021 submission to HQ
- EPA Plan for Indian Country
 - addressing comments received during Tribal Consultation period
- Federal Agency Plans
 - HQ detailed reviews under way



HQ Detailed Review Early Feedback

- EPA recognizes that some legislative changes may not be completed by 3/4/2022
 - Legislative process should be underway
- Oral Exam Option
 - Not a substitute for written exam for commercial applicators
 - ADA accommodations
- Implementation
 - Level of detail / timeline
 - Updating Exam Materials



Pesticide Applicator Certification & Training Conference

- July 19 - 21, 2021 in Denver, Colorado
- <https://npsec.us/pact2020>
- Examples of topics:
 - Closed Systems
 - Invasive Species
 - Respiratory protection
 - IPM
 - Pollinators
- Hosted by MSU, NPSEC and MCN
 - EPA support through cooperative agreement with MSU



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