

In Oregon, Oregon OSHA administers and enforces the Environmental Protection Agency's pesticide Worker Protection Standard (WPS or 40 CFR part 170.) EPA recently finalized the following amendments to these rules at the federal level. Oregon OSHA proposes to adopt these amendments into **OAR 437-004-6000**; **OAR 437-002-0170**; and **OAR 437-007-0010**.

PART 170--[EPA-AMENDED]

1. The authority citation for part 170 continues to read as follows:

Authority: 7 U.S.C. 136w.

2. Section 170.2 is added to subpart A to read as follows:

**Sec. 170.2 Implementation and expiration dates.**

(a) Implementation date. Beginning January 2, 2017, the requirements of Sec. 170.301 through Sec. 170.609 of this part shall apply to any pesticide product that bears the statement "Use this product only in accordance with its labeling and with the Worker Protection Standard, 40 CFR part 170".

(b) Expiration date. Sections 170.1 through 170.260 of this part shall expire on, and will no longer be effective after January 2, 2017.

3. In Sec. 170.135, revise paragraphs (b) and (c)(1) to read as follows:

**Sec. 170.135 Posted pesticide safety information.**

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(b) Pesticide safety poster. A safety poster must be displayed that conveys, at a minimum, the pesticide safety concepts listed in paragraphs (b)(1)(i) through (vii) and (b)(2) of this section. Displays conforming to Sec. 170.311(a)(3) meet the requirements of this paragraph.

(c) \* \* \*

(1) The name, address, and telephone number of the nearest emergency medical care facility shall be on the safety poster or displayed close to the safety poster. Displays conforming to Sec. 170.311(a)(3)(ix) meet the requirements of this paragraph.

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4. In Sec. 170.235, revise paragraphs (b) and (c)(1) to read as follows:

**Sec. 170.235 Posted pesticide safety information.**

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(b) Pesticide safety poster. A safety poster must be displayed that conveys, at a minimum, the pesticide safety concepts listed in paragraphs (b)(1)(i) through (vii) and (b)(2) of this section. Displays conforming to Sec. 170.311(a)(3) meet the requirements of this paragraph.

(c) \* \* \*

(1) The name, address, and telephone number of the nearest emergency medical care facility shall be on the safety poster or displayed close to the safety poster. Displays conforming to Sec. 170.311(a)(3)(ix) meet the requirements of this paragraph.

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5. Subpart D is added to part 170 to read as follows:

**Subpart D--General Provisions**

Sec. 170.301 Scope and purpose.

Sec. 170.303 Applicability of this part.

Sec. 170.305 Definitions.

Sec. 170.309 Agricultural employer duties.

Sec. 170.311 Display requirements for pesticide safety information and pesticide application and hazard information.

Sec. 170.313 Commercial pesticide handler employer duties.

Sec. 170.315 Prohibited actions.

Sec. 170.317 Violations of this part.

**Sec. 170.301 Scope and purpose.**

This regulation is primarily intended to reduce the risks of illness or injury to workers and handlers resulting from occupational exposures to pesticides used in the production of agricultural plants on agricultural establishments. It requires agricultural employers and commercial pesticide handler employers to provide specific information and protections to workers, handlers and other persons when pesticides are used on agricultural establishments in the production of agricultural plants. It also requires handlers to wear the labeling-specified clothing and personal protective equipment when performing handler activities, and to take measures to protect workers and other persons during pesticide applications.

**Sec. 170.303 Applicability of this part.**

(a) This regulation applies whenever a pesticide product bearing a label requiring compliance with this part is used in the production of agricultural plants on an agricultural establishment, except as provided in paragraphs (b) and (c) of this section.

(b) This regulation does not apply when a pesticide product bearing a label requiring compliance with this part is used on an agricultural establishment in any of the following circumstances:

(1) As part of government-sponsored public pest control programs over which the owner, agricultural employer and handler employer have no control, such as mosquito abatement and Mediterranean fruit fly eradication programs.

(2) On plants other than agricultural plants, which may include plants in home fruit and vegetable gardens and home greenhouses, and permanent plantings for ornamental purposes, such as plants that are in ornamental gardens, parks, public or private landscaping, lawns or other grounds that are intended only for aesthetic purposes or climatic modification.

(3) For control of vertebrate pests, unless directly related to the production of an agricultural plant.

(4) As attractants or repellents in traps.

(5) On the harvested portions of agricultural plants or on harvested timber.

(6) For research uses of unregistered pesticides.

(7) On pasture and rangeland where the forage will not be harvested for hay.

(8) In a manner not directly related to the production of agricultural plants, including, but not limited to structural pest control and control of vegetation in non-crop areas.

(c) Where a pesticide product's labeling-specific directions for use or other labeling requirements are inconsistent with requirements of this part, users must comply with the pesticide product labeling, except as provided for in Sec. Sec. 170.601, 170.603 and 170.607.

### **Sec. 170.305 Definitions.**

Terms used in this part have the same meanings they have in the Federal Insecticide, Fungicide, and Rodenticide Act, as amended. In addition, the following terms, when used in this part, shall have the following meanings:

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

**Chemigation** means the application of pesticides through irrigation systems.

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

**Commercial pesticide handler employer** means 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.

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

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

**Designated representative** means 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 Sec. 170.309(h) in accordance with Sec. 170.311(b) of this part.

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

- (1) Mixing, loading, or applying pesticides.
- (2) Disposing of pesticides.
- (3) 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. The term does not include any person who is only handling unopened pesticide containers or pesticide containers that have been emptied or cleaned according to pesticide product labeling instructions.
- (4) Acting as a flagger.

- (5) Cleaning, adjusting, handling, or repairing the parts of mixing, loading, or application equipment that may contain pesticide residues.
- (6) Assisting with the application of pesticides.
- (7) 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 Sec. 170.405(b)(3) or the labeling has been met to operate ventilation equipment, monitor air levels, or adjust or remove coverings used in fumigation.
- (8) 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.
- (9) 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 Sec. 170.405(b)(3) or the pesticide product labeling has been met.

**Handler employer** means 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** means a person, other than a commercial pesticide handler employer, who employs workers or handlers to perform tasks on an agricultural establishment for an agricultural employer or a commercial pesticide handler employer.

**Outdoor production** means production of an agricultural plant in an outside area that is not enclosed or covered in any way that would obstruct the natural air flow.

**Owner** means any person who has a present possessory interest (e.g., 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** means 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** means the time after the end of a pesticide application during which entry into the treated area is restricted.

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

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

**Use**, as in "to use a pesticide" means any of the following:

(1) Pre-application activities, including, but not limited to:

(i) Arranging for the application of the pesticide.

(ii) Mixing and loading the pesticide.

(iii) 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.

(2) Application of the pesticide.

(3) 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.

(4) 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** means 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** means 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.

**Sec. 170.309 Agricultural employer duties.**

Agricultural employers must:

(a) Ensure that any pesticide is used in a manner consistent with the pesticide product labeling, including the requirements of this part, when applied on the agricultural establishment.

(b) Ensure that each worker and handler subject to this part receives the protections required by this part.

(c) Ensure that any handler and any early entry worker is at least 18 years old.

(d) Provide to each person, including labor contractors, who supervises any workers or handlers information and directions sufficient to ensure that each worker and handler receives the protections required by this part. Such information and directions must specify

the tasks for which the supervisor is responsible in order to comply with the provisions of this part.

(e) Require each person, including labor contractors, who supervises any workers or handlers to provide sufficient information and directions to each worker and handler to ensure that they can comply with the provisions of this part.

(f) Provide emergency assistance in accordance with this paragraph. If there is reason to believe that a worker or handler has experienced a potential pesticide exposure during his or her employment on the agricultural establishment or shows symptoms similar to those associated with acute exposure to pesticides during or within 72 hours after his or her employment on the agricultural establishment, and needs emergency medical treatment, the agricultural employer must do all of the following promptly after learning of the possible poisoning or injury:

(1) Make available to that person transportation from the agricultural establishment, including any worker housing area on the establishment, to an operating medical care facility capable of providing emergency medical treatment to a person exposed to pesticides.

(2) Provide all of the following information to the treating medical personnel:

(i) Copies of the applicable safety data sheet(s) and the product name(s), EPA registration number(s) and active ingredient(s) for each pesticide product to which the person may have been exposed.

(ii) The circumstances of application or use of the pesticide on the agricultural establishment.

(iii) The circumstances that could have resulted in exposure to the pesticide.

(g) Ensure that workers or other persons employed by the agricultural establishment do not clean, repair, or adjust pesticide application equipment, unless trained as a handler under Sec. 170.501. Before allowing any person not directly employed by the agricultural establishment to clean, repair, or adjust equipment that has been used to mix, load, transfer, or apply pesticides, the agricultural employer must provide all of the following information to such person:

(1) Pesticide application equipment may be contaminated with pesticides.

(2) The potentially harmful effects of exposure to pesticides.

(3) Procedures for handling pesticide application equipment and for limiting exposure to pesticide residues.

(4) Personal hygiene practices and decontamination procedures for preventing pesticide exposures and removing pesticide residues.

(h) Display, maintain, and provide access to pesticide safety information and pesticide application and hazard information in accordance with Sec. 170.311 if workers or handlers

are on the establishment and within the last 30 days a pesticide product has been used or a restricted-entry interval for such pesticide has been in effect on the establishment.

(i) Ensure that before a handler uses any equipment for mixing, loading, transferring, or applying pesticides, the handler is instructed in the safe operation of such equipment.

(j) Ensure that before each day of use, equipment used for mixing, loading, transferring, or applying pesticides is inspected for leaks, clogging, and worn or damaged parts, and any damaged equipment is repaired or replaced.

(k) Ensure that whenever handlers employed by a commercial pesticide handling establishment will be on an agricultural establishment, the handler employer is provided information about, or is aware of, the specific location and description of any treated areas on the agricultural establishment where a restricted-entry interval is in effect that the handler may be in (or may walk within  $\frac{1}{4}$  mile of), and any restrictions on entering those areas.

(l) Ensure that workers do not enter any area on the agricultural establishment where a pesticide has been applied until the applicable pesticide application and hazard information for each pesticide product applied to that area is displayed in accordance with Sec. 170.311(b), and until after the restricted-entry interval has expired and all treated area warning signs have been removed or covered, except for entry permitted by Sec. 170.603 of this part.

(m) Provide any records or other information required by this part for inspection and copying upon request by an employee of EPA or any duly authorized representative of a Federal, State or Tribal government agency responsible for pesticide enforcement.

### **Sec. 170.311 Display requirements for pesticide safety information and pesticide application and hazard information.**

(a) Display of Pesticide Safety Information. Whenever pesticide safety information and pesticide application and hazard information are required to be provided under Sec. 170.309(h), pesticide safety information must be displayed in accordance with this paragraph.

(1) General. The pesticide safety information must be conveyed in a manner that workers and handlers can understand.

(2) Content prior to January 1, 2018. Prior to January 1, 2018, the safety information must include all of the following points:

(i) Help keep pesticides from entering your body. Avoid getting on your skin or into your body any pesticides that may be on plants and soil, in irrigation water, or drifting from nearby applications.

(ii) Wash before eating, drinking, using chewing gum or tobacco, or using the toilet.

(iii) Wear work clothing that protects the body from pesticide residues (long-sleeved shirts, long pants, shoes and socks, and a hat or scarf).

(iv) Wash or shower with soap and water, shampoo hair, and put on clean clothes after work.

(v) Wash work clothes separately from other clothes before wearing them again.

(vi) Wash immediately in the nearest clean water if pesticides are spilled or sprayed on the body. As soon as possible, shower, shampoo, and change into clean clothes.

(vii) Follow directions about keeping out of treated or restricted areas.

(viii) The name, address, and telephone number of a nearby operating medical care facility capable of providing emergency medical treatment. This information must be clearly identified as emergency medical contact information on the display.

(ix) There are Federal rules to protect workers and handlers, including a requirement for safety training.

(3) Content after January 1, 2018. After January 1, 2018, the pesticide safety information must include all of the points in Sec. 170.311(a)(3)(i)-(x) instead of the points listed in Sec. 170.311(a)(2)(i)-(ix).

(i) Avoid getting on the skin or into the body any pesticides that may be on or in plants, soil, irrigation water, tractors, and other equipment, on used personal protective equipment, or drifting from nearby applications.

(ii) Wash before eating, drinking, using chewing gum or tobacco, or using the toilet.

(iii) Wear work clothing that protects the body from pesticide residues (long-sleeved shirts, long pants, shoes and socks, and a hat or scarf).

(iv) Wash or shower with soap and water, shampoo hair, and put on clean clothes after work.

(v) Wash work clothes separately from other clothes before wearing them again.

(vi) If pesticides are spilled or sprayed on the body use decontamination supplies to wash immediately, or rinse off in the nearest clean water, including springs, streams, lakes or other sources if more readily available than decontamination supplies, and as soon as possible, wash or shower with soap and water, shampoo hair, and change into clean clothes.

(vii) Follow directions about keeping out of treated areas and application exclusion zones.

(viii) Instructions to employees to seek medical attention as soon as possible if they believe they have been poisoned, injured or made ill by pesticides.

(ix) The name, address, and telephone number of a nearby operating medical care facility capable of providing emergency medical treatment. This information must be clearly identified as emergency medical contact information on the display.

(x) The name, address and telephone number of the State or Tribal pesticide regulatory agency.

(4) Changes to pesticide safety information. The agricultural employer must update the pesticide safety information display within 24 hours of notice of any changes to the information required in Sec. Sec. 170.311(a)(2)(viii) or 170.311(a)(3)(ix).

(5) Location. The pesticide safety information must be displayed at each of the following sites on the agricultural establishment:

(i) The site selected pursuant to Sec. 170.311(b)(2) for display of pesticide application and hazard information.

(ii) Anywhere that decontamination supplies must be provided on the agricultural establishment pursuant to Sec. Sec. 170.411, 170.509 or 170.605, but only when the decontamination supplies are located at permanent sites or being provided at locations and in quantities to meet the requirements for 11 or more workers or handlers.

(6) Accessibility. When pesticide safety information is required to be displayed, workers and handlers must be allowed access to the pesticide safety information at all times during normal work hours.

(7) Legibility. The pesticide safety information must remain legible at all times when the information is required to be displayed.

(b) Keeping and displaying pesticide application and hazard information. Whenever pesticide safety information and pesticide application and hazard information is required to be provided under Sec. 170.309(h), pesticide application and hazard information for any pesticides that are used on the agricultural establishment must be displayed, retained, and made accessible in accordance with this paragraph.

(1) Content. The pesticide application and hazard information must include all of the following information for each pesticide product applied:

(i) A copy of the safety data sheet.

(ii) The name, EPA registration number, and active ingredient(s) of the pesticide product.

(iii) The crop or site treated and the location and description of the treated area.

(iv) The date(s) and times the application started and ended.

(v) The duration of the applicable labeling-specified restricted-entry interval for that application.

(2) Location. The pesticide application and hazard information must be displayed at a place on the agricultural establishment where workers and handlers are likely to pass by or congregate and where it can be readily seen and read.

(3) Accessibility. When the pesticide application and hazard information is required to be displayed, workers and handlers must be allowed access to the location of the information at all times during normal work hours.

(4) Legibility. The pesticide application and hazard information must remain legible at all times when the information is required to be displayed.

(5) Timing. The pesticide application and hazard information for each pesticide product applied must be displayed no later than 24 hours after the end of the application of the pesticide. The pesticide application and hazard information must be displayed continuously from the beginning of the display period until at least 30 days after the end of the last applicable restricted-entry interval, or until workers or handlers are no longer on the establishment, whichever is earlier.

(6) Record retention. Whenever pesticide safety information and pesticide application and hazard information is required to be displayed in accordance with this paragraph (b), the agricultural employer must retain the pesticide application and hazard information described in Sec. 170.311(b)(1) on the agricultural establishment for two years after the date of expiration of the restricted-entry interval applicable to the pesticide application conducted.

(7) Access to pesticide application and hazard information by a worker or handler.

(i) If a person is or was employed as a worker or handler by an establishment during the period that particular pesticide application and hazard information was required to be displayed and retained for two years in accordance with Sec. 170.311(b)(5) and 170.311(b)(6), and the person requests a copy of such application and/or hazard information, or requests access to such application and/or hazard information after it is no longer required to be displayed, the agricultural employer must provide the worker or handler with a copy of or access to all of the requested information within 15 days of the receipt of any such request. The worker or handler may make the request orally or in writing.

(ii) Whenever a record has been previously provided without cost to a worker or handler or their designated representative, the agricultural employer may charge reasonable, non-discriminatory administrative costs (i.e., search and copying expenses but not including overhead expenses) for a request by the worker or handler for additional copies of the record.

(8) Access to pesticide application and hazard information by treating medical personnel. Any treating medical personnel, or any person acting under the

supervision of treating medical personnel, may request, orally or in writing, access to or a copy of any information required to be retained for two years by Sec. 170.311(b)(6) in order to inform diagnosis or treatment of a worker or handler who was employed on the establishment during the period that the information was required to be displayed. The agricultural employer must promptly provide a copy of or access to all of the requested information applicable to the worker's or handler's time of employment on the establishment after receipt of the request.

(9) Access to pesticide application and hazard information by a designated representative.

(i) Any worker's or handler's designated representative may request access to or a copy of any information required to be retained for two years by Sec. 170.311(b)(6) on behalf of a worker or handler employed on the establishment during the period that the information was required to be displayed. The agricultural employer must provide access to or a copy of the requested information applicable to the worker's or handler's time of employment on the establishment within 15 days after receiving any such request, provided the request meets the requirements specified in Sec. 170.311(b)(9)(ii).

(ii) A request by a designated representative for access to or a copy of any pesticide application and/or hazard information must be in writing and must contain all of the following:

(A) The name of the worker or handler being represented.

(B) A description of the specific information being requested. The description should include the dates of employment of the worker or handler, the date or dates for which the records are requested, type of work conducted by the worker or handler (e.g., planting, harvesting, applying pesticides, mixing or loading pesticides) during the period for which the records are requested, and the specific application and/or hazard information requested.

(C) A written statement clearly designating the representative to request pesticide application and hazard information on the worker's or handler's behalf, bearing the worker's or handler's printed name and signature, the date of the designation, and the printed name and contact information for the designated representative.

(D) If the worker or handler requests that the pesticide application and/or the hazard information be sent, direction for where to send the information (e.g., mailing address or email address).

(iii) If the written request from a designated representative contains all of the necessary information specified in Sec. 170.313(b)(9)(ii), the employer must provide a copy of or access to all of the requested information applicable to the worker's or handler's time of employment on the establishment to the designated representative within 15 days of receiving the request.

(iv) Whenever a record has been previously provided without cost to a worker or handler or their designated representative, the agricultural employer may charge reasonable, non-discriminatory administrative costs (i.e., search and copying expenses but not including overhead expenses) for a request by the designated representative for additional copies of the record.

**Sec. 170.313 Commercial pesticide handler employer duties.**

Commercial pesticide handler employers must:

(a) Ensure that any pesticide is used in a manner consistent with the pesticide product labeling, including the requirements of this part, when applied on an agricultural establishment by a handler employed by the commercial pesticide handling establishment.

(b) Ensure each handler employed by the commercial pesticide handling establishment and subject to this part receives the protections required by this part.

(c) Ensure that any handler employed by the commercial pesticide handling establishment is at least 18 years old.

(d) Provide to each person, including labor contractors, who supervises any handlers employed by the commercial pesticide handling establishment, information and directions sufficient to ensure that each handler receives the protections required by this part. Such information and directions must specify the tasks for which the supervisor is responsible in order to comply with the provisions of this part.

(e) Require each person, including labor contractors, who supervises any handlers employed by the commercial pesticide handling establishment, to provide sufficient information and directions to each handler to ensure that the handler can comply with the provisions of this part.

(f) Ensure that before any handler employed by the commercial pesticide handling establishment uses any equipment for mixing, loading, transferring, or applying pesticides, the handler is instructed in the safe operation of such equipment.

(g) Ensure that, before each day of use, equipment used by their employees for mixing, loading, transferring, or applying pesticides is inspected for leaks, obstructions, and worn or damaged parts, and any damaged equipment is repaired or is replaced.

(h) Ensure that whenever a handler who is employed by a commercial pesticide handling establishment will be on an agricultural establishment, the handler is provided information about, or is aware of, the specific location and description of any treated areas where a restricted-entry interval is in effect, and the restrictions on entering those areas.

(i) Provide the agricultural employer all of the following information before the application of any pesticide on an agricultural establishment:

(1) Specific location(s) and description of the area(s) to be treated.

(2) The date(s) and start and estimated end times of application.

- (3) Product name, EPA registration number, and active ingredient(s).
- (4) The labeling-specified restricted-entry interval applicable for the application.
- (5) Whether posting, oral notification or both are required under Sec. 170.409.
- (6) Any restrictions or use directions on the pesticide product labeling that must be followed for protection of workers, handlers, or other persons during or after application.

(j) If there are any changes to the information provided in Sec. 170.313(i)(1), Sec. 170.313(i)(4), Sec. 170.313(i)(5), Sec. 170.313(i)(6) or if the start time for the application will be earlier than originally forecasted or scheduled, ensure that the agricultural employer is provided updated information prior to the application. If there are any changes to any other information provided pursuant to Sec. 170.313(i), the commercial pesticide handler employer must provide updated information to the agricultural employer within two hours after completing the application. Changes to the estimated application end time of less than one hour need not be reported to the agricultural employer.

(k) Provide emergency assistance in accordance with this paragraph. If there is reason to believe that a handler employed by the commercial pesticide handling establishment has experienced a potential pesticide exposure during his or her employment by the commercial pesticide handling establishment or shows symptoms similar to those associated with acute exposure to pesticides during or within 72 hours after his or her employment by the commercial pesticide handling establishment, and needs emergency medical treatment, the commercial pesticide handler employer must do all of the following promptly after learning of the possible poisoning or injury:

- (1) Make available to that person transportation from the commercial pesticide handling establishment, or any agricultural establishment on which that handler may be working on behalf of the commercial pesticide handling establishment, to an operating medical care facility capable of providing emergency medical treatment to a person exposed to pesticides.
- (2) Provide all of the following information to the treating medical personnel:

- (i) Copies of the applicable safety data sheet(s) and the product name(s), EPA registration number(s) and active ingredient(s) for each pesticide product to which the person may have been exposed.
- (ii) The circumstances of application or use of the pesticide.
- (iii) The circumstances that could have resulted in exposure to the pesticide.

(l) Ensure that persons directly employed by the commercial pesticide handling establishment do not clean, repair, or adjust pesticide application equipment, unless trained as a handler under Sec. 170.501. Before allowing any person not directly employed by the commercial pesticide handling establishment to clean, repair, or adjust equipment that has been used to mix, load, transfer, or apply pesticides, the commercial pesticide handler employer must provide all of the following information to such persons:

(1) Notice that the pesticide application equipment may be contaminated with pesticides.

(2) The potentially harmful effects of exposure to pesticides.

(3) Procedures for handling pesticide application equipment and for limiting exposure to pesticide residues.

(4) Personal hygiene practices and decontamination procedures for preventing pesticide exposures and removing pesticide residues.

(m) Provide any records or other information required by this part for inspection and copying upon request by an employee of EPA or any duly authorized representative of a Federal, State or Tribal government agency responsible for pesticide enforcement.

#### **Sec. 170.315 Prohibited actions.**

No agricultural employer, commercial pesticide handler employer, or other person involved in the use of a pesticide to which this part applies, shall intimidate, threaten, coerce, or discriminate against any worker or handler for complying with or attempting to comply with this part, or because the worker or handler provided, caused to be provided or is about to provide information to the employer or the EPA or any duly authorized representative of a Federal, State or Tribal government regarding conduct that the worker or handler reasonably believes violates this part, has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing concerning compliance with this part, or has objected to, or refused to participate in, any activity, policy, practice, or assigned task that the worker or handler reasonably believed to be in violation of this part. Any such intimidation, threat, coercion, or discrimination violates FIFRA section 12(a)(2)(G), 7 U.S.C. 136j(a)(2)(G).

#### **Sec. 170.317 Violations of this part.**

(a) Under FIFRA section 12(a)(2)(G), it is unlawful for any person "to use any registered pesticide in a manner inconsistent with its labeling." When this part is referenced on a label, users must comply with all of its requirements, except those that are inconsistent with product-specific instructions on the pesticide product labeling, except as provided for in Sec. 170.601, 170.603 and 170.607.

(b) A person who has a duty under this part, as referenced on the pesticide product labeling, and who fails to perform that duty, violates FIFRA section 12(a)(2)(G) and is subject to a civil penalty under section 14. A person who knowingly violates section 12(a)(2)(G) is subject to section 14 criminal sanctions.

(c) FIFRA section 14(b)(4) provides that a person is liable for a penalty under FIFRA if another person employed by or acting for that person violates any provision of FIFRA. The term "acting for" includes both employment and contractual relationships, including, but not limited to, labor contractors.

(d) The requirements of this part, including the decontamination requirements, must not, for the purposes of section 653(b)(1) of Title 29 of the U.S. Code, be deemed to be the exercise of statutory authority to prescribe or enforce standards or regulations affecting the

general sanitary hazards addressed by the OSHA Field Sanitation Standard, 29 CFR 1928.110, or other agricultural non-pesticide hazards.

**6. Subpart E is added to part 170 to read as follows:**

**Subpart E--Requirements for Protection of Agricultural Workers**

- Sec. 170.401 Training requirements for workers.
- Sec. 170.403 Establishment-specific information for workers.
- Sec. 170.405 Entry restrictions associated with pesticide applications.
- Sec. 170.407 Worker entry restrictions after pesticide applications.
- Sec. 170.409 Oral and posted notification of worker entry restrictions.
- Sec. 170.411 Decontamination supplies for workers.

**Sec. 170.401 Training requirements for workers.**

(a) General requirement. Before any worker performs any task in a treated area on an agricultural establishment where within the last 30 days a pesticide product has been used or a restricted-entry interval for such pesticide has been in effect, the agricultural employer must ensure that each worker has been trained in accordance with this section within the last 12 months, except as provided in paragraph (b) of this section.

(b) Exceptions. The following workers need not be trained under this section:

- (1) A worker who is currently certified as an applicator of restricted use pesticides under part 171 of this chapter.
- (2) A worker who has satisfied the handler training requirements in Sec. 170.501.
- (3) A worker who is certified or licensed as a crop advisor by a program acknowledged as appropriate in writing by EPA or the State or Tribal agency responsible for pesticide enforcement, provided that such certification or licensing requires pesticide safety training that includes all the topics in Sec. 170.501(c)(2) or Sec. 170.501(c)(3) as applicable depending on the date of training.

(c) Training programs.

(1) Pesticide safety training must be presented to workers either orally from written materials or audio-visually, at a location that is reasonably free from distraction and conducive to training. All training materials must be EPA-approved. The training must be presented in a manner that the workers can understand, such as through a translator. The training must be conducted by a person who meets the worker trainer requirements of paragraph (c)(4) of this section, and who must be present during the entire training program and must respond to workers' questions.

(2) The training must include, at a minimum, all of the following topics:

- (i) Where and in what form pesticides may be encountered during work activities.

- (ii) Hazards of pesticides resulting from toxicity and exposure, including acute and chronic effects, delayed effects, and sensitization.
- (iii) Routes through which pesticides can enter the body.
- (iv) Signs and symptoms of common types of pesticide poisoning.
- (v) Emergency first aid for pesticide injuries or poisonings.
- (vi) How to obtain emergency medical care.
- (vii) Routine and emergency decontamination procedures, including emergency eye flushing techniques.
- (viii) Hazards from chemigation and drift.
- (ix) Hazards from pesticide residues on clothing.
- (x) Warnings about taking pesticides or pesticide containers home.
- (xi) Requirements of this subpart designed to reduce the risks of illness or injury resulting from workers' occupational exposure to pesticides, including application and entry restrictions, the design of the warning sign, posting of warning signs, oral warnings, the availability of specific information about applications, and the protection against retaliatory acts.

(3) EPA intends to make available to the public training materials that may be used to conduct training conforming to the requirements of this section. Within 180 days after a notice of availability of such training materials appears in the Federal Register, but no earlier than January 1, 2018, training programs required under this section must include, at a minimum, all of the topics listed in Sec. 170.401(c)(3)(i)-(xxiii) instead of the topics listed in Sec. 170.401(c)(2)(i)-(xi).

- (i) The responsibility of agricultural employers to provide workers and handlers with information and protections designed to reduce work-related pesticide exposures and illnesses. This includes ensuring workers and handlers have been trained on pesticide safety, providing pesticide safety and application and hazard information, decontamination supplies and emergency medical assistance, and notifying workers of restrictions during applications and on entering pesticide treated areas. A worker or handler may designate in writing a representative to request access to pesticide application and hazard information.
- (ii) How to recognize and understand the meaning of the posted warning signs used for notifying workers of restrictions on entering pesticide treated areas on the establishment.
- (iii) How to follow directions and/or signs about keeping out of pesticide treated areas subject to a restricted-entry interval and application exclusion zones.

(iv) Where and in what forms pesticides may be encountered during work activities, and potential sources of pesticide exposure on the agricultural establishment. This includes exposure to pesticide residues that may be on or in plants, soil, tractors, application and chemigation equipment, or used personal protective equipment, and that pesticides may drift through the air from nearby applications or be in irrigation water.

(v) Potential hazards from toxicity and exposure that pesticides present to workers and their families, including acute and chronic effects, delayed effects, and sensitization.

(vi) Routes through which pesticides can enter the body.

(vii) Signs and symptoms of common types of pesticide poisoning.

(viii) Emergency first aid for pesticide injuries or poisonings.

(ix) Routine and emergency decontamination procedures, including emergency eye flushing techniques, and if pesticides are spilled or sprayed on the body to use decontamination supplies to wash immediately or rinse off in the nearest clean water, including springs, streams, lakes or other sources if more readily available than decontamination supplies, and as soon as possible, wash or shower with soap and water, shampoo hair, and change into clean clothes.

(x) How and when to obtain emergency medical care.

(xi) When working in pesticide treated areas, wear work clothing that protects the body from pesticide residues and wash hands before eating, drinking, using chewing gum or tobacco, or using the toilet.

(xii) Wash or shower with soap and water, shampoo hair, and change into clean clothes as soon as possible after working in pesticide treated areas.

(xiii) Potential hazards from pesticide residues on clothing.

(xiv) Wash work clothes before wearing them again and wash them separately from other clothes.

(xv) Do not take pesticides or pesticide containers used at work to your home.

(xvi) Safety data sheets provide hazard, emergency medical treatment and other information about the pesticides used on the establishment they may come in contact with. The responsibility of agricultural employers to do all of the following:

(A) Display safety data sheets for all pesticides used on the establishment.

(B) Provide workers and handlers information about the location of the safety data sheets on the establishment.

(C) Provide workers and handlers unimpeded access to safety data sheets during normal work hours.

(xvii) The rule prohibits agricultural employers from allowing or directing any worker to mix, load or apply pesticides or assist in the application of pesticides unless the worker has been trained as a handler.

(xviii) The responsibility of agricultural employers to provide specific information to workers before directing them to perform early-entry activities. Workers must be 18 years old to perform early-entry activities.

(xix) Potential hazards to children and pregnant women from pesticide exposure.

(xx) Keep children and nonworking family members away from pesticide treated areas.

(xxi) After working in pesticide treated areas, remove work boots or shoes before entering your home, and remove work clothes and wash or shower before physical contact with children or family members.

(xxii) How to report suspected pesticide use violations to the State or Tribal agency responsible for pesticide enforcement.

(xxiii) The rule prohibits agricultural employers from intimidating, threatening, coercing, or discriminating against any worker or handler for complying with or attempting to comply with the requirements of this rule, or because the worker or handler provided, caused to be provided or is about to provide information to the employer or the EPA or its agents regarding conduct that the employee reasonably believes violates this part, and/or made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing concerning compliance with this rule.

(4) The person who conducts the training must meet one of the following criteria:

(i) Be designated as a trainer of certified applicators, handlers or workers by EPA or the State or Tribal agency responsible for pesticide enforcement.

(ii) Have completed an EPA-approved pesticide safety train-the-trainer program for trainers of workers.

(iii) Be currently certified as an applicator of restricted use pesticides under part 171 of this chapter.

(d) Recordkeeping.

(1) For each worker required to be trained under paragraph (a), the agricultural employer must maintain on the agricultural establishment, for two years from the

date of the training, a record documenting each worker's training including all of the following:

- (i) The trained worker's printed name and signature.
- (ii) The date of the training.
- (iii) Information identifying which EPA-approved training materials were used.
- (iv) The trainer's name and documentation showing that the trainer met the requirements of Sec. 170.401(c)(4) at the time of training.
- (v) The agricultural employer's name.

(2) An agricultural employer who provides, directly or indirectly, training required under paragraph (a) must provide to the worker upon request a copy of the record of the training that contains the information required under Sec. 170.401(d)(1).

**Sec. 170.403 Establishment-specific information for workers.**

Before any worker performs any activity in a treated area on an agricultural establishment where within the last 30 days a pesticide product has been used, or a restricted-entry interval for such pesticide has been in effect, the agricultural employer must ensure that the worker has been informed of, in a manner the worker can understand, all of the following establishment-specific information:

- (a) The location of pesticide safety information required by Sec. 170.311(a).
- (b) The location of pesticide application and hazard information required by Sec. 170.311(b).
- (c) The location of decontamination supplies required by Sec. 170.411.

**Sec. 170.405 Entry restrictions associated with pesticide applications.**

- (a) Outdoor production pesticide applications.
  - (1) The application exclusion zone is defined as follows:
    - (i) The application exclusion zone is the area that extends 100 feet horizontally from the application equipment in all directions during application when the pesticide is applied by any of the following methods:
      - (A) Aerially.
      - (B) Air blast application.
      - (C) As a spray using a spray quality (droplet spectrum) of smaller than medium (volume median diameter of less than 294 microns).
      - (D) As a fumigant, smoke, mist, or fog.

(ii) The application exclusion zone is the area that extends 25 feet horizontally from the application equipment in all directions during application when the pesticide is applied not as in Sec. 170.405(a)(1)(i)(A)-(D) and is sprayed from a height of greater than 12 inches from the planting medium using a spray quality (droplet spectrum) of medium or larger (volume median diameter of 294 microns or greater).

(iii) There is no application exclusion zone when the pesticide is applied in a manner other than those covered in paragraphs (a)(1)(i) and (a)(1)(ii) of this section.

(2) During any outdoor production pesticide application, the agricultural employer must not allow or direct any worker or other person, other than an appropriately trained and equipped handler involved in the application, to enter or to remain in the treated area or an application exclusion zone that is within the boundaries of the establishment until the application is complete.

(3) After the application is complete, the area subject to the labeling-specified restricted-entry interval and the post-application entry restrictions specified in Sec. 170.407 is the treated area.

(b) Enclosed space production pesticide applications.

(1) During any enclosed space production pesticide application described in column A of the Table under paragraph (b)(4) of this section, the agricultural employer must not allow or direct any worker or other person, other than an appropriately trained and equipped handler involved in the application, to enter or to remain in the area specified in column B of the Table under paragraph (b)(4) of this section during the application and until the time specified in column C of the Table under paragraph (b)(4) of this section has expired.

(2) After the time specified in column C of the Table under paragraph (b)(4) of this section has expired, the area subject to the labeling-specified restricted-entry interval and the post-application entry restrictions specified in Sec. 170.407 is the area specified in column D of the Table under paragraph (b)(4) of this section.

(3) When column C of the Table under paragraph (b)(4) of this section specifies that ventilation criteria must be met, ventilation must continue until the air concentration is measured to be equal to or less than the inhalation exposure level required by the labeling. If no inhalation exposure level is listed on the labeling, ventilation must continue until after one of the following conditions is met:

(i) Ten air exchanges are completed.

(ii) Two hours of ventilation using fans or other mechanical ventilating systems.

(iii) Four hours of ventilation using vents, windows, or other passive ventilation.

(iv) Eleven hours with no ventilation followed by one hour of mechanical ventilation.

(v) Eleven hours with no ventilation followed by two hours of passive ventilation.

(vi) Twenty-four hours with no ventilation.

(4) The following Table applies to 170.405 paragraphs (b)(1), (2), and (3):

**Table -- Entry Restrictions During Enclosed Space Production Pesticide Applications**

<b>A. When a pesticide is applied:</b>	<b>B. Workers and other persons, other than appropriately trained and equipped handlers, are prohibited in:</b>	<b>C. Until:</b>	<b>D. After the expiration of time specified in column C, the area subject to the restricted-entry interval is:</b>
<b>(1)</b> As a fumigant.	Entire enclosed space plus any adjacent structure or area that cannot be sealed off from the treated area.	The ventilation criteria of 170.405 (b)(3) are met.	No post-application entry restrictions required by § 170.407 after criteria in column C are met.
<b>(2)</b> As a (i) Smoke, or (ii) Mist, or (iii) Fog, or (iv) As a spray using a spray quality (droplet spectrum) of smaller than medium (volume median diameter of less than 294 microns).	Entire enclosed space.	The ventilation criteria of 170.405 (b)(3) are met.	Entire enclosed space.
<b>(3)</b> Not as in (1) or (2), and <b>for which a respiratory protection device is required</b> for application by the pesticide product labeling.	Treated area plus 25 feet in all directions of the treated area, but not outside the enclosed space.	The ventilation criteria of 170.405 (b)(3) are met.	Treated area.
<b>(4)</b> Not as in (1), (2) or (3), and: (i) From a height of greater than 12 inches from the planting medium, or (ii) As a spray using a spray quality (droplet spectrum) of medium or larger (volume median diameter of 294 microns or greater).	Treated area plus 25 feet in all directions of the treated area, but not outside the enclosed space.	Application is complete.	Treated area.
<b>(5)</b> Otherwise.	Treated area.	Application is complete.	Treated area.

**Sec. 170.407 Worker entry restrictions after pesticide applications.**

(a) After the application of any pesticide to an area of outdoor production, the agricultural employer must not allow or direct any worker to enter or to remain in the treated area before the restricted-entry interval specified on the pesticide product labeling has expired and all treated area warning signs have been removed or covered, except for early-entry activities permitted by Sec. 170.603.

(b) After the application of any pesticide to an area of enclosed space production, the agricultural employer must not allow or direct any worker to enter or to remain in the areas specified in column D of the Table in Sec. 170.405(b)(4), before the restricted-entry interval specified on the pesticide product labeling has expired and all treated area warning signs have been removed or covered, except for early-entry activities permitted by Sec. 170.603.

(c) When two or more pesticides are applied to a treated area at the same time, the applicable restricted-entry interval is the longest of all applicable restricted-entry intervals.

**Sec. 170.409 Oral and posted notification of worker entry restrictions.**

(a) General Requirement. The agricultural employer must notify workers of all entry restrictions required by Sec. 170.405 and 170.407 in accordance with this section.

(1) Type of notification required.

(i) Double notification. If the pesticide product labeling has a statement requiring both the posting of treated areas and oral notification to workers, the agricultural employer must post signs in accordance with paragraph (b) of this section and must also provide oral notification of the application to workers in accordance with paragraph (c) of this section.

(ii) Outdoor production areas subject to restricted-entry intervals greater than 48 hours. If a pesticide with product labeling that requires a restricted-entry interval greater than 48 hours is applied to an outdoor production area, the agricultural employer must notify workers of the application by posting warning signs in accordance with paragraph (b) of this section.

(iii) Outdoor production areas subject to restricted-entry intervals equal to or less than 48 hours. If a pesticide with product labeling that requires a restricted-entry interval equal to or less than 48 hours is applied to an outdoor production area, the agricultural employer must notify workers of the application either by posting warning signs in accordance with paragraph (b) of this section or by providing workers with an oral warning in accordance with paragraph (c) of this section.

(iv) Enclosed space production areas subject to restricted-entry intervals greater than four hours. If a pesticide with product labeling that requires a restricted-entry interval greater than four hours is applied to an enclosed space production area, the agricultural employer must notify workers of the application by posting warning signs in accordance with paragraph (b) of this section.

(v) Enclosed space production areas subject to restricted-entry intervals equal to or less than four hours. If a pesticide with product labeling that requires a restricted-entry interval equal to or less than four hours is applied to an enclosed space production area, the agricultural employer must notify workers of the application either by posting warning signs in accordance with paragraph (b) of this section or by providing workers with an oral warning in accordance with paragraph (c) of this section.

(2) Exceptions. Notification does not need to be given to a worker if the agricultural employer can ensure that one of the following is met:

(i) From the start of the application in an enclosed space production area until the end of any restricted-entry interval, the worker will not enter any part of the entire enclosed structure or space.

(ii) From the start of the application to an outdoor production area until the end of any restricted-entry interval, the worker will not enter, work in, remain in, or pass on foot through the treated area or any area within  $\frac{1}{4}$  mile of the treated area on the agricultural establishment.

(iii) The worker was involved in the application of the pesticide as a handler, and is aware of all information required by paragraph (c)(1) of this section.

(b) Requirements for posted warning signs. If notification by posted warning signs is required pursuant to paragraph (a) of this section, the agricultural employer must, unless otherwise prescribed by the label, ensure that all warning signs meet the requirements of this paragraph. When several contiguous areas are to be treated with pesticides on a rotating or sequential basis, the entire area may be posted. Worker entry is prohibited for the entire area while the signs are posted, except for entry permitted by Sec. 170.603 of this part.

(1) General. The warning signs must meet all of the following requirements:

(i) Be one of the three sizes specified in paragraph (b)(3) of this section and comply with the posting placement and spacing requirements applicable to that sign size.

(ii) Be posted prior to but no earlier than 24 hours before the scheduled application of the pesticide.

(iii) Remain posted throughout the application and any restricted-entry interval.

(iv) Be removed or covered within three days after the end of the application or any restricted-entry interval, whichever is later, except that signs may remain posted after the restricted-entry interval has expired as long as all of the following conditions are met:

(A) The agricultural employer instructs any workers on the establishment that may come within  $\frac{1}{4}$  mile of the treated area not to enter that treated area while the signs are posted.

(B) The agricultural employer ensures that workers do not enter the treated area while the signs remain posted, other than entry permitted by Sec. 170.603 of this part.

(v) Remain visible and legible during the time they are required to be posted.

(2) Content.

(i) The warning sign must have a white background. The words "DANGER" and "PELIGRO," plus "PESTICIDES" and "PESTICIDAS," must be at the top of the sign, and the words "KEEP OUT" and "NO ENTRE" must be at the bottom of the sign. Letters for all words must be clearly legible. A circle containing an upraised hand on the left and a stern face on the right must be near the center of the sign. The inside of the circle must be red, except that the hand and a large portion of the face must be in white. The length of the hand must be at least twice the height of the smallest letters. The length of the face must be only slightly smaller than the hand. Additional information such as the name of the pesticide and the date of application may appear on the warning sign if it does not detract from the size and appearance of the sign or change the meaning of the required information. An example of a warning sign meeting these requirements, other than the size and color requirements, follows:



(ii) The agricultural employer may replace the Spanish language portion of the warning sign with equivalent terms in an alternative non-English language if that alternative language is the language read by the largest group of workers at that agricultural establishment who do not read English. The alternative language sign must be in the same format as the original sign and conform to all other requirements of paragraph (b)(2)(i) of this section.

(3) Size and posting.

(i) The standard sign must be at least 14 inches by 16 inches with letters at least one inch in height.

(ii) When posting an outdoor production area using the standard sign, the signs must be visible from all reasonably expected points of worker entry to the treated area, including at least each access road, each border with any worker housing area within 100 feet of the treated area and each footpath and other walking route that enters the treated area. Where there are no reasonably expected points of worker entry, signs must be posted in the corners of the treated area or in any other location affording maximum visibility.

(iii) When posting an enclosed space production area using the standard sign and the entire structure or space is subject to the labeling-specified restricted-entry interval and the post-application entry restrictions specified in Sec. 170.407, the signs must be posted so they are visible from all reasonably expected points of worker entry to the structure or space. When posting treated areas in enclosed space production using the standard sign and the treated area only comprises a subsection of the structure or space, the signs must be posted so they are visible from all reasonably expected points of worker entry to the treated area including each aisle or other walking route that enters the treated area. Where there are no reasonably expected points of worker entry to the treated area, signs must be posted in the corners of the treated area or in any other location affording maximum visibility.

(iv) If a smaller warning sign is used with "DANGER" and "PELIGRO" in letters at least 7/8 inch in height and the remaining letters at least 1/2 inch in height and a red circle at least three inches in diameter containing an upraised hand and a stern face, the signs must be posted no farther than 50 feet apart around the perimeter of the treated area in addition to the locations specified in paragraphs (b)(3)(ii) or (b)(3)(iii) of this section.

(v) If a smaller sign is used with "DANGER" and "PELIGRO" in letters at least 7/16 inch in height and the remaining letters at least 1/4 inch in height and a red circle at least one and a half inches in diameter containing an upraised hand and a stern face, the signs must be posted no farther than 25 feet apart around the perimeter of the treated area in addition to the locations specified in paragraphs (b)(3)(ii) or (b)(3)(iii) of this section.

(vi) A sign with "DANGER" and "PELIGRO" in letters less than 7/16 inch in height or with any words in letters less than 1/4 inch in height or a red circle smaller than one and a half inches in diameter containing an upraised hand and a stern face will not satisfy the requirements of the rule.

(c) Oral warnings--Requirement. If oral notification is required pursuant to paragraph (a) of this section, the agricultural employer must provide oral warnings to workers in a manner that the workers can understand. If a worker will be on the establishment when an application begins, the warning must be given before the application begins. If a worker arrives on the establishment while an application is taking place or a restricted-entry interval for a pesticide application is in effect, the warning must be given at the beginning of the worker's work period. The warning must include all of the following:

(1) The location(s) and description of any treated area(s) subject to the entry restrictions during and after application specified in Sec. 170.405 and 170.407.

(2) The dates and times during which entry is restricted in any treated area(s) subject to the entry restrictions during and after application specified in Sec. 170.405 and 170.407.

(3) Instructions not to enter the treated area or an application exclusion zone during application, and that entry to the treated area is not allowed until the restricted-entry interval has expired and all treated area warning signs have been removed or covered, except for entry permitted by Sec. 170.603 of this part.

**Sec. 170.411 Decontamination supplies for workers.**

(a) Requirement. The agricultural employer must provide decontamination supplies for routine washing and emergency decontamination in accordance with this section for any worker on an agricultural establishment who is performing an activity in an area where a pesticide was applied and who contacts anything that has been treated with the pesticide, including, but not limited to, soil, water, and plants.

(b) Materials and quantities. The decontamination supplies required in paragraph (a) of this section must include at least 1 gallon of water per worker at the beginning of each worker's work period for routine washing and emergency decontamination, soap, and single-use towels. The supplies must meet all of the following requirements:

(1) Water. At all times when this part requires agricultural employers to make water available to workers, the agricultural employer must ensure that it is of a quality and temperature that will not cause illness or injury when it contacts the skin or eyes or if it is swallowed. If a water source is used for mixing pesticides, it must not be used for decontamination, unless equipped with properly functioning valves or other mechanisms that prevent contamination of the water with pesticides, such as anti-backflow siphons, one-way or check valves, or an air gap sufficient to prevent contamination.

(2) Soap and single-use towels. The agricultural employer must provide soap and single-use towels for drying in quantities sufficient to meet the workers' reasonable needs. Hand sanitizing gels and liquids or wet towelettes do not meet the requirement for soap. Wet towelettes do not meet the requirement for single-use towels.

(c) Timing.

(1) If any pesticide with a restricted-entry interval greater than four hours was applied, the decontamination supplies must be provided from the time workers first enter the treated area until at least 30 days after the restricted-entry interval expires.

(2) If the only pesticides applied in the treated area are products with restricted-entry intervals of four hours or less, the decontamination supplies must be provided from the time workers first enter the treated area until at least seven days after the restricted-entry interval expires.

(d) Location. The decontamination supplies must be located together outside any treated area or area subject to a restricted-entry interval, and must be reasonably accessible to the workers. The decontamination supplies must not be more than 1/4 mile from where workers are working, except that where workers are working more than 1/4 mile from the nearest place of vehicular access or more than 1/4 mile from any non-treated area, the decontamination supplies may be at the nearest place of vehicular access outside any treated area or area subject to a restricted-entry interval.

7. *Subpart F is added to part 170 to read as follows:*

**Subpart F--Requirements for Protection of Agricultural Pesticide Handlers**

Sec. 170.501 Training requirements for handlers.

Sec. 170.503 Knowledge of labeling, application-specific, and establishment-specific information for handlers.

Sec. 170.505 Requirements during applications to protect handlers, workers, and other persons.

Sec. 170.507 Personal protective equipment.

Sec. 170.509 Decontamination and eye flushing supplies for handlers.

**Sec. 170.501 Training requirements for handlers.**

(a) General requirement. Before any handler performs any handler activity involving a pesticide product, the handler employer must ensure that the handler has been trained in accordance with this section within the last 12 months, except as provided in paragraph (b) of this section.

(b) Exceptions. The following handlers need not be trained under this section:

(1) A handler who is currently certified as an applicator of restricted use pesticides under part 171 of this chapter.

(2) A handler who is certified or licensed as a crop advisor by a program acknowledged as appropriate in writing by EPA or the State or Tribal agency responsible for pesticide enforcement, provided that a requirement for such certification or licensing is pesticide safety training that includes all the topics set out in Sec. 170.501(c)(2) or Sec. 170.501(c)(3) as applicable depending on the date of training.

(c) Training programs.

(1) Pesticide safety training must be presented to handlers either orally from written materials or audio-visually, at a location that is reasonably free from distraction and conducive to training. All training materials must be EPA-approved. The training must be presented in a manner that the handlers can understand, such as through a translator. The training must be conducted by a person who meets the handler trainer requirements of paragraph (c)(4) of this section, and who must be present during the entire training program and must respond to handlers' questions.

(2) The pesticide safety training materials must include, at a minimum, all of the following topics:

- (i) Format and meaning of information contained on pesticide labels and in labeling, including safety information such as precautionary statements about human health hazards.
- (ii) Hazards of pesticides resulting from toxicity and exposure, including acute and chronic effects, delayed effects, and sensitization.
- (iii) Routes by which pesticides can enter the body.
- (iv) Signs and symptoms of common types of pesticide poisoning.
- (v) Emergency first aid for pesticide injuries or poisonings.
- (vi) How to obtain emergency medical care.
- (vii) Routine and emergency decontamination procedures.
- (viii) Need for and appropriate use of personal protective equipment.
- (ix) Prevention, recognition, and first aid treatment of heat-related illness.
- (x) Safety requirements for handling, transporting, storing, and disposing of pesticides, including general procedures for spill cleanup.
- (xi) Environmental concerns such as drift, runoff, and wildlife hazards.
- (xii) Warnings about taking pesticides or pesticide containers home.
- (xiii) Requirements of this subpart that must be followed by handler employers for the protection of handlers and other persons, including the prohibition against applying pesticides in a manner that will cause contact with workers or other persons, the requirement to use personal protective equipment, the provisions for training and decontamination, and the protection against retaliatory acts.

(3) EPA intends to make available to the public training materials that may be used to conduct training conforming to the requirements of this section. Within 180 days after a notice of availability of such training materials appears in the Federal Register, but no earlier than January 1, 2018, training programs required under this section must include, at a minimum, all of the topics listed in Sec. 170.501(c)(3)(i)-(xiv) instead of the points listed in Sec. 170.501(c)(2)(i)-(xiii).

- (i) All the topics required by Sec. 170.401(c)(3).
- (ii) Information on proper application and use of pesticides.
- (iii) Handlers must follow the portions of the labeling applicable to the safe use of the pesticide.
- (iv) Format and meaning of information contained on pesticide labels and in labeling applicable to the safe use of the pesticide.

(v) Need for and appropriate use and removal of all personal protective equipment.

(vi) How to recognize, prevent, and provide first aid treatment for heat-related illness.

(vii) Safety requirements for handling, transporting, storing, and disposing of pesticides, including general procedures for spill cleanup.

(viii) Environmental concerns, such as drift, runoff, and wildlife hazards.

(ix) Handlers must not apply pesticides in a manner that results in contact with workers or other persons.

(x) The responsibility of handler employers to provide handlers with information and protections designed to reduce work-related pesticide exposures and illnesses. This includes providing, cleaning, maintaining, storing, and ensuring proper use of all required personal protective equipment; providing decontamination supplies; and providing specific information about pesticide use and labeling information.

(xi) Handlers must suspend a pesticide application if workers or other persons are in the application exclusion zone.

(xii) Handlers must be at least 18 years old.

(xiii) The responsibility of handler employers to ensure handlers have received respirator fit-testing, training and medical evaluation if they are required to wear a respirator by the product labeling.

(xiv) The responsibility of agricultural employers to post treated areas as required by this rule.

(4) The person who conducts the training must have one of the following qualifications:

(i) Be designated as a trainer of certified applicators or pesticide handlers by EPA or the State or Tribal agency responsible for pesticide enforcement.

(ii) Have completed an EPA-approved pesticide safety train-the-trainer program for trainers of handlers.

(iii) Be currently certified as an applicator of restricted use pesticides under part 171 of this chapter.

(d) Recordkeeping.

(1) Handler employers must maintain records of training for handlers employed by their establishment for two years after the date of the training. The records must be maintained on the establishment and must include all of the following information:

- (i) The trained handler's printed name and signature.
- (ii) The date of the training.
- (iii) Information identifying which EPA-approved training materials were used.
- (iv) The trainer's name and documentation showing that the trainer met the requirements of Sec. 170.501(c)(4) at the time of training.
- (v) The handler employer's name.

(2) The handler employer must, upon request by a handler trained on the establishment, provide to the handler a copy of the record of the training that contains the information required under Sec. 170.501(d)(1).

**Sec. 170.503 Knowledge of labeling, application-specific, and establishment-specific information for handlers.**

(a) Knowledge of labeling and application-specific information.

(1) The handler employer must ensure that before any handler performs any handler activity involving a pesticide product, the handler either has read the portions of the labeling applicable to the safe use of the pesticide or has been informed in a manner the handler can understand of all labeling requirements and use directions applicable to the safe use of the pesticide.

(2) The handler employer must ensure that the handler has access to the applicable product labeling at all times during handler activities.

(3) The handler employer must ensure that the handler is aware of requirements for any entry restrictions, application exclusion zones and restricted-entry intervals as described in Sec. 170.405 and 170.407 that may apply based on the handler's activity.

(b) Knowledge of establishment-specific information. Before any handler performs any handler activity on an agricultural establishment where within the last 30 days a pesticide product has been used, or a restricted-entry interval for such pesticide has been in effect, the handler employer must ensure that the handler has been informed, in a manner the handler can understand, all of the following establishment-specific information:

(1) The location of pesticide safety information required by Sec. 170.311(a).

(2) The location of pesticide application and hazard information required by Sec. 170.311(b).

(3) The location of decontamination supplies required by Sec. 170.509.

**Sec. 170.505 Requirements during applications to protect handlers, workers, and other persons.**

(a) Prohibition from contacting workers and other persons with pesticides during application. The handler employer and the handler must ensure that no pesticide is applied so as to contact, directly or through drift, any worker or other person, other than an appropriately trained and equipped handler involved in the application.

(b) Suspending applications. After January 1, 2018, the handler performing the application must immediately suspend a pesticide application if any worker or other person, other than an appropriately trained and equipped handler involved in the application, is in the application exclusion zone described in Sec. 170.405(a)(1) or the area specified in column B of the Table in Sec. 170.405(b)(4).

(c) Handlers using highly toxic pesticides. The handler employer must ensure that any handler who is performing any handler activity with a pesticide product that has the skull-and-crossbones symbol on the front panel of the pesticide product label is monitored visually or by voice communication at least every two hours.

(d) Fumigant applications in enclosed space production. The handler employer must ensure all of the following:

(1) Any handler in an enclosed space production area during a fumigant application maintains continuous visual or voice contact with another handler stationed immediately outside of the enclosed space.

(2) The handler stationed outside the enclosed space has immediate access to and uses the personal protective equipment required by the fumigant labeling for applicators in the event that entry becomes necessary for rescue.

**Sec. 170.507 Personal protective equipment.**

(a) Handler responsibilities. Any person who performs handler activities involving a pesticide product must use the clothing and personal protective equipment specified on the pesticide product labeling for use of the product, except as provided in Sec. 170.607 of this part.

(b) Employer responsibilities for providing personal protective equipment. The handler employer must provide to the handler the personal protective equipment required by the pesticide product labeling in accordance with this section. The handler employer must ensure that the personal protective equipment is clean and in proper operating condition. For the purposes of this section, long-sleeved shirts, short-sleeved shirts, long pants, short pants, shoes, and socks are not considered personal protective equipment, although such work clothing must be worn if required by the pesticide product labeling.

(1) If the pesticide product labeling requires that “chemical-resistant” personal protective equipment be worn, it must be made of material that allows no measurable movement of the pesticide being used through the material during use.

(2) If the pesticide product labeling requires that “waterproof” personal protective equipment be worn, it must be made of material that allows no measurable movement of water or aqueous solutions through the material during use.

(3) If the pesticide product labeling requires that a “chemical-resistant suit” be worn, it must be a loose-fitting, one- or two-piece chemical-resistant garment that covers, at a minimum, the entire body except head, hands, and feet.

(4) If the pesticide product labeling requires that “coveralls” be worn, they must be loose-fitting, one- or two-piece garments that cover, at a minimum, the entire body except head, hands, and feet.

(5) Gloves must be the type specified on the pesticide product labeling.

(i) Gloves made of leather, cotton, or other absorbent materials may not be worn while performing handler activities unless gloves made of these materials are listed as acceptable for such use on the pesticide product labeling.

(ii) Separable glove liners may be worn beneath chemical-resistant gloves, unless the pesticide product labeling specifically prohibits their use. Separable glove liners are defined as separate glove-like hand coverings, made of lightweight material, with or without fingers. Work gloves made from lightweight cotton or poly-type material are considered to be glove liners if worn beneath chemical-resistant gloves. Separable glove liners may not extend outside the chemical-resistant gloves under which they are worn. Chemical-resistant gloves with non-separable absorbent lining materials are prohibited.

(iii) If used, separable glove liners must be discarded immediately after a total of no more than 10 hours of use or within 24 hours of when first put on, whichever comes first. The liners must be replaced immediately if directly contacted by pesticide. Used glove liners must not be reused. Contaminated liners must be disposed of in accordance with any Federal, State, or local regulations.

(6) If the pesticide product labeling requires that “chemical-resistant footwear” be worn, one of the following types of footwear must be worn:

(i) Chemical-resistant shoes.

(ii) Chemical-resistant boots.

(iii) Chemical-resistant shoe coverings worn over shoes or boots.

(7) If the pesticide product labeling requires that “protective eyewear” be worn, one of the following types of eyewear must be worn:

(i) Goggles.

(ii) Face shield.

(iii) Safety glasses with front, brow, and temple protection.

(iv) Full-face respirator.

(8) If the pesticide product labeling requires that a “chemical-resistant apron” be worn, a chemical-resistant apron that covers the front of the body from mid-chest to the knees must be worn.

(9) If the pesticide product labeling requires that “chemical-resistant headgear” be worn, it must be either a chemical-resistant hood or a chemical-resistant hat with a wide brim.

(10) The respirator specified by the pesticide product labeling must be used. Whenever a respirator is required by the pesticide product labeling, the handler employer must ensure that the requirements of paragraphs (b)(10)(i) through (iii) of this section are met before the handler performs any handler activity where the respirator is required to be worn. The handler employer must maintain for two years, on the establishment, records documenting the completion of the requirements of paragraphs (b)(10)(i) through (iii) of this section.

(i) Handler employers must provide handlers with fit testing using the respirator specified on the pesticide product labeling in a manner that conforms to the provisions of 29 CFR 1910.134.

(ii) Handler employers must provide handlers with training in the use of the respirator specified on the pesticide product labeling in a manner that conforms to the provisions of 29 CFR 1910.134(k)(1)(i) through (vi).

(iii) Handler employers must provide handlers with a medical evaluation by a physician or other licensed health care professional that conforms to the provisions of 29 CFR 1910.134 to ensure the handler's physical ability to safely wear the respirator specified on the pesticide product labeling.

(c) Use of personal protective equipment.

(1) The handler employer must ensure that personal protective equipment is used correctly for its intended purpose and is used according to the manufacturer's instructions.

(2) The handler employer must ensure that, before each day of use, all personal protective equipment is inspected for leaks, holes, tears, or worn places, and any damaged equipment is repaired or discarded.

(d) Cleaning and maintenance.

(1) The handler employer must ensure that all personal protective equipment is cleaned according to the manufacturer's instructions or pesticide product labeling instructions before each day of reuse. In the absence of any such instructions, it must be washed thoroughly in detergent and hot water.

(2) If any personal protective equipment cannot or will not be cleaned properly, the handler employer must ensure the contaminated personal protective equipment is made unusable as apparel or is made unavailable for further use by employees or third parties. The contaminated personal protective equipment must be disposed of in accordance with any applicable laws or regulations. Coveralls or other absorbent materials that have been drenched or heavily contaminated with a pesticide that

has the signal word "DANGER" or "WARNING" on the label must not be reused and must be disposed of as specified in this paragraph. Handler employers must ensure that any person who handles contaminated personal protective equipment described in this paragraph wears the gloves specified on the pesticide product labeling for mixing and loading the product(s) comprising the contaminant(s) on the equipment. If two or more pesticides are included in the contaminants, the gloves worn must meet the requirements for mixing and loading all of the pesticide products.

(3) The handler employer must ensure that contaminated personal protective equipment is kept separate from non-contaminated personal protective equipment, other clothing or laundry and washed separately from any other clothing or laundry.

(4) The handler employer must ensure that all washed personal protective equipment is dried thoroughly before being stored or reused.

(5) The handler employer must ensure that all clean personal protective equipment is stored separately from personal clothing and apart from pesticide-contaminated areas.

(6) The handler employer must ensure that when filtering facepiece respirators are used, they are replaced when one of the following conditions is met:

(i) When breathing resistance becomes excessive.

(ii) When the filter element has physical damage or tears.

(iii) According to manufacturer's recommendations or pesticide product labeling, whichever is more frequent.

(iv) In the absence of any other instructions or indications of service life, at the end of eight hours of cumulative use.

(7) The handler employer must ensure that when gas- or vapor-removing respirators are used, the gas- or vapor-removing canisters or cartridges are replaced before further respirator use when one of the following conditions is met:

(i) At the first indication of odor, taste, or irritation.

(ii) When the maximum use time is reached as determined by a change schedule conforming to the provisions of 29 CFR 1910.134(d)(3)(iii)(B)(2).

(iii) When breathing resistance becomes excessive.

(iv) When required according to manufacturer's recommendations or pesticide product labeling instructions, whichever is more frequent.

(v) In the absence of any other instructions or indications of service life, at the end of eight hours of cumulative use.

(8) The handler employer must inform any person who cleans or launders personal protective equipment of all the following:

(i) That such equipment may be contaminated with pesticides and there are potentially harmful effects from exposure to pesticides.

(ii) The correct way(s) to clean personal protective equipment and how to protect themselves when handling such equipment.

(iii) Proper decontamination procedures that should be followed after handling contaminated personal protective equipment.

(9) The handler employer must ensure that handlers have a place(s) away from pesticide storage and pesticide use areas where they may do all of the following:

(i) Store personal clothing not worn during handling activities.

(ii) Put on personal protective equipment at the start of any exposure period.

(iii) Remove personal protective equipment at the end of any exposure period.

(10) The handler employer must not allow or direct any handler to wear home or to take home employer-provided personal protective equipment contaminated with pesticides.

(e) Heat-related illness. Where a pesticide's labeling requires the use of personal protective equipment for a handler activity, the handler employer must take appropriate measures to prevent heat-related illness.

**Sec. 170.509 Decontamination and eye flushing supplies for handlers.**

(a) Requirement. The handler employer must provide decontamination and eye flushing supplies in accordance with this section for any handler that is performing any handler activity or removing personal protective equipment at the place for changing required by Sec. 170.507(d)(9).

(b) General conditions. The decontamination supplies required in paragraph (a) of this section must include: at least three gallons of water per handler at the beginning of each handler's work period for routine washing and potential emergency decontamination; soap; single-use towels; and clean clothing for use in an emergency. The decontamination and eye flushing supplies required in paragraph (a) of this section must meet all of the following requirements:

(1) Water. At all times when this section requires handler employers to make water available to handlers for routine washing, emergency decontamination or eye flushing, the handler employer must ensure that it is of a quality and temperature that will not cause illness or injury when it contacts the skin or eyes or if it is swallowed. If a water source is used for mixing pesticides, it must not be used for decontamination or eye flushing supplies, unless equipped with properly

functioning valves or other mechanisms that prevent contamination of the water with pesticides, such as anti-backflow siphons, one-way or check valves, or an air gap sufficient to prevent contamination.

(2) Soap and single-use towels. The handler employer must provide soap and single-use towels for drying in quantities sufficient to meet the handlers' needs. Hand sanitizing gels and liquids or wet towelettes do not meet the requirement for soap. Wet towelettes do not meet the requirement for single-use towels.

(3) Clean change of clothing. The handler employer must provide one clean change of clothing, such as coveralls, for use in an emergency.

(c) Location. The decontamination supplies must be located together outside any treated area or area subject to a restricted-entry interval, and must be reasonably accessible to each handler during the handler activity. The decontamination supplies must not be more than 1/4 mile from the handler, except that where the handler activity is more than 1/4 mile from the nearest place of vehicular access or more than 1/4 mile from any non-treated area, the decontamination supplies may be at the nearest place of vehicular access outside any treated area or area subject to a restricted-entry interval.

(1) Mixing sites. Decontamination supplies must be provided at any mixing site.

(2) Exception for pilots. Decontamination supplies for a pilot who is applying pesticides aerially must be in the aircraft or at the aircraft loading site.

(3) Exception for treated areas. The decontamination supplies must be outside any treated area or area subject to a restricted-entry interval, unless the soap, single-use towels, water and clean change of clothing are protected from pesticide contamination in closed containers.

(d) Emergency eye-flushing.

(1) Whenever a handler is mixing or loading a pesticide product whose labeling requires protective eyewear for handlers, or is mixing or loading any pesticide using a closed system operating under pressure, the handler employer must provide at each mixing/loading site immediately available to the handler, at least one system that is capable of delivering gently running water at a rate of least 0.4 gallons per minute for at least 15 minutes, or at least six gallons of water in containers suitable for providing a gentle eye-flush for about 15 minutes.

(2) Whenever a handler is applying a pesticide product whose labeling requires protective eyewear for handlers, the handler employer must provide at least one pint of water per handler in portable containers that are immediately available to each handler.

8. *Subpart G is added to part 170 to read as follows:*

**Subpart G--Exemptions, Exceptions and Equivalency**

Sec. 170.601 Exemptions.

Sec. 170.603 Exceptions for entry by workers during restricted-entry intervals.

Sec. 170.605 Agricultural employer responsibilities to protect workers entering treated areas during a restricted-entry interval.

Sec. 170.607 Exceptions to personal protective equipment requirements specified on pesticide product labeling.

Sec. 170.609 Equivalency requests.

**Sec. 170.601 Exemptions.**

(a) Exemption for owners of agricultural establishments and their immediate families.

(1) On any agricultural establishment where a majority of the establishment is owned by one or more members of the same immediate family, the owner(s) of the establishment are not required to provide the protections of the following provisions to themselves or members of their immediate family when they are performing handling activities or tasks related to the production of agricultural plants that would otherwise be covered by this part on their own agricultural establishment.

(i) Section 170.309(c).

(ii) Section 170.309(f) through (j).

(iii) Section 170.311.

(iv) Section 170.401.

(v) Section 170.403.

(vi) Section 170.409.

(vii) Sections 170.411 and 170.509.

(viii) Section 170.501.

(ix) Section 170.503.

(x) Section 170.505(c) and (d).

(xi) Section 170.507(c) through (e).

(xii) Section 170.605(a) through (c) and (e) through (j).

(2) The owners of agricultural establishments must provide all of the applicable protections required by this part for any employees or other persons on the establishment that are not members of their immediate family.

(b) Exemption for certified crop advisors. Certified crop advisors may make their own determination for the appropriate personal protective equipment for entry into a treated area during a restricted-entry interval and substitute their self-determined set of personal protective equipment for the labeling-required personal protective equipment, and the requirements of Sec. 170.309(e), 170.309(f), 170.313(k), 170.503(a), 170.507 and

170.509 of this part do not apply to certified crop advisors provided the application is complete and all of the following conditions are met:

- (1) The crop advisor is certified or licensed as a crop advisor by a program acknowledged as appropriate in writing by EPA or a State or Tribal agency responsible for pesticide enforcement.
- (2) The certification or licensing program requires pesticide safety training that includes all the information in Sec. 170.501(c)(2) or Sec. 170.501(c)(3) as applicable depending on the date of training.
- (3) The crop advisor who enters a treated area during a restricted-entry interval only performs crop advising tasks while in the treated area.

**Sec. 170.603 Exceptions for entry by workers during restricted-entry intervals.**

An agricultural employer may direct workers to enter treated areas where a restricted-entry interval is in effect to perform certain activities as provided in this section, provided that the agricultural employer ensures all of the applicable conditions of this section and Sec. 170.605 of this part are met.

(a) Exception for activities with no contact. A worker may enter a treated area during a restricted-entry interval if the agricultural employer ensures that all of the following conditions are met:

- (1) The worker will have no contact with anything that has been treated with the pesticide to which the restricted-entry interval applies, including, but not limited to, soil, water, air, or surfaces of plants. This exception does not allow workers to perform any activities that involve contact with treated surfaces even if workers are wearing personal protective equipment.
- (2) No such entry is allowed until any inhalation exposure level listed in the pesticide product labeling has been reached or any ventilation criteria required by Sec. 170.405(b)(3) or the pesticide product labeling have been met.

(b) Exception for short-term activities. A worker may enter a treated area during a restricted-entry interval for short-term activities, if the agricultural employer ensures that all of the following requirements are met:

- (1) No hand labor activity is performed.
- (2) The time in treated areas where a restricted-entry interval is in effect does not exceed one hour in any 24-hour period for any worker.
- (3) No such entry is allowed during the first 4 hours after the application ends.
- (4) No such entry is allowed until any inhalation exposure level listed in the pesticide product labeling has been reached or any ventilation criteria required by Sec. 170.405(b)(3) or the pesticide product labeling have been met.

(c) Exception for an agricultural emergency.

(1) An agricultural emergency means a sudden occurrence or set of circumstances that the agricultural employer could not have anticipated and over which the agricultural employer has no control, that requires entry into a treated area during a restricted-entry interval, and when no alternative practices would prevent or mitigate a substantial economic loss. A substantial economic loss means a loss in profitability greater than that which would be expected based on the experience and fluctuations of crop yields in previous years. Only losses caused by the agricultural emergency specific to the affected site and geographic area are considered. Losses resulting from mismanagement cannot be included when determining whether a loss is substantial.

(2) A worker may enter a treated area where a restricted-entry interval is in effect in an agricultural emergency to perform tasks necessary to mitigate the effects of the agricultural emergency, including hand labor tasks, if the agricultural employer ensures that all the following criteria are met:

(i) The State department of agriculture, or the State or Tribal agency responsible for pesticide enforcement declares an agricultural emergency that applies to the treated area, or agricultural employer has determined that the circumstances within the treated area are the same as circumstances the State department of agriculture, or the State or Tribal agency responsible for pesticide enforcement has previously determined would constitute an agricultural emergency.

(ii) The agricultural employer determines that the agricultural establishment is subject to the circumstances that result in an agricultural emergency meeting the criteria of paragraph (c)(1) of this section.

(iii) If the labeling of any pesticide product applied to the treated area requires workers to be notified of the location of treated areas by both posting and oral notification, then the agricultural employer must ensure that no individual worker spends more than four hours out of any 24-hour period in treated areas where such a restricted-entry interval is in effect.

(iv) No such entry is allowed during the first 4 hours after the application ends.

(v) No such entry is allowed until any inhalation exposure level listed in the pesticide product labeling has been reached or any ventilation criteria required by Sec. 170.405(b)(3) or the pesticide product labeling have been met.

(d) Exceptions for limited contact and irrigation activities. A worker may enter a treated area during a restricted-entry interval for limited contact or irrigation activities, if the agricultural employer ensures that all of the following requirements are met:

(1) No hand labor activity is performed.

(2) No worker is allowed in the treated area for more than eight hours in a 24-hour period.

- (3) No such entry is allowed during the first 4 hours after the application ends.
- (4) No such entry is allowed until any inhalation exposure level listed in the pesticide product labeling has been reached or any ventilation criteria required by Sec. 170.405(b)(3) or the pesticide product labeling have been met.
- (5) The task is one that, if not performed before the restricted-entry interval expires, would cause substantial economic loss, and there are no alternative tasks that would prevent substantial loss.
- (6) With the exception of irrigation tasks, the need for the task could not have been foreseen.
- (7) The worker has no contact with pesticide-treated surfaces other than minimal contact with feet, lower legs, hands, and forearms.
- (8) The labeling of the pesticide product that was applied does not require that workers be notified of the location of treated areas by both posting and oral notification.

**Sec. 170.605 Agricultural employer responsibilities to protect workers entering treated areas during a restricted-entry interval.**

If an agricultural employer directs a worker to perform activities in a treated area where a restricted-entry interval is in effect, all of the following requirements must be met:

- (a) The agricultural employer must ensure that the worker is at least 18 years old.
- (b) Prior to early entry, the agricultural employer must provide to each early-entry worker the information described in paragraphs (b)(1) through (8) of this section. The information must be provided orally in a manner that the worker can understand.
  - (1) Location of early-entry area where work activities are to be performed.
  - (2) Pesticide(s) applied.
  - (3) Dates and times that the restricted-entry interval begins and ends.
  - (4) Which exception in Sec. 170.603 is the basis for the early entry, and a description of tasks that may be performed under the exception.
  - (5) Whether contact with treated surfaces is permitted under the exception.
  - (6) Amount of time the worker is allowed to remain in the treated area.
  - (7) Personal protective equipment required by the pesticide product labeling for early entry.
  - (8) Location of the pesticide safety information required by Sec. 170.311(a) and the location of the decontamination supplies required by Sec. 170.605(h).

(c) Prior to early entry, the agricultural employer must ensure that each worker either has read the applicable pesticide product labeling or has been informed, in a manner that the worker can understand, of all labeling requirements and statements related to human hazards or precautions, first aid, and user safety.

(d) The agricultural employer must ensure that each worker who enters a treated area during a restricted-entry interval is provided the personal protective equipment specified in the pesticide product labeling for early entry. The agricultural employer must ensure that the worker uses the personal protective equipment as intended according to manufacturer's instructions and follows any other applicable requirements on the pesticide product labeling. Personal protective equipment must conform to the standards in Sec. 170.507(b)(1) through (9).

(e) The agricultural employer must maintain the personal protective equipment in accordance with Sec. 170.507(c) and (d).

(f) The agricultural employer must ensure that no worker is allowed or directed to wear personal protective equipment without implementing measures sufficient to prevent heat-related illness and that each worker is instructed in the prevention, recognition, and first aid treatment of heat-related illness.

(g) The agricultural employer must instruct each worker on the proper use and removal of the personal protective equipment, and as appropriate, on its cleaning, maintenance and disposal. The agricultural employer must not allow or direct any worker to wear home or to take home employer-provided personal protective equipment contaminated with pesticides.

(h) During any early-entry activity, the agricultural employer must provide decontamination supplies in accordance with Sec. 170.509, except the decontamination supplies must be outside any area being treated with pesticides or subject to a restricted-entry interval, unless the decontamination supplies would otherwise not be reasonably accessible to workers performing early-entry tasks.

(i) If the pesticide product labeling of the product applied requires protective eyewear, the agricultural employer must provide at least one pint of water per worker in portable containers for eyeflushing that is immediately available to each worker who is performing early-entry activities.

(j) At the end of any early-entry activities the agricultural employer must provide, at the site where the workers remove personal protective equipment, soap, single-use towels and at least three gallons of water per worker so that the workers may wash thoroughly.

**Sec. 170.607 Exceptions to personal protective equipment requirements specified on pesticide product labeling.**

(a) Body protection.

(1) A chemical-resistant suit may be substituted for coveralls. If a chemical-resistant suit is substituted for coveralls, any labeling requirement for an additional layer of clothing beneath the coveralls is waived.

(2) A chemical-resistant suit may be substituted for coveralls and a chemical-resistant apron.

(b) Boots. If chemical-resistant footwear with sufficient durability and a tread appropriate for wear in rough terrain is not obtainable, then leather boots may be worn in such terrain.

(c) Gloves. If chemical-resistant gloves with sufficient durability and suppleness are not obtainable, then during activities with plants with sharp thorns, leather gloves may be worn over chemical-resistant glove liners. However, once leather gloves are worn for this use, thereafter they must be worn only with chemical-resistant liners and they must not be worn for any other use.

(d) Closed systems.

(1) When pesticides are being mixed or loaded using a closed system that meets all of the requirements in paragraph (d)(2) of this section, and the handler employer meets the requirements of paragraph (d)(3) of this section, the following exceptions to labeling-specified personal protective equipment are permitted:

(i) Handlers using a closed system to mix or load pesticides with a signal word of "DANGER" or "WARNING" may substitute a long-sleeved shirt, long pants, shoes and socks, chemical-resistant apron, protective eyewear, and any protective gloves specified on the labeling for handlers for the labeling-specified personal protective equipment.

(ii) Handlers using a closed system to mix or load pesticides other than those specified in paragraph (d)(1)(i) of this section may substitute protective eyewear, long-sleeved shirt, long pants, and shoes and socks for the labeling-specified personal protective equipment.

(2) The exceptions of paragraph (d)(1) of this section apply only in the following situations:

(i) Where the closed system removes the pesticide from its original container and transfers the pesticide product through connecting hoses, pipes and couplings that are sufficiently tight to prevent exposure of handlers to the pesticide product, except for the negligible escape associated with normal operation of the system.

(ii) When loading intact, sealed, water soluble packaging into a mixing tank or system. If the integrity of a water soluble packaging is compromised (for example, if the packaging is dissolved, broken, punctured, torn, or in any way allows its contents to escape), it is no longer a closed system and the labeling-specified personal protective equipment must be worn.

(3) The exceptions of paragraph (d)(1) of this section apply only where the handler employer has satisfied the requirements of Sec. 170.313 and all of the following conditions:

(i) Each closed system must have written operating instructions that are clearly legible and include: Operating procedures for use, including the safe

removal of a probe; maintenance, cleaning and repair; known restrictions or limitations relating to the system, such as incompatible pesticides, sizes (or types) of containers or closures that cannot be handled by the system; any limits on the ability to measure a pesticide; and special procedures or limitations regarding partially-filled containers.

(ii) The written operating instructions for the closed system must be available at the mixing or loading site and must be made available to any handlers who use the system.

(iii) Any handler operating the closed system must be trained in its use and operate the closed system in accordance with its written operating instructions.

(iv) The closed system must be cleaned and maintained as specified in the written operating instructions and as needed to make sure the system functions properly.

(v) All personal protective equipment specified in the pesticide product labeling is immediately available to the handler for use in an emergency.

(vi) Protective eyewear must be worn when using closed systems operating under pressure.

(e) Enclosed cabs.

(1) If a handler applies a pesticide from inside a vehicle's enclosed cab, and if the conditions listed in paragraph (e)(2) of this section are met, exceptions to the personal protective equipment requirements specified on the product labeling for applicators are permitted as provided in paragraph (e)(3) of this section.

(2) All of the personal protective equipment required by the pesticide product labeling for applicators must be immediately available and stored in a sealed container to prevent contamination. Handlers must wear the applicator personal protective equipment required by the pesticide product labeling if they exit the cab within a treated area during application or when a restricted-entry interval is in effect. Once personal protective equipment is worn in a treated area, it must be removed before reentering the cab to prevent contamination of the cab.

(3) Handlers may substitute a long-sleeved shirt, long pants, shoes and socks for the labeling-specified personal protective equipment for skin and eye protection. If a filtering facepiece respirator (NIOSH approval number prefix TC-84A) or dust/mist filtering respirator is required by the pesticide product labeling for applicators, then that respirator need not be worn inside the enclosed cab if the enclosed cab has a properly functioning air ventilation system which is used and maintained in accordance with the manufacture's written operating instructions. If any other type of respirator is required by the pesticide labeling for applicators, then that respirator must be worn.

(f) Aerial applications.

(1) Use of gloves. The wearing of chemical-resistant gloves when entering or leaving an aircraft used to apply pesticides is optional, unless such gloves are required on the pesticide product labeling. If gloves are brought into the cockpit of an aircraft that has been used to apply pesticides, the gloves shall be kept in an enclosed container to prevent contamination of the inside of the cockpit.

(2) Open cockpit. Handlers applying pesticides from an open cockpit aircraft must use the personal protective equipment specified in the pesticide product labeling for use during application, except that chemical-resistant footwear need not be worn. A helmet may be substituted for chemical-resistant headgear. A helmet with a face shield lowered to cover the face may be substituted for protective eyewear.

(3) Enclosed cockpit. Persons occupying an enclosed cockpit may substitute a long-sleeved shirt, long pants, shoes, and socks for labeling-specified personal protective equipment.

(g) Crop advisors.

(1) Provided the conditions of paragraphs (g)(2) through (g)(4) of this section are met, crop advisors and their employees entering treated areas to perform crop advising tasks while a restricted-entry interval is in effect may substitute either of the following sets of personal protective equipment for the personal protective equipment specified on the pesticide labeling for handler activities:

(i) The personal protective equipment specified on the pesticide product labeling for early entry.

(ii) Coveralls, shoes plus socks and chemical-resistant gloves made of any waterproof material, and eye protection if the pesticide product labeling applied requires protective eyewear for handlers.

(2) The application has been complete for at least four hours.

(3) No such entry is allowed until any inhalation exposure level listed in the pesticide product labeling has been reached or any ventilation criteria required by Sec. 170.405(b)(3) or the pesticide product labeling have been met.

(4) The crop advisor or crop advisor employee who enters a treated area during a restricted-entry interval only performs crop advising tasks while in the treated area.

**Sec. 170.609 Equivalency requests.**

(a) States and Tribes that have promulgated worker protection regulations to protect agricultural workers and pesticide handlers from occupational pesticide exposure effective prior to January 1, 2016, have the option of requesting authority to continue implementing any provision(s) of the State's or Tribe's existing regulations that provides equivalent or greater protection in lieu of implementing any similar provision(s) in this part.

(b) States or Tribes must submit requests for the authority to continue implementing State or Tribal regulation provision(s) in lieu of any similar provision(s) in this part by June 29,

2016. The request must be in the form of a letter from the State or Tribe to EPA that includes all of the following:

- (1) Identification of the provision(s) of this part for which the State or Tribe is requesting regulatory equivalency.
- (2) Appropriate documentation establishing that the pertinent State or Tribal worker protection provision(s) provides environmental and human health protection that meets or exceeds the protections provided by the identified provision(s) in this part.
- (3) Identification of any additional modifications to existing State or Tribal regulations that would be necessary in order to provide environmental and human health protection that meets or exceeds the similar provisions of this part, and an estimated timetable for the State or Tribe to effect these changes.
- (4) The expected economic impact of requiring compliance with the requirement(s) of this part in comparison with compliance with the State or Tribal requirement(s), and an explanation of why it is important that employers subject to the State or Tribal authority comply with the State or Tribal requirement(s) in lieu of similar provision(s) in this part.
- (5) The signature of the designated representative of the State or Tribal agency responsible for pesticide enforcement.

(c) EPA's Office of Pesticide Programs will review the State's or Tribe's letter and supporting materials and determine whether the State or Tribal provision(s) provide environmental and human health protection that meets or exceeds the comparable provision(s) of this part.

(d) EPA's Office of Pesticide Programs will inform the State or Tribe of its determination through a letter. The letter will either:

- (1) Authorize the State or Tribe to continue implementing its worker protection regulatory provision(s) in lieu of the comparable provision(s) of this part; or
- (2) Deny the State or Tribe authorization to continue implementing its worker protection regulatory provision(s) in lieu of the comparable provision(s) of this part and detail any reasons for declining authorization.

(e) Subsequent revisions. Any State or Tribe that has received authorization from EPA through the process outlined in this section to continue implementing its State or Tribal worker protection regulatory provision(s) must inform EPA by letter within six months of any revision to the State or Tribal worker protection laws or regulations. The letter must contain the same information outlined in paragraph (b) of this section. The State or Tribe may continue implementing provisions of its worker protection regulations identified under paragraph (b) of this section unless and until EPA informs the State or Tribe through a letter that EPA has determined that the State's or Tribe's worker protection regulations no longer provide environmental and human health protection that meets or exceeds the comparable provision(s) of this part based on the revisions.