



# Worker Protection Standard

## *Application Exclusion Zone - FAQs*

### What is the Worker Protection Standard?

The U.S. Environmental Protection Agency's (EPA) Worker Protection Standard (WPS) aims to reduce the risk of pesticide poisoning among agricultural workers and pesticide handlers. Oregon OSHA enforces the WPS in the state. The standard covers agricultural workers (people involved in the production of agricultural plants) and pesticide handlers (people who mix, load, or apply pesticides used in the production of agricultural plants) who work on farms, forests, nurseries, and enclosed spaces (greenhouses).

### What is the Application Exclusion Zone?

The EPA's Application Exclusion Zone (AEZ) is adjacent to – but outside of – the pesticide-treated area itself. The zone provides an additional level of protection beyond those protections enforced with respect to the treated area. The zone surrounds and moves with pesticide-spray equipment during applications. It must be free of all people other than appropriately trained and equipped pesticide handlers.

### What is Oregon OSHA doing about the AEZ?

Oregon OSHA has adopted rules that increase protections against pesticide drift when pesticides are being applied outdoors. The rules include additional safeguards to protect workers and their families who live on farms from such a potential hazard. The changes are part of a broader effort to reduce the risk of pesticide exposure among agricultural workers and pesticide handlers.

Drift outside a treated area is already illegal. However, it can happen during pesticide applications, when droplets or dust move away from the target site. In bolstering protections during outdoor pesticide applications, Oregon OSHA's rules provide additional protections for workers and their families living adjacent to treated fields.

Specifically, Oregon OSHA's rules add safeguards to the EPA's AEZ. Under our rules, for example, the AEZ is 100 feet when the pesticide applicator is not required to use a respirator. People must stay out of the AEZ for an additional 15 minutes, either by staying indoors or remaining evacuated. The AEZ expands to 150 feet when the pesticide applicator is required to use a respirator. People must stay out of the AEZ for an additional 15 minutes; there is no option to stay indoors.

Other additional requirements include closing doors and windows, and air intakes before people evacuate or remain inside an enclosed agricultural structure, and providing closable storage areas for shoes or boots to prevent tracking of pesticides into worker housing.

### **But didn't Oregon OSHA already adopt WPS rules not that long ago?**

Yes. The rules adding safeguards to the AEZ complement – and complete – last year's revisions to the WPS. Last year's changes affected areas such as worker notifications, frequency of training, and trainer qualifications. Changes made by the EPA that were already in effect in Oregon include respiratory protection, hazard communication, and emergency eye-washing requirements.

### **What's the point of all of these rule changes?**

Although pesticides are a necessity in many workplaces, they also represent varying levels of risks to workers and others, depending on both the particular pesticide used and the circumstances of the application.

Overall, the WPS provides numerous protective measures to reduce those risks. However, the risk of unintended exposures, due to chemicals drifting away from the target site, can create exposure to workers outside the application area.

In the case of worker housing, such exposure can also involve the workers' family members. Oregon OSHA's rules address this potential by adding protective measures to reduce this risk. The rule changes are expected to lead to an overall reduction in incidents of unsafe pesticide exposure and to improve the workplace health of agricultural workers and pesticide handlers.

### **Did Oregon OSHA consider public input before adopting these rules?**

Yes. Oregon OSHA used a transparent decision-making process that included public hearings, an advisory committee, and a financial impact analysis conducted by a committee of both grower and worker representatives. The Division also examined all written and verbal comments that were received during the comment period before taking action.

### **Why did Oregon OSHA delay a decision on the AEZ rules and instead extend the public comment period?**

Oregon OSHA extended the comment period after deciding to appoint a Fiscal Impact Advisory Committee (FIAC) in order to allow it to complete its work. Then we extended the comment period a second time when the FIAC took longer than we had originally hoped. And we extended the comment period a final time after the FIAC recommended relatively modest changes to the original Fiscal Impact Statement, and after we had filed an amended statement. So all of the delays were the result of the work of the FIAC, although it did mean that we were able to receive and consider additional comments on the rule.

### **Why didn't Oregon OSHA just create a no-spray buffer zone around housing and related areas?**

The housing is already outside the pesticide-treated area and any application within the housing area would need to be done according to the full requirements of the pesticide label. The AEZ is an additional restriction that applies outside the treated area. Oregon OSHA never considered banning the application of a legal pesticide used according to the requirements of its label. It is not at all clear that Oregon's OSHA's rulemaking authority under the Oregon Safe Employment Act would enable us to enact such a ban.

**But didn't the EPA adopt a buffer zone around worker housing where pesticides cannot be applied? Don't your rules ignore the EPA's AEZ?**

No. The EPA has not adopted a no-spray buffer zone around worker housing. And, in fact, our rules add protections to the AEZ.

The EPA rule requires that workers be evacuated to a distance of 100 feet from the spray equipment until the equipment has moved on. Since this AEZ is outside the treated area, the pesticide label's re-entry interval does not apply and workers can return

immediately as soon as the equipment moves past. By contrast, Oregon OSHA requires evacuation to 150 feet – 50 feet more than the EPA rule – when the pesticide applicator is required to use a respirator. And for most situations our rules also require evacuation to last at least 15 minutes after the spray equipment (aerially and air blast sprayer) has moved on, rather than end immediately, as is the case with the EPA rule.

**Why does Oregon OSHA's 100-foot AEZ give people the option to stay indoors, rather than evacuate? How do you know that a structure will provide adequate protection against the potential hazard of pesticide drift?**

The option to stay indoors is part of a larger regulatory framework that Oregon OSHA adopted to provide both more protections for workers and more flexibility for growers than the EPA rule.

While worker housing and other structures cannot substitute for a respirator, even such structures that are not weathertight can provide an additional barrier against skin contact.

That's why the option to stay indoors is available only with regard to pesticides that do not pose a breathing hazard.

When the pesticide applicator is required to use a respirator, the AEZ expands from 100 feet to 150 feet and people must evacuate – there is no option to stay indoors.

To be sure, the option to stay indoors should not be viewed in isolation. For all pesticide applications, doors and windows must be shut, and air intakes must be turned off. Other

requirements include closeable storage areas for shoes and boots to prevent tracking of pesticides into worker housing. And in both the 100- and 150-foot AEZ scenarios, people must stay out of the zone for an additional 15 minutes, a window that allows time for spray to settle.

These and other requirements exceed the EPA's rule.

Moreover, worker housing is often intentionally designed to provide ventilation. The risk of pesticide exposure from even these vents is minimal. And the likelihood that any significant amount of chemical would travel up under the eaves and then down to actually land on a worker's exposed arm or body part is extremely low.

Furthermore, farmers usually try to spray in the early morning hours when the wind is most calm. Allowing workers to stay indoors, rather than evacuate, minimizes disruption to their lives during such hours.

**Why not just send farmworkers to motel rooms during evacuations when pesticide applications occur?**

The specific proposal to send farmworkers to motels was never endorsed by Oregon OSHA, although it, and its likely cost, did receive a good deal of attention by grower organizations after the suggestion was made by worker advocates.

Other issues aside, there would be considerable practical difficulties involved in enforcing such a rule in relation to housing that is not required under state law and that can be closed by the grower at any time and for almost any reason.

**The AEZ applies only to people, not housing, correct?**

The AEZ applies to people whether or not structures are involved. The original EPA rule on which it was based did not address the question of housing or other structures adjacent to agricultural crops.

**Will the AEZ apply to my neighbor's property or the county road next to my farm?**

No. The AEZ only applies within the boundaries of the establishment. The agricultural employer is not expected to control people off the establishment.

**For pesticides that require applicators to use respirators, the AEZ expands to 150 feet – 50 feet more than the EPA rule. Why?**

First, the reason that evacuations are required is because worker housing and other structures cannot necessarily substitute for a respirator, while such structures can provide protection against skin contact.

The reason for the larger AEZ is our recognition both that respiratory hazards frequently represent both chronic as well as acute risks, and that drift, if it occurs, can certainly extend that distance.

**During an evacuation from the AEZ, would people need to be transported somewhere else?**

Our rules do not require anything beyond the removal of workers and others from the AEZ, whether the zone results in removal from a field, housing, or another farm structure.

**Some growers say they will remove several rows of trees to create a buffer between worker housing and the AEZ, rather than evacuate workers and their families. Why didn't Oregon OSHA consider the cost of this in the fiscal impact statement?**

The Fiscal Impact Statement assesses the cost of complying with the rule. As Oregon OSHA explained to the FIAC in response to the letter objecting to the original Fiscal Impact Statement, the proposed rule does not require the removal of trees and such removal is not a necessary result of compliance with the rule.

No members of the FIAC proposed actual changes to the Fiscal Impact Statement based on this concern. And while one member of the FIAC did not support the committee's final recommendation because of it, the other six members all supported the Fiscal Impact Statement without additional changes beyond those reflected in the revision Oregon OSHA filed as a result of their work.



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