

**(Effective until February 3, 2020)**

**WAC 296-307-11005 Definitions—Worker protection standards—40 C.F.R., § 170.3.** 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 emergency" means a sudden occurrence or set of circumstances which the agricultural employer could not have anticipated and over which the agricultural employer has no control, and which requires entry into a pesticide treated area during a restricted-entry interval, when no alternative practices would prevent or mitigate a substantial economic loss.

"Agricultural employer" means any person who hires or contracts for the services of workers, for any type of compensation, to perform activities related to the production of agricultural plants, or any person who is an owner of or is responsible for the management or condition of an agricultural establishment that uses such workers.

*Note: This definition does not conflict with the definition of employer in WAC 296-307-012.*

"Agricultural establishment" means any farm, forest, nursery, or greenhouse.

"Agricultural plant" means any plant grown or maintained for commercial or research purposes and includes, but is not limited to, food, feed, and fiber plants; trees; turfgrass; flowers, shrubs; ornamentals; and seedlings.

"Animal premise" means the actual structure used to house, cage or confine animals such as: Barns, poultry houses, mink sheds, corrals, or structures used for shelter.

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

"Commercial pesticide handling establishment" means any establishment, other than an agricultural establishment, that:

- Employs any person, including a self-employed person, to apply on an agricultural establishment, pesticides used in the production of agricultural plants.

- Employs any person, including a self-employed person, to perform on an agricultural establishment, tasks as a crop advisor.

"Crop advisor" means any person who is assessing pest numbers or damage, pesticide distribution, or the status or requirements of agricultural plants and who holds a current Washington state department of agriculture commercial consultant license in the agricultural areas in which they are advising. The term does not include any person who is performing hand labor tasks.

"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.

"Farm" means any operation, other than a nursery or forest, engaged in the outdoor production of agricultural plants.

"Forest" means any operation engaged in the outdoor production of any agricultural plant to produce wood fiber or timber products.

"Fumigant" means any pesticide product that is a vapor or gas, or forms a vapor or gas on application, and whose method of pesticidal action is through the gaseous state.

"Greenhouse" means any operation engaged in the production of agricultural plants inside any structure or space that is enclosed with

nonporous covering and that is of sufficient size to permit worker entry. This term includes, but is not limited to, polyhouses, mushroom houses, rhubarb houses, and similar structures. It does not include such structures as malls, atriums, conservatories, arboretums, or office buildings where agricultural plants are present primarily for aesthetic or climatic modification.

"Hand labor" means any agricultural activity performed by hand or with hand tools that causes a worker to have substantial contact with surfaces (such as plants, plant parts, or soil) that may contain pesticide residues. These activities include, but are not limited to, harvesting, detasseling, thinning, weeding, topping, planting, sucker removal, pruning, disbudding, roguing, and packing produce into containers in the field. Hand labor does not include operating, moving, or repairing irrigation or watering equipment or performing the tasks of crop advisors.

"Handler" means any person, including a self-employed person:

- Who is employed for any type of compensation by an agricultural establishment or commercial pesticide handling establishment to which WAC 296-307-130 applies and who is:

- Mixing, loading, transferring, or applying pesticides.
- Disposing of pesticides or pesticide containers.
- Handling opened containers of pesticides.
- Acting as a flagger.
- Cleaning, adjusting, handling, or repairing the parts of mixing, loading, or application equipment that may contain pesticide residues.

- Assisting with the application of pesticides.

- Entering a greenhouse or other enclosed area after the application and before the inhalation exposure level listed in the labeling has been reached or one of the ventilation criteria established by WAC 296-307-12015 (3) (c) or in the labeling has been met:

- ◆ To operate ventilation equipment.
- ◆ To adjust or remove coverings used in fumigation.
- ◆ To monitor air levels.

- Entering a treated area outdoors after application of any soil fumigant to adjust or remove soil coverings such as tarpaulins.

- Performing tasks as a crop advisor:

- ◆ During any pesticide application.
- ◆ Before the inhalation exposure level listed in the labeling has been reached or one of the ventilation criteria established by WAC 296-307-12015 (3) (c) or in the labeling has been met.

- ◆ During any restricted-entry interval.

- The term does not include any person who is only handling pesticide containers that have been emptied or cleaned according to pesticide product labeling instructions or, in the absence of such instructions, have been subjected to triple-rinsing or its equivalent.

"Handler employer" means any person who is self-employed as a handler or who employs any handler, for any type of compensation.

"Immediate family" includes only spouse, children, stepchildren, foster children, parents, stepparents, foster parents, brothers, and sisters.

"Nursery" means any operation engaged in the outdoor production of any agricultural plant to produce cut flowers and ferns or plants that will be used in their entirety in another location. Such plants include, but are not limited to, flowering and foliage plants or trees; tree seedlings; live Christmas trees; vegetable, fruit, and ornamental transplants; and turfgrass produced for sod.

"Owner" means any person who has a present possessory interest (fee, leasehold, rental, or other) in an agricultural establishment covered by this chapter. 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.

"Restricted-entry interval" means the time after the end of a pesticide application during which entry into the treated area is restricted.

"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. The contribution of mismanagement cannot be considered in determining the loss.

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

"Worker" means any person, including a self-employed person, who is employed for any type of compensation and who is performing activities relating to the production of agricultural plants on an agricultural establishment to which WAC 296-307-120 applies. While persons employed by a commercial pesticide handling establishment are performing tasks as crop advisors, they are not workers covered by the requirements of WAC 296-307-120.

[Statutory Authority: RCW 49.17.040. WSR 98-24-096, § 296-307-11005, filed 12/1/98, effective 3/1/99. WSR 97-09-013, recodified as § 296-307-11005, filed 4/7/97, effective 4/7/97. Statutory Authority: RCW 49.17.040, [49.17.]050 and [49.17.]060. WSR 96-20-082, § 296-306A-11005, filed 9/30/96, effective 11/1/96.]