

WAC 16-233-016 Definitions—40 C.F.R., § 170.305. Terms used in this chapter 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 chapter, shall have the following meanings:

(1) "Agricultural emergency" for agricultural emergencies see WAC 16-233-306(3).

(2) "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.

(3) "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.

(4) "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.

(5) "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.

(6) "Chemigation" means the application of pesticides through irrigation systems.

(7) "Closed system" means an engineering control used while removing pesticide contents from its original container, preventing the pesticide from contacting handlers. It is used to protect handlers or other persons from pesticide exposure hazards when mixing and loading pesticides. When used properly and as intended, water-soluble packaging may qualify as a type of closed system.

(8) "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.

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

(10) "Crop advisor" means any person who is assessing pest numbers, 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.

(11) "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 WAC 16-233-021(8) in accordance with WAC 16-233-026(2).

(12) "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.

(13) "Employ" means to obtain, directly or through a labor contractor, the services of a person in exchange for any type of compensation including a salary, wages, or 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.

(14) "Enclosed cab" means a cab with a nonporous barrier that totally surrounds the occupant(s) of the cab and prevents contact with pesticides that are being applied outside of the cab. Refer to WAC 16-233-316(5).

(15) "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 or that is covered and enclosed in a way that would obstruct natural airflow, and that is large enough to permit a person to enter. Structures, with a cover that does not have any walls such as shade houses made of fencing or fabric to provide shade on plants that do not obstruct airflow, are not considered enclosed spaces.

(16) "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.

(17) "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) and other surfaces 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 performing crop advisor tasks or operating, moving, or repairing irrigation or watering equipment. For irrigation or watering equipment used during chemigation see handler activities.

(18) "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:

(a) Mixing, loading, or applying pesticides.

(b) Disposing of pesticides.

(c) 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.

(d) Acting as a flagger.

(e) Cleaning, adjusting, handling, or repairing the parts of mixing, loading, or application equipment that may contain pesticide residues, including irrigation equipment used for chemigation.

(f) Assisting with the application of pesticides.

(g) 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 in WAC 16-233-111 (2)(c) or the labeling has been met to operate ventilation equipment, monitor air levels, or adjust or remove coverings used in fumigation.

(h) 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.

(i) 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 in WAC 16-233-111 (2)(c) or the pesticide product labeling has been met, and either inhalation exposure levels are below permissible exposure limits (PELs) in WAC 296-307-624, Part Y-6 Respiratory hazards, or respiratory protection is provided and worn according to the requirements in WAC 296-307-594, Part Y-5 Respirators.

(19) "Handler employer" means any person who is self-employed as a handler or who employs any handler.

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

(21) "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.

(22) "Outdoor production" means production of an agricultural plant in an outside area that is not enclosed or covered in any way by nonporous material. This includes shade houses without sides.

(23) "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 chapter.

(24) "Personal protective equipment" or "PPE" means devices, appliances or apparel that are worn to protect the body from exposure to safety and health hazards. PPE that protects against chemical hazards such as 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.

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

(26) "Safety data sheet" or "SDS" means written or printed material concerning a hazardous chemical that is prepared in accordance with WAC 296-901-14014.

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

(28) "Use," as in "to use a pesticide" means any of the following:

(a) 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.

(b) Application of the pesticide.

(c) 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.

(d) 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.

(29) "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.

(30) "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.

[Statutory Authority: RCW 15.58.040 and 17.21.030. WSR 20-21-029, § 16-233-016, filed 10/12/20, effective 11/12/20. Statutory Authority: RCW 15.58.040, 17.21.030 and chapter 34.05 RCW. WSR 18-01-054, § 16-233-016, filed 12/13/17, effective 1/13/18.]