

WSR 20-08-036
EXPEDITED RULES
DEPARTMENT OF LICENSING

[Filed March 24, 2020, 11:29 a.m.]

Title of Rule and Other Identifying Information: WAC 308-100-033 Minimum training requirements, and 308-100-035 Employer certification.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The Federal Motor Carrier Safety Administration (FMCSA) has delayed the implementation of the Training Provider Registry established under 49 C.F.R. 380.700 and requirements for approving commercial driver's license (CDL) applicants skills and training by FMCSA registered Training Providers set forth in the same rule. Therefore, the department must update its rule to reflect the federal implementation date which has moved from February 7, 2020, to February 7, 2022. This will extend the deadline for requiring CDL training providers to register with FMCSA and the requirement of CDL applicants to have their skills and training provided by a [an] FMCSA registered training provider.

Reasons Supporting Proposal: The department is proposing these new changes to comply with FMCSA's implementation of 49 C.F.R. 380-700. If these proposed rules were not adopted CDL skills and training providers would believe they were required to register with FMSCA two years prior to the required deadline, CDL applicants would be misled about being required to have an FMCSA registered training provider administer their education, and the department's WAC would inaccurately reflect federal law.

Statutory Authority for Adoption: RCW 46.01.110 and 46.25.085.

Statute Being Implemented: The department is proposing these new changes to comply with FMCSA's implementation of 49 C.F.R. 380-700.

Rule is necessary because of federal law, 49 C.F.R. 380-700.

Name of Proponent: FMCSA, governmental.

Name of Agency Personnel Responsible for Drafting: Ellis Starrett, 1125 Washington Street S.E., Olympia, WA 98501, 360-902-3846; Implementation and Enforcement: Tandy Alexander, 1125 Washington Street S.E., Olympia, WA 98501, 360-902-3893.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Not applicable. This is a minor change that will result in an extension of a deadline that will benefit Washington state CDL training providers and applicants.

This notice meets the following criteria to use the expedited adoption process for these rules:

Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule.

Content is explicitly and specifically dictated by statute.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: The rule updates the effective date of FMCSA regulations. The requirements set forth in this rule have not changed, the implementation date has been delayed by two years. The content is explicitly and specifically dictated by the federal regulation.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Ellis Starrett, Department of Licensing, 1125 Washington Street S.E., Olympia, WA 98501, phone 360-902-3846, email RulesCoordinator@DOL.WA.GOV, estarrett@dol.wa.gov, AND RECEIVED BY June 1, 2020.

March 24, 2020
 Damon Monroe
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 20-02-087, filed 12/30/19, effective 1/30/20)

WAC 308-100-033 Minimum training requirements.

(1) Approval for a course of instruction in the operation of a commercial motor vehicle will only be granted if the course of instruction:

(a) Is provided by, and under the direct supervision of, a training provider that has an application with the department approving the course of instruction offered by the training provider. Beginning on February 7, ((2020)) 2022, the training provider must also be listed on the Federal Motor Carrier Safety Administration's Training Provider Registry that is established under 49 C.F.R. 380.700; and

(b) **Class A course - Minimum requirements for approval:** A course of instruction for students seeking a class A CDL must follow the class A training curriculum defined in C.F.R. Appendix A to Part 380 as it existed on the (effective date of the WAC). The course must include not less than:

- (i) Forty hours of classroom instruction;
- (ii) Eighteen hours of street driving training;
- (iii) Sixteen hours of training in backing maneuvers;
- (iv) Sixteen hours of proficiency development; and
- (v) Seventy hours of combined lab training, range training, and observation.

(c) **Class B course - Minimum Requirements:** A course of instruction for students seeking a class B CDL must follow the class B training curriculum defined in C.F.R. Appendix B to Part 380 as it existed on the (effective date of the WAC). The course must include not less than:

- (i) Forty hours of classroom instruction;
- (ii) Fourteen hours of street driving training;
- (iii) Eight hours of training in backing maneuvers;

(iv) Eight hours of proficiency development; and
 (v) Ten hours of combined lab training, range training, and observation.

(d) **Class C course - Minimum requirements:** A course of instruction for students seeking a class C CDL must follow the class B training curriculum defined in C.F.R. Appendix B to Part 380 as it existed on the (effective date of the WAC). The course must include not less than:

(i) Forty hours of classroom instruction;
 (ii) Fourteen hours of street driving training;
 (iii) Eight hours of training in backing maneuvers;
 (iv) Eight hours of proficiency development; and
 (v) Ten hours of combined lab training, range training, and observation.

(e) **Upgrade from either class B or C to class A - Minimum requirements:** A course of instruction for students seeking to upgrade from a class B or C to a class A must follow the class A behind the wheel training curriculum defined in C.F.R. Appendix A to Part 380 as it existed on the (effective date of the WAC). The course must include not less than:

(i) Eighteen hours of street driving training;
 (ii) Sixteen hours of training in backing maneuvers;
 (iii) Sixteen hours of proficiency development; and
 (iv) Thirty hours of combined lab training, range training, and observation.

(f) **Upgrade from a class C to class B - Minimum requirements:** A course of instruction for students seeking to upgrade from a class C to a class B must follow the class B behind the wheel training curriculum defined in C.F.R. Appendix B to Part 380 as it existed on the (effective date of the WAC). The course must include not less than:

(i) Fourteen hours of street driving training;
 (ii) Eight hours of training in backing maneuvers;
 (iii) Eight hours of proficiency development; and
 (iv) Ten hours of combined lab training, range training, and observation.

(g) **Passenger endorsement - Minimum requirements:** A course of instruction for students seeking a passenger endorsement must follow the passenger endorsement training curriculum defined in C.F.R. Appendix C to Part 380 as it existed on the (effective date of the WAC). The course must include not less than:

(i) Four hours of classroom/theory instruction;
 (ii) Ten hours of proficiency development.

(h) **School bus endorsement - Minimum requirements:** A course of instruction for students seeking a school bus endorsement must follow the school bus endorsement training curriculum defined in C.F.R. Appendix D to Part 380 as it existed on the (effective date of the WAC). The course must include not less than:

(i) Twenty hours of classroom/theory instruction;
 (ii) Ten hours of proficiency development.

(i) **Passenger and school bus endorsement - Minimum requirements:** A course of instruction for students seeking a passenger and school bus endorsement must follow the passenger and school bus endorsement training curriculum defined in C.F.R. Appendix C and D to Part 380 as it existed on the (effective date of the WAC). The course must include not less than:

(i) Twenty hours of classroom/theory instruction;

(ii) Ten hours of proficiency development.

(j) **Hazardous material endorsement - Minimum requirements:** A course of instruction for students seeking a HAZMAT endorsement must follow the hazardous material endorsement training curriculum defined in C.F.R. Appendix E to Part 380 as it existed on the (effective date of the WAC). The course must include not less than: Sixteen hours of classroom/theory instruction;

(k) In addition to the class A, B, and C curriculum as defined above, each class room training must include a minimum thirty minute section on "Truckers Against Trafficking."

(2) Students must complete all portions of the training within one year of completing the first portion.

AMENDATORY SECTION (Amending WSR 19-01-078, filed 12/17/18, effective 1/17/19)

WAC 308-100-035 Employer certification. (1) An employer may certify that one of its employees has the skills and training necessary to operate a commercial motor vehicle safely by certifying the employee has demonstrated proficiency in the elements of the course of instruction required in WAC 308-100-033, with the exception of the minimum required hours, on a form provided by the department. The certification must include the classification or endorsements of commercial motor vehicle that the employee is competent to operate.

(2) The certification must be provided to the department electronically. Beginning on February 7, (~~2020~~) 2022, an employer may only certify that an applicant for a CDL has the skills and training necessary to operate a commercial motor vehicle safely if the employee has successfully completed training with a training provider listed on FMCSA's Training Provider Registry established under 49 C.F.R. 380.700.

(3) The department must receive an electronic notification of successful completion prior to an employee taking a skills test.

WSR 20-08-047

EXPEDITED RULES

DEPARTMENT OF

NATURAL RESOURCES

[Filed March 25, 2020, 11:13 a.m.]

Title of Rule and Other Identifying Information: Chapter 332-120 WAC, Survey monuments—Removal and [or] destruction.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Remove reference to the Washington coordinate system datum NAD 83 as listed in WAC 332-120-040(2). The reference is outdated and needs to be corrected to be the Washington plane coordinate system as established and designated by chapter 58.20 RCW.

Reasons Supporting Proposal: The statute for the Washington plane coordinate system was modified by HB 2860 during the 2020 legislative session. The old NAD 83 datum

was removed and replaced with new language referencing the national geodetic survey's national spatial reference system.

Statutory Authority for Adoption: RCW 58.24.030, 58.24.040, 58.09.050, and 58.17.160.

Statute Being Implemented: RCW 58.24.030, 58.24.040, 58.09.050, and 58.17.160.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of natural resources, governmental.

Name of Agency Personnel Responsible for Drafting: Patrick J. Beehler, 1111 Washington Street S.E., Olympia, WA 98504-7030, 360-902-1181; Implementation and Enforcement: Bob R. Knuth, 801 88th Avenue S.E., Tumwater, WA 98504-7019, 360-902-1197.

This notice meets the following criteria to use the expedited adoption process for these rules:

Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule.

NOTICE

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March 23, 2020
Angus W. Brodie
Deputy Supervisor
State Uplands

AMENDATORY SECTION (Amending WSR 05-13-104, filed 6/17/05, effective 7/18/05)

WAC 332-120-040 Monument removal or destruction. (1) All land boundary survey monuments that are removed or destroyed shall be replaced or witness monuments shall be set to perpetuate the survey point.

(2) A land boundary survey corner shall be referenced to the Washington plane coordinate system (~~(of 1983)~~) as established and designated by chapter 58.20 RCW, prior to removal or destruction. See WAC 332-130-070(2), land boundary survey standards.

An applicant may request a variance from this referencing requirement by so noting in the applicant information section on the permit and providing the justification on the back of the form. The department shall note whether the variance is approved or not approved and shall provide the reason for not approving the request.

WSR 20-08-064

EXPEDITED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed March 26, 2020, 9:05 a.m.]

Title of Rule and Other Identifying Information: WAC 388-114-0080 When may the department temporarily approve a client specific increase to an individual provider's work week limit?

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing to amend WAC 388-114-0080 to correct a typographical error in the reference to WAC 388-114-0030.

Reasons Supporting Proposal: The proposed change is for housekeeping purposes only to correct a typographical error.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520.

Statute Being Implemented: RCW 74.08.090, 74.09.520.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of social and health services (DSHS), governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Jennifer Karlson, P.O. Box 45600, Olympia, WA 98504-5600, 360-810-1654.

This notice meets the following criteria to use the expedited adoption process for these rules:

Corrects typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: Correcting a typographical error in WAC.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO DSHS, Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, phone 360-664-6097, fax 360-664-6185, email DSHSRPAURulesCoo

dinator@dshs.wa.gov, AND RECEIVED BY 5:00 p.m., June 1, 2020.

March 24, 2020
Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 17-08-065, filed 3/31/17, effective 5/1/17)

WAC 388-114-0080 **When may the department temporarily approve a client specific increase to an individual provider's work week limit?** (1) The department may temporarily increase an individual provider's work week limit if it determines the increase is necessary:

(a) Due to a lack of available providers who are able to adequately meet a client's care needs, as evaluated by the department in its consideration of:

(i) The overall availability of providers in the geographic region;

(ii) Whether the client has complex medical or behavioral needs;

(iii) Whether the client requires a provider with specific language skills; and

(iv) The client's good faith efforts and cooperation to manage his or her service hours and locate and select additional providers, examples of which may include:

(A) Making schedule adjustments within the work week limits of current providers who are providing services;

(B) Seeking a qualified family or friend to contract as an individual provider;

(C) Utilizing the home care referral registry; and

(D) Requesting a worker through a home care agency, unless doing so would cost more than paying the individual provider overtime;

(b) To protect a client's health and safety, as evaluated by the department in its consideration of:

(i) Whether the request is to approve service hours the individual provider spent caring for the client because of an emergent condition;

(ii) The nature and severity of the emergent condition; and

(iii) Whether the need could have been postponed until another provider could have arrived;

(c) To prevent an increased risk that the client will be unable to remain in a home or community based setting, except in cases where there are additional qualified providers available to select and the client has chosen not to select them; or

(d) To enable a client to assign to an individual provider the same number of hours in months with thirty days as are assigned in months with thirty-one days, provided that:

(i) The client is unable to assign the same number of the hours due to the individual provider's permanent work week limit;

(ii) There is no other qualified provider assigned that can work the hours within his or her permanent work week limit;

(iii) The increase does not result in a monthly total that exceeds the number of hours assigned to an individual provider in a thirty-one day month; and

(iv) The increase does not exceed two and one-half hours per week.

(2) When a client specific increase is no longer approved by the department, the individual provider's work week limit will revert back to the permanent work week limit described in WAC (~~(388-11-0030)~~) 388-114-0030.

(3) The department may only approve a client specific work week limit in excess of eighty service hours per week for an individual provider if the client's circumstances meet the criteria set out in WAC 388-440-0001 (1)(a) through (e) and where the department is unaware of any reason that the individual provider will be unable to appropriately meet the needs of the client.

(4) The department will not approve additional service hours to any individual provider's permanent work week limit that would result in a monthly total that exceeds the client's monthly service hours.

(5) The individual provider is not entitled to an administrative hearing under chapter 34.05 RCW regarding the department's decision on whether to approve or continue a client specific temporary increase to the work week limit.

WSR 20-08-105
EXPEDITED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed March 30, 2020, 4:49 p.m.]

Title of Rule and Other Identifying Information: Chapter 296-17 WAC, General reporting rules, audit and recordkeeping, rates and rating system for Washington workers' compensation insurance.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department of labor and industries (L&I) farm internship program (FIP) expired December 31, 2019. ESB 6421 extends L&I's FIP until December 31, 2025. This rule making will reestablish rates for workers' compensation insurance Classifications 4814, 4815, and 4816 Farms: Internship program, by creating WAC 296-17-89508. Workers' compensation insurance classification rates must be codified immediately so that employers participating in L&I's FIP can report hours for their farm interns.

An emergency rule making is being performed to immediately activate the classification rates.

Reasons Supporting Proposal: Without this emergency rule making, rates for the FIP classifications could not become effective. The new rates are necessary to ensure proper reporting of hours and collection of premiums for employers participating in the FIP.

Statutory Authority for Adoption: RCW 51.16.035 (base rates) and RCW 51.04.020(1) (general authority).

Statute Being Implemented: ESB 6421.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington state legislature, governmental.

Name of Agency Personnel Responsible for Drafting: Jo Anne Attwood, Tumwater, 360-902-4777; Implementation: Mike Ratko, Tumwater, 360-902-6369; and Enforcement: Victoria Kennedy, Tumwater, 360-902-4997.

This notice meets the following criteria to use the expedited adoption process for these rules:

Content is explicitly and specifically dictated by statute.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: Workers' compensation insurance classification rates must be codified immediately so that employers participating in L&I's FIP can report hours for their farm interns.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Keith Bingham, Department of Labor and Industries, P.O. Box 44148, Olympia, WA 98504-4148, phone 360-902-4826, fax 360-902-4988, email Keith.Bingham@Lni.wa.gov, AND RECEIVED BY June 1, 2020.

March 30, 2020
Joel Sacks
Director

NEW SECTION

WAC 296-17-89508 Farm internship program industrial insurance, accident fund, stay at work fund, medical aid fund, and supplemental pension by class.

Class	Base Rates Effective March 30, 2020			
	Accident Fund	Stay at Work Fund	Medical Aid Fund	Supplemental Pension Fund
4814	0.1194	0.0017	0.1456	0.1225
4815	0.2216	0.0032	0.3035	0.1225
4816	0.3572	0.0052	0.4070	0.1225

WSR 20-08-132
EXPEDITED RULES
DAIRY PRODUCTS COMMISSION
[Filed April 1, 2020, 9:01 a.m.]

Title of Rule and Other Identifying Information: Chapter 142-40 WAC, Promotional hosting.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule making is to update the dairy products commission's promotional hosting rules and to define requirements for business meals and travel expense reimbursements.

Reasons Supporting Proposal: Under RCW 15.44.038, unless otherwise defined in rule, each commission member or employee shall be reimbursed at the rates allowed by RCW 43.03.050 and 43.03.060. Placing commission travel requirements in rule will allow the commission greater flexibility in approving and reimbursing for travel expenses incurred in carrying out the commission's mission.

Statutory Authority for Adoption: RCW 15.44.038 and 15.44.060.

Statute Being Implemented: RCW 15.44.038.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington dairy products commission, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Celeste Piette, Lynnwood, Washington; and Enforcement: Steve Seppi, Lynnwood, Washington.

This notice meets the following criteria to use the expedited adoption process for these rules:

Relates only to internal governmental operations that are not subject to violation by a person.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: The expedited rule-making process is appropriate because these rules relate only to the administration of the Washington dairy products commission.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Teresa Norman, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, phone 360-902-2043, fax 360-902-2092, email tnorman@agr.wa.gov, AND RECEIVED BY June 2, 2020.

April 1, 2020
Celeste Piette
Sr. Director Operations
and Business Management

Chapter 142-40 WAC

PROMOTIONAL HOSTING, TRAVEL, AND BUSINESS EXPENSES

AMENDATORY SECTION (Amending WSR 92-14-035, filed 6/24/92, effective 7/25/92)

WAC 142-40-010 Purpose. Section 1, chapter 26, Laws of 1985 (RCW 15.04.200) enacted under the authority of Article VIII of the Washington state Constitution as amended, authorized the expenditure of agricultural commodity commission assessments for agricultural develop-

ment or trade promotion and promotional hosting and provides that agricultural commodity commissions shall adopt rules governing promotional hosting expenditures by agricultural commodity commission employees, agents, or commissioners.

The purpose of these rules is to set forth the parameters governing promotional hosting, travel, and meal expenditures for the Washington dairy products commission.

AMENDATORY SECTION (Amending WSR 92-14-035, filed 6/24/92, effective 7/25/92)

WAC 142-40-020 Definitions. (~~"Promotional hosting" as used in these rules means the hosting of individuals and groups of individuals at meetings, meals, and gatherings for the purpose of cultivating trade relations and promoting sales of milk and other dairy products.~~) The definitions in this section apply throughout the chapter unless the context clearly requires otherwise.

"Commission" means the Washington dairy products commission.

"GSA" means the general services administration, an independent agency of the United States government.

"Hosting" may include providing meals, refreshments, lodging, transportation, gifts of a nominal value, reasonable and customary entertainment and normal incidental expenses at meetings or gatherings.

"Promotional hosting" means the hosting of individuals or groups of individuals at meetings, meals, events, tours, or other gatherings for the purpose of agricultural development, trade promotion, cultivating trade relations, or in the aid of the marketing, advertising, or sale of Washington dairy products.

"SAAM" means the state administrative and accounting manual.

AMENDATORY SECTION (Amending WSR 92-14-035, filed 6/24/92, effective 7/25/92)

WAC 142-40-030 (~~Implementation~~) Promotional hosting. The implementation of the rules governing promotional hosting expenditures for the Washington dairy products commission shall be as follows:

(1) Budget approval. Commission expenditures for agricultural development (~~(or)~~), trade promotion, and promotional hosting shall be pursuant to specific budget items in the commission's annual budget as approved by the commission (~~at regular meetings held to review such matters~~) and the director.

(2) Officials and agents authorized to make expenditures. The following officials and agents are authorized to make expenditures for agricultural development (~~(or)~~), trade promotion, and promotional hosting in accordance with the provisions of these rules:

- (a) Commissioners;
- (b) Administrators;
- (c) Executive management staff.

Individual commissioners shall make promotional hosting expenditures, or seek reimbursements for those expenditures, only in those instances where the expenditures have been approved by the commission.

(3) Payment and reimbursement. All payments and reimbursements shall be identified and supported by (~~vouchers to which receipts are attached. Voucher forms will be supplied by the commission, and~~) receipts in accordance with the reimbursement policies of the commission. Advance payment of expenses is not permitted. In the event that a vendor requests advance payment for goods or services, commission members should engage a staff supervisor for proper handling of funds. Expense reports and reimbursement requests shall require the following information:

(a) Name and position of each person hosted, provided that in case of a group of (~~twenty-five~~) ten or more persons, then only the name of the group hosted shall be required;

(b) General purpose of the hosting;

(c) Date of hosting;

(d) Location of the hosting;

(e) To whom payment was or will be made;

(f) (~~Signature of~~) Authentication by person seeking payment or reimbursement.

(4) The (~~chairperson~~) chair of the commission (~~and/or the manager are~~), executive director, and commission staff, as authorized in writing by the executive director, are authorized to approve direct payment or reimbursements submitted in accordance with these rules, provided that the chair, executive director, and commission staff are not authorized to approve their own direct promotional hosting payments or promotional hosting reimbursements.

(5) The following persons may be hosted when it is reasonably believed such hosting will promote agriculture development, promote trade, cultivate trade relations (~~and promote~~), or aid in the marketing, advertising, or sales of milk and other dairy products, provided that such hosting shall not violate federal or state laws including, but not limited to, state or federal ethics or conflicts of interest laws:

(a) Individuals from private business, associations, commissions, and accompanying staff and interpreter(s);

(b) Members of the media and accompanying staff and interpreter(s);

(c) Foreign government officials and accompanying staff and interpreter(s);

(~~(e)~~) (d) Federal (~~and~~), state, or local officials, provided that lodging, meals, and transportation will not be provided when such officials may obtain reimbursement for these expenses from their government employer;

(~~(d)~~) (e) The general public, at meetings and gatherings open to the general public;

(~~(e)~~) (f) Commissioners and employees of the commission when their attendance at meetings, meals, and gatherings at which the persons described in (a) through (~~(d)~~) (e) of this subsection are being hosted, will promote agricultural development, promote trade, cultivate trade relations (~~and promote sales of~~), or aid in the marketing, advertising, or sales of Washington milk and other dairy products.

(~~(f)~~) (g) Spouses, partners, or significant others of the persons listed in (a) (~~(b), (e)~~) through (d), and (~~(e)~~) (f) of this subsection when attendance of such spouse, partner, or significant other is customary and expected or will serve to promote agricultural business development, promote trade, cultivate trade relations, or (~~promote the~~) aid in the market-

ing, advertising, or sale of Washington milk or other dairy products.

NEW SECTION

WAC 142-40-040 Travel. (1) Except as provided in subsections (7) and (8) of this section, all overnight or out-of-state travel by commissioners and by commission staff must be approved in accordance with commission policy in advance of departure to be eligible for travel expense reimbursement.

(2) All travel expenses must be within the preapproved budget limits as provided for in WAC 142-40-030(1).

(3) Reimbursement for transportation expenses shall be at actual cost subject to the following limitations:

(a) If an employee chooses not to use the state's travel services, travel must be booked at the lowest commercially reasonable cost and exclude any fees due to personal preference or convenience not necessary or critical to commission business.

(b) If an employee chooses not to use the state's travel services, coach airfare will be reimbursed with the expectation that the lowest commercially reasonable fare is found.

(c) If a commissioner or commission employee uses his or her automobile for transportation, mileage shall be reimbursed at the current rate set by the GSA for business travel.

(d) Car rentals up to full-size cars and related fuel expenses. Larger or different types of vehicles require prior approval.

(e) Other transport, including public transit, taxi, and rideshare services, related to commission business travel shall be reimbursed.

(f) Customary tips for transport and meals shall be reimbursed in accordance with commission policy.

(4) Reimbursement for lodging expenses shall be at actual costs and travelers should adhere to the GSA per diem rates as closely as possible. Accommodations should be standard rooms and must be the lowest commercially reasonable cost and exclude any fees due to personal preference or convenience not necessary or critical to commission business.

(5) Reimbursement for meals shall be at actual costs, plus tip, provided that such costs are reasonable for the particular market in which the expense is incurred.

(6) Each person traveling on official commission business shall submit request for reimbursement in accordance with commission policy. Receipts for each expense for which reimbursement is requested must accompany the reimbursement request. Expenses will not be reimbursed unless such a request, accompanied by receipts where required, is timely submitted. Receipts may not be required for expenses under a certain dollar threshold as stated by the Washington dairy products commission policies, which are to be reviewed annually.

(7) No advance approval of travel and related expenses is required for attendance at regular or special meetings of the commission or a committee thereof within the state of Washington.

(8) Day trips by commissioners and commission staff, as well as overnight travel within Washington state by commission staff for commission business, do not require approval in

advance of departure and travel-related costs for day trips are reimbursable under WAC 142-40-040(5).

NEW SECTION

WAC 142-40-050 Other business meals. (1) The commission shall pay for or reimburse employees for meals, coffee, and light refreshments for certain meetings, industry activities, and training regardless of travel status when:

(a) The purpose of the meeting is to conduct official commission business or provide training to employees or board members;

(b) The meals are an integral part of the meeting, conference, convention, or training session and separating the meeting from the meal would be otherwise disruptive to commission business;

(c) The meeting or training session takes place away from the employee's or official's regular workplace ("regular workplace" excludes meeting and conference rooms); and

(d) The agency obtains an itemized receipt for the actual costs of the meals with meetings.

(2) Meals will be reimbursed at actual cost incurred. Meetings to be incurred under this section include those in which attendance is advantageous in achieving the goals of the commission including, but not limited to: Strategic planning meetings, employee review and evaluation meetings, board meetings, continuing education and professional development training sessions, information and research meetings, events or conferences.

(3) To be eligible for reimbursement, employees must submit the following to their direct supervisor on their expense reimbursement request: Itemized receipt, name(s) of the organization or persons attending the meeting, and the purpose or accomplishments expected.

(4) Consistent with SAAM 70.15.10, recurring meals with meetings may receive one-time approval annually. To be eligible for reimbursement, the expense must fall within the preapproved budget and definition for recurring meals with meetings for the year, itemized receipts must be provided, and the meeting attendees must be identified.

WSR 20-08-133

EXPEDITED RULES

DEPARTMENT OF AGRICULTURE

[Filed April 1, 2020, 9:24 a.m.]

Title of Rule and Other Identifying Information: The department is proposing to adopt changes to chapter 16-233 WAC, Worker protection standards, in order to have consistent language and requirements with chapter 296-307 WAC, the department of labor and industries' (L&I) worker protection standards (WPS).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department of health, L&I, and the department of agriculture (DOA) entered into a memorandum of understanding, which included requirements for the agencies to coordinate on the WPS rules. Further, RCW 17.21.440 (2)(b) requires the DOA to adopt rules for safety and health standards that are at-least

as-effective-as the federal standard and that the standards adopted by DOA shall be in coordination with L&I. This proposal makes the language and requirements in chapter 16-233 WAC consistent with chapter 296-307 WAC by adopting without material change certain language recently adopted by L&I in chapter 296-307 WAC.

Reasons Supporting Proposal: Inconsistent rules between two agencies can cause problems for the regulated community to the point that compliance with one agency means noncompliance with another. Revising chapter 16-233 WAC is necessary to remain consistent with L&I whose newly adopted rules were effective February 3, 2020.

Statutory Authority for Adoption: RCW 15.58.040, 17.21.030, 17.21.440.

Statute Being Implemented: Chapters 15.58 and 17.21 RCW.

Rule is necessary because of federal law, 40 C.F.R. Part 170.

Name of Proponent: DOA, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Tim Schultz, 1111 Washington Street S.E., Olympia, WA, 509-994-0936.

This notice meets the following criteria to use the expedited adoption process for these rules:

Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: Adopting the standards specified in chapter 296-307 WAC meets the criteria for expedited adoption under RCW 34.05.353 (1)(b) by adopting the rules of another state agency.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Gloriann Robinson, Agency Rules Coordinator, DOA, P.O. Box 42560, Olympia, WA 98504-2560, phone 360-902-1802, fax 360-902-2092, email wsdrulecomments@agr.wa.gov, AND RECEIVED BY June 1, 2020.

April 1, 2020
Robin Schoen-Nessa
Assistant Director

AMENDATORY SECTION (Amending WSR 18-01-054, filed 12/13/17, effective 1/13/18)

WAC 16-233-006 Scope and purpose—40 C.F.R., § 170.301. This ~~((regulation is primarily intended))~~ chapter contains standards designed to reduce the risks of illness or injury ~~((to))~~ resulting from workers' and handlers' ~~((resulting from))~~ occupational exposures to pesticides used in the production of agricultural plants on agricultural establishments and also to reduce the accidental exposure of workers and other persons to such pesticides. 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))~~ handlers to wear the label specified clothing and personal protective equipment when performing handler activities, and to take measures to protect workers and other persons during pesticide applications. It also requires workplace practices designed to reduce or eliminate exposure to pesticides and establishes procedures for responding to exposure-related emergencies.

AMENDATORY SECTION (Amending WSR 18-01-054, filed 12/13/17, effective 1/13/18)

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.

~~((2))~~ (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.

~~((3))~~ (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.

~~((4))~~ (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.

~~((5))~~ (6) "Chemigation" means the application of pesticides through irrigation systems.

~~((6))~~ (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.

~~((7))~~ (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.

~~((8))~~ (9) "Commercial pesticide handling establishment" means any enterprise, other than an agricultural establishment, that provides pesticide handler or crop advising services to agricultural establishments.

~~((9))~~ (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.

~~((10))~~ (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).

~~((11))~~ (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.

~~((12))~~ (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 ~~((or))~~ wages, ~~((including))~~ 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.

~~((13))~~ (14) "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. Refer to WAC 16-233-316(5).

~~((14))~~ (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.

~~((15))~~ (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.

~~((16))~~ (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 ~~((, except that))~~. 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 ~~((or performing crop advisor tasks))~~. For irrigation or watering equipment used during chemigation see handler activities.

~~((17))~~ (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.

~~((18))~~ (19) "Handler employer" means any person who is self-employed as a handler or who employs any handler.

~~((19))~~ (20) "Immediate family" ~~((is limited to the))~~ includes only spouse, children, stepchildren, foster children, parents, stepparents, foster parents, ((father-in-law, mother-in-law, children, stepchildren, foster children, sons-in-law, daughters-in-law, grandparents, grandchildren,)) brothers, and 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)).~~

~~((20))~~ (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.

~~((21))~~ (22) "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))~~ by nonporous material. This includes shade houses without sides.

~~((22))~~ (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.

~~((23))~~ (24) "Personal protective equipment" or "PPE" means devices ~~((and)),~~ appliances or apparel that are worn to protect the body from ~~((contact with))~~ 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.

~~((24))~~ (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.

~~((25))~~ (26) "Safety data sheet" ~~((has the same meaning as the definition in 29 C.F.R. Sec. 1910.1200(e))~~ or "SDS" means written or printed material concerning a hazardous chemical that is prepared in accordance with WAC 296-901-14014.

~~((26))~~ (27) "Treated area" means any area to which a pesticide is being directed or has been directed.

~~((27))~~ (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 work-

ers' 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.

~~((28))~~ (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.

~~((29))~~ (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.

AMENDATORY SECTION (Amending WSR 18-01-054, filed 12/13/17, effective 1/13/18)

WAC 16-233-021 Agricultural employer duties—40 C.F.R., § 170.309. Agricultural employers must:

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

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

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

(4) 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 chapter. Such information and directions must specify the tasks for which the supervisor is responsible in order to comply with the provisions of this chapter.

(5) 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 chapter.

(6) Provide emergency assistance in accordance with this subsection. 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 seventy-two 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:

(a) Make available to that person prompt 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.

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

(i) Copies of the applicable ~~((safety data sheet(s)))~~ SDS 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.

(iv) Antidote, first aid and other medical information from the product labeling.

(7) Ensure that workers or other persons employed or supervised by the agricultural establishment do not clean, repair, or adjust pesticide application equipment, unless trained as a handler under WAC 16-233-201. Before allowing any person not directly employed or supervised by the agricultural establishment to clean, repair, or adjust equipment that has been used to mix, load, transfer, or apply pesticides, the agricultural employer shall assure that pesticide residues have been removed from the equipment if feasible and must provide all of the following information to such person:

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

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

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

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

(8) Display, maintain, and provide access to pesticide safety information and pesticide application and hazard information in accordance with WAC 16-233-026 if workers or handlers are on the establishment and within the last thirty days a pesticide product has been used or a restricted-entry interval for such pesticide has been in effect on the establishment.

(9) 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.

(10) 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.

~~((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 agricultural employer must notify a commercial pesticide handler employer (CPHER) of specific locations and descriptions of ((any)) those treated areas ((on the agricultural establishment where a)) and any restrictions on entering the treated areas

with restricted-entry intervals ((is)) (REIs) in effect ((that the)) whenever:

(a) A handler employed by a CPHER will be on the agricultural establishment; and

(b) The CPHER handler may be in ((f)) or may walk within 1/4 mile of((, and any restrictions on entering those areas)) any pesticide treated area with restricted-entry interval (REI) in effect.

(12) 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 WAC 16-233-026(2), 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 WAC 16-233-306.

(13) Provide any records or other information required by this section for inspection and copying upon request by an employee of EPA, or any duly authorized representative of the Washington state department of agriculture or department of labor and industries.

(14) Pesticide safety, application, and hazard information must remain legible at all times when the information is required to be displayed. This information must be in accordance with WAC 16-233-026.

AMENDATORY SECTION (Amending WSR 18-01-054, filed 12/13/17, effective 1/13/18)

WAC 16-233-026 Display requirements for pesticide safety information and pesticide application and hazard information—40 C.F.R., § 170.311. (1) *Display of pesticide safety information.* Whenever pesticide safety information and pesticide application and hazard information are required to be provided under WAC 16-233-021(8), pesticide safety information must be legible and displayed in accordance with this subsection.

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

(b) The pesticide safety information must include all of the following points:

(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 Washington state department of agriculture, 1-844-388-2020 and Washington state department of labor and industries, 1-800-4BE-SAFE (1-800-423-7233).

(c) *Changes to pesticide safety information.* The agricultural employer must update the pesticide safety information display within twenty-four hours of notice of any changes to the information required in (b)(ix) of this subsection.

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

(i) The site selected pursuant to subsection (2)(b) of this section for display of pesticide application and hazard information.

(ii) Anywhere that decontamination supplies must be provided on the agricultural establishment pursuant to WAC 16-233-126, 16-233-221 or 16-233-311, but only when the decontamination supplies are located at permanent sites or being provided at locations and in quantities to meet the requirements for eleven or more workers or handlers.

(e) *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.

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

(2) *Keeping and displaying pesticide application and hazard information.* Whenever pesticide safety information and pesticide application and hazard information is required to be provided under WAC 16-233-021(8), pesticide application and hazard information for any pesticides that are used on the agricultural establishment must be displayed in a legible manner, retained, and made accessible in accordance with this subsection.

(a) *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 (SDS).

(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.

(b) *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.

(c) *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.

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

~~(e))~~ *Timing.* The pesticide application and hazard information for each pesticide product applied must be displayed no later than twenty-four 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 thirty 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.

~~((f))~~ *Record retention.* Whenever pesticide safety information and pesticide application and hazard information is required to be displayed in accordance with this subsection, the agricultural employer must retain the pesticide application and hazard information described in (a) of this subsection on the agricultural establishment for ~~((two))~~ seven years after the date of expiration of the restricted-entry interval applicable to the pesticide application conducted.

~~((g))~~ *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 ~~((e))~~ *(d)* and ~~((f))~~ *(e)* of this subsection, 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 fifteen 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, nondiscriminatory 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.

~~((h))~~ *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))~~ seven years in ~~((f))~~ *(e)* of this subsection 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.

~~((†))~~ (h) *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))~~ seven years in ~~((†))~~ (e) of this subsection 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 fifteen days after receiving any such request, provided the request meets the requirements specified in ~~((subsection (2)(†)))~~ (h)(ii) of this ~~((section))~~ subsection.

(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 e-mail address).

(iii) If the written request from a designated representative contains all of the necessary information specified in ~~((subsection (2)))~~ (h)(i) and (ii) of this ~~((section))~~ subsection, 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 fifteen 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, nondiscriminatory 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.

AMENDATORY SECTION (Amending WSR 18-01-054, filed 12/13/17, effective 1/13/18)

WAC 16-233-031 Commercial pesticide handler employer duties—40 C.F.R., § 170.313. Commercial pesticide handler employers must:

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

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

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

(4) 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 chapter. Such information and directions must specify the tasks for which the supervisor is responsible in order to comply with the provisions of this chapter.

(5) 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 chapter.

(6) 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.

(7) 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.

(8) 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.

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

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

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

(c) Product name, EPA registration number, and active ingredient(s).

(d) The labeling-specified restricted-entry interval applicable for the application.

(e) Whether posting, oral notification or both are required under WAC 16-233-121.

(f) 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.

(10) If there are any changes to the information provided in subsection (9)(a), (d), (e), and (f) of this section 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 subsection (9) of this section, 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.

(11) Provide emergency assistance in accordance with this subsection. 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 seventy-two 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:

(a) Make available to that person prompt 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.

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

(i) Copies of the applicable safety data sheet(s) (SDS) 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.

(iv) Antidote, first aid and other medical information from the product labeling.

(12) 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 WAC 16-233-201. 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 shall assure that pesticide residues have been removed from the equipment if feasible and must provide all of the following information to such persons:

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

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

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

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

(13) Provide any records or other information required by this chapter for inspection and copying upon request by an

employee of EPA or any duly authorized representative of the Washington state department of agriculture or the department of labor and industries.

AMENDATORY SECTION (Amending WSR 18-01-054, filed 12/13/17, effective 1/13/18)

WAC 16-233-036 Prohibited actions—40 C.F.R., § 170.315. No agricultural employer, commercial pesticide handler employer, or other person involved in the use of a pesticide to which this chapter applies, shall intimidate, threaten, coerce, or discriminate against any worker or handler for complying with or attempting to comply with this chapter, 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 the Washington state department of agriculture, or the department of labor and industries regarding conduct that the worker or handler reasonably believes violates this chapter, has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing concerning compliance with this chapter, 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 chapter. Any such intimidation, threat, coercion, or discrimination violates the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), Section 12 (a)(2)(G), 7 U.S.C. 136j (a)(2)(G).

AMENDATORY SECTION (Amending WSR 18-01-054, filed 12/13/17, effective 1/13/18)

WAC 16-233-101 Training requirements for workers—40 C.F.R., § 170.401. (1) *General requirement.* Before any worker performs any task in a treated area on an agricultural establishment where within the last thirty 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 twelve months, except as provided in subsection (2) of this section.

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

(a) A worker who is currently certified as an applicator of restricted use pesticides under chapter 17.21 RCW.

(b) A worker who has satisfied the handler training requirements in WAC 16-233-201.

(c) A worker who is certified or licensed as a crop advisor by the Washington state department of agriculture under RCW 15.58.230: Provided, That a requirement for such certification or licensing is pesticide safety training that includes all the topics in WAC 16-233-201 (3)(b) or (c) as applicable depending on the date of training.

(3) *Training programs.*

(a) 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 (d) of this subsection, and who must be present during the entire training program and must respond to workers' questions.

(b) 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 section 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.

(c) 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 one hundred eighty-one days after a notice of availability of such training materials appears in the FEDERAL REGISTER, training programs required under this section must include, at a minimum, all of the topics listed in (c)(i) through (xxiii) of this subsection instead of the topics listed in (b)(i) through (xi) of this subsection.

(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))~~ SDSs 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))~~ SDSs for all pesticides used on the establishment.

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

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

(xvii) This section 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 eighteen 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 Washington state department of agriculture.

(xxiii) This section 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 chapter, or because the worker or handler provided, caused to be provided or is about to provide information to the employer, the EPA or its agents, or any duly authorized representative of the Washington state department of agriculture regarding conduct that the employee reasonably believes violates this chapter, and/or made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing concerning compliance with this chapter.

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

(i) Be currently designated as a trainer of certified applicators or pesticide handlers by the Washington state department of agriculture in accordance with chapters 15.58 and 17.21 RCW; or

(ii) Have completed a pesticide safety train-the-trainer program approved by the Washington state department of agriculture in accordance with chapters 15.58 and 17.21 RCW; or

(iii) Be currently certified as an applicator of restricted use pesticides under chapter 17.21 RCW.

(4) *Recordkeeping.*

(a) For each worker required to be trained under subsection (1) of this section, 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 subsection (3)(d) of this section at the time of training.

(v) The agricultural employer's name.

(b) An agricultural employer who provides, directly or indirectly, training required under subsection (1) of this section must provide to the worker upon request a copy of the record of the training that contains the information required under (a) of this subsection.

AMENDATORY SECTION (Amending WSR 18-01-054, filed 12/13/17, effective 1/13/18)

WAC 16-233-111 Entry restrictions associated with pesticide applications—40 C.F.R., § 170.405. (1) *Outdoor production pesticide applications.*

(a) ~~((The application exclusion zone))~~ 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 (AEZ) that is within the

boundaries of the establishment until the application is complete.

(b) A summary of outdoor production application exclusion zones (AEZ) can be found in Table 1 and is defined as follows:

(i) The application exclusion zone is the area that extends one hundred 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 twenty-five feet horizontally from the application equipment in all directions during application when the pesticide is applied not as in (a)(i)(A) through (D) of this subsection and is sprayed from a height of greater than twelve 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 (a)(i) and (ii) of this subsection.

~~((b))~~ (c) 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.

~~((c))~~ (d) After the application is complete, the area subject to the labeling-specified restricted-entry interval and the post-application entry restrictions specified in WAC 16-233-116 is the treated area.

Table 1
Entry Restrictions* - During Outdoor Production Pesticide Application (AEZ)

Note: This applies to the area within the boundaries of the establishment, outside establishment boundaries, the handler must suspend application long enough to ensure no contact with any persons within the AEZ (see WAC 16-233-211 (1) and (2)). During pesticide application and after application is complete, pesticide labeling-specified restricted-entry intervals and post-application restrictions apply to the treated area.

<p><u>*During pesticides being applied:</u> <u>(WAC 16-233-111)</u></p>	<p><u>Prohibit workers and any persons, other than appropriately trained and equipped handlers, from being in the AEZ:</u></p>
<p>(A) Aerially (B) Air blast application (C) As a spray quality (droplet spectrum) of smaller than medium (volume median diameter of less than 294 microns) (D) As a fumigant, smoke, mist, fog, or aerosol</p>	<p><u>Area that extends 100 feet horizontally in all directions from the application equipment until after the application is complete.</u></p>

<u>*During pesticides being applied:</u> (WAC 16-233-111)	<u>Prohibit workers and any persons, other than appropriately trained and equipped handlers, from being in the AEZ:</u>
Not applied as (A), (B), (C), or (D) above and: - From a height greater than 12 inches from the planting medium; and - As a spray using a medium or larger spray quality droplet spectrum of volume median diameter of 294 microns or greater.	<u>Area that extends 25 feet horizontally in all directions from the application equipment until after the application is complete.</u>
Otherwise - No AEZ	Follow applicable label directions for restricted-entry intervals.

(2) *Enclosed space production pesticide applications.*

(a) During any enclosed space production pesticide application described in column 1 of ~~((the))~~ Table 2 under (d) of this subsection, 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 application exclusion zone (AEZ) area specified in column 2 of ~~((the))~~ Table 2 under (d) of this subsection during the application and until the time specified in column 3 of ~~((the))~~ Table 2 under (d) of this subsection has expired.

(b) After the time specified in column 3 of ~~((the))~~ Table 2 under (d) of this subsection has expired, the area subject to the labeling-specified restricted-entry interval and the post-application entry restrictions specified in WAC 16-233-116 is the area specified in column 4 of ~~((the))~~ Table 2 under (d) of this subsection.

(c) When column 3 of ~~((the))~~ Table 2 under (d) of this subsection 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.

(d) The following table applies to (a), (b), and (c) of this subsection.

Table ((-)) 2
Entry Restrictions During Enclosed Space Production Pesticide Applications

1. When a pesticide is applied:	2. <u>Prohibit workers and ((other)) any persons, other than appropriately trained and equipped handlers, ((are prohibited in)) from being in AEZ:</u>	3. Until:	4. After the expiration of time specified in column 3, the area subject to the restricted-entry interval is:
(a) 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 subsection (2)(c) of this section are met	No post-application entry restrictions required by WAC 16-233-116 after criteria in column 3 are met
(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 subsection (2)(c) of this section are met	Entire enclosed space
(c) Not as in (a) or (b) above, ((and for which a respiratory protection device is required for application by the pesticide product labeling)) <u>the pesticide product label requires a respirator during application</u>	Entire enclosed space	The ventilation criteria of subsection (2)(c) of this section are met	Treated area

1. When a pesticide is applied:	2. <u>Prohibit workers and (other) any persons, other than appropriately trained and equipped handlers, (are prohibited in) from being in AEZ:</u>	3. Until:	4. After the expiration of time specified in column 3, the area subject to the restricted-entry interval is:
(d) Not as in (a), (b) or (c) above, 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
(e) Otherwise	Treated area	Application is complete	Treated area

AMENDATORY SECTION (Amending WSR 18-01-054, filed 12/13/17, effective 1/13/18)

WAC 16-233-116 Worker entry restrictions after pesticide applications—40 C.F.R., § 170.407. (1) 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 in WAC 16-233-306.

(2) 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 4 of ~~(the)~~ Table 2 in WAC 16-233-111 (2)(d), 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 in WAC 16-233-306.

(3) 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.

(4) When two or more pesticides are applied to a treated area at the same time, the employer must provide and ensure employees, workers, and handlers wear the applicable PPE to protect against all of the pesticides as a mixture and combined product.

AMENDATORY SECTION (Amending WSR 18-01-054, filed 12/13/17, effective 1/13/18)

WAC 16-233-121 Oral and posted notification of worker entry restrictions—40 C.F.R., § 170.409. (1) *General requirement.* The agricultural employer must notify workers of all entry restrictions required in WAC 16-233-111 and 16-233-116 in accordance with this section.

(a) *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 subsection (2) of this section and must also provide oral notification of the application to workers in accordance with subsection (3) of this section.

(ii) *Outdoor production areas subject to restricted-entry intervals greater than forty-eight hours.* If a pesticide with product labeling that requires a restricted-entry interval greater than forty-eight hours is applied to an outdoor production area, the agricultural employer must notify workers of the application by posting warning signs in accordance with subsection (2) of this section.

(iii) *Outdoor production areas subject to restricted-entry intervals equal to or less than forty-eight hours.* If a pesticide with product labeling that requires a restricted-entry interval equal to or less than forty-eight 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 subsection (2) of this section or by providing workers with an oral warning in accordance with subsection (3) 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 subsection (2) 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 subsection (2) of this section or by providing workers with an oral warning in accordance with subsection (3) of this section.

(b) *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 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 in subsection (3)(a) of this section.

(2) *Requirements for posted warning signs.* If notification by posted warning signs is required pursuant to subsection (1) of this section, the agricultural employer must, unless otherwise prescribed by the label, ensure that all warning signs meet the requirements of this subsection. 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 in WAC 16-233-306.

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

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

(ii) Be posted prior to but no earlier than twenty-four 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 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 in WAC 16-233-306).~~

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

(b) *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 (b)(i) of this subsection.

(c) *Size and posting.*

(i) The standard sign must be at least fourteen inches by sixteen 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 one hundred 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 WAC 16-233-116, 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 fifty feet apart around the perimeter of the treated area in addition to the locations specified in (c)(ii) or (iii) of this subsection.

(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 twenty-five feet apart around the perimeter of the treated area in addition to the locations specified in (c)(ii) or (iii) of this subsection.

(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 this chapter.

(3) *Oral warnings - Requirement.* If oral notification is required pursuant to subsection (1) 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:

(a) The location(s) and description of any treated area(s) subject to the entry restrictions during and after application specified in WAC 16-233-111 and 16-233-116.

(b) 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 WAC 16-233-111 and 16-233-116.

(c) 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 WAC 16-233-306.

AMENDATORY SECTION (Amending WSR 18-01-054, filed 12/13/17, effective 1/13/18)

WAC 16-233-126 Decontamination supplies for workers—40 C.F.R., § 170.411. (1) *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.

(2) *Materials and quantities.* The decontamination supplies required in subsection (1) of this section must provide adequate water at a minimum to include at least one 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:

(a) *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.

(b) *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.

(3) *Timing.*

(a) 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 thirty days after the restricted-entry interval expires.

(b) 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.

(4) *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 nontreated 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.

(5) Decontamination after early entry activities. At the end of any exposure period for workers engaged in early entry activities permitted by WAC 16-233-311 and involving 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, the agricultural employer shall provide, at the site where the workers remove personal protective equipment, soap, single-use towels, and an adequate amount of water so that the workers may wash thoroughly. At least ten gallons of water for one employee and twenty gallons of water for two or more employees shall be provided at early entry sites that do not have running water.

AMENDATORY SECTION (Amending WSR 18-01-054, filed 12/13/17, effective 1/13/18)

WAC 16-233-216 Personal protective equipment—40 C.F.R., § 170.507. (1) *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 WAC 16-233-316.

(2) *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 fits, is clean and in proper operating condition. When two or more pesticides are applied to the treated area at the same time, the employer must ensure employees, workers, and handlers wear the applicable PPE that would protect against all of the pesticides as a mixture and combined product. 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.

(a) 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.

(b) 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.

(c) 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.

(d) 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.

(e) 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 nonseparable absorbent lining materials are prohibited.

(iii) If used, separable glove liners must be discarded immediately after a total of no more than ten hours of use or within twenty-four 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.

(f) 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.

(g) 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.

(h) 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.

(i) 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.

(j) The respirator specified by the pesticide product labeling must be used. If the label does not specify the type of respirator to be used, it shall meet the requirements of chapter 296-307 WAC, Part Y-5. Whenever a respirator is required by the pesticide product labeling, the handler employer must ensure that the requirements of (j)(i) through (iii) of this subsection are met before the handler performs any handler activity where the respirator is required to be worn. The respiratory protection requirements of chapter 296-307 WAC, Part Y-5, shall apply. The handler employer must maintain for two years, on the establishment, records documenting the completion of the requirements of (j)(i) through (iii) of this subsection.

(i) The handler employer shall assure that the respirator fits correctly by using the procedures consistent with chapter 296-307 WAC, Part Y-5.

(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 C.F.R. Sec. 1910.134 (k)(1)(i) through (vi)))~~ chapter 296-307 WAC, Part Y-5 Respirators.

(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 C.F.R. Sec. 1910.134))~~ WAC 296-307-604 to ensure the handler's physical ability to safely wear the respirator specified on the pesticide product labeling.

(3) *Use of personal protective equipment.*

(a) 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.

(b) 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.

(4) *Cleaning and maintenance.*

(a) The handler employer must ensure that all personal protective equipment is cleaned according to the manufac-

turer'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.

(b) 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 subsection. Handler employers must ensure that any person who handles contaminated personal protective equipment described in this subsection 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.

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

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

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

(f) 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))~~ each day's work period.

(g) 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 C.F.R. Sec. 1910.134(d)(3)(iii)(B)(2)))~~ chapter 296-307 WAC, Part Y-5 Respirators.

- (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))~~ each day's work period.

(h) 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.

(i) 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.

(j) 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.

(5) *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))~~ ensure that no handler is allowed or directed to wear personal protective equipment without implementing measures sufficient to prevent heat-related illness and that each handler is instructed in the prevention, recognition, and first-aid treatment of heat-related illness.

AMENDATORY SECTION (Amending WSR 18-01-054, filed 12/13/17, effective 1/13/18)

WAC 16-233-221 Decontamination and eye flushing supplies for handlers—40 C.F.R., § 170.509. (1) *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 in WAC 16-233-216 (4)(i).

(2) *General conditions.* The decontamination supplies required in subsection (1) of this section must include: At the site where handlers remove personal protective equipment, soap, single-use towels, and a sufficient amount of water so that handlers may wash thoroughly. At least ten gallons of water for one employee and twenty gallons of water for two or more employees ~~((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))~~ shall be provided at mixing and loading sites that do not have running water. The decontamination and eye flushing supplies required in subsection (1) of this section must meet all of the following requirements:

(a) *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 tem-

perature 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.

(b) *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.

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

(3) *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 nontreated 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.

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

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

(c) *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.

(4) *Emergency eye-flushing.*

(a) 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))~~ station and handler decontamination sites, immediately available to the handler, at least one plumbed or portable eye wash system that is capable of delivering gently running water at a rate of at least 0.4 gallons (1.5 liters) per minute for at least ~~((15))~~ fifteen minutes, ~~((or))~~ at least six gallons of water ~~((in containers suitable for providing a gentle eye flush for about fifteen minutes))~~. A plumbed or portable system meeting the above requirements shall be provided at all permanent mixing and loading sites.

(b) 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.

AMENDATORY SECTION (Amending WSR 18-01-054, filed 12/13/17, effective 1/13/18)

WAC 16-233-301 Exemptions—40 C.F.R., § 170.601.

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

(a) 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 sections 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 chapter on their own agricultural establishment.

- ~~((i))~~ ~~((WAC 16-233-021(3)))~~
- ~~((ii))~~ WAC 16-233-021 (6) through (10).
- ~~((iii))~~ ~~((ii))~~ WAC 16-233-026.
- ~~((iv))~~ ~~((iii))~~ WAC 16-233-101.
- ~~((v))~~ ~~((iv))~~ WAC 16-233-106.
- ~~((vi))~~ ~~((v))~~ WAC 16-233-121.
- ~~((vii))~~ ~~((vi))~~ WAC 16-233-126 and 16-233-221.
- ~~((viii))~~ ~~((vii))~~ WAC 16-233-201.
- ~~((ix))~~ ~~((viii))~~ WAC 16-233-206.
- ~~((x))~~ ~~((ix))~~ WAC 16-233-211 (3) and (4).
- ~~((xi))~~ ~~((x))~~ WAC 16-233-216 (3) through (5).
- ~~((xii))~~ ~~((xi))~~ WAC 16-233-311 (1) through (3) and (5) through (10).

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

(2) *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 WAC 16-233-021 (5) and (6), 16-233-031(11), 16-233-206(1), 16-233-216, and 16-233-221 do not apply to certified crop advisors provided the application is complete and all of the following conditions are met:

(a) The crop advisor is certified or licensed as a crop advisor by the Washington state department of agriculture.

(b) The certification or licensing program requires pesticide safety training that includes all the information in WAC 16-233-201 (3)(b) or (c) as applicable depending on the date of training.

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

AMENDATORY SECTION (Amending WSR 18-01-054, filed 12/13/17, effective 1/13/18)

WAC 16-233-306 Exceptions for entry by workers during restricted-entry intervals—40 C.F.R., § 170.603.

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 WAC 16-233-311 are met.

(1) *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:

(a) 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.

(b) No such entry is allowed until any inhalation exposure level listed in the pesticide product labeling has been reached or any ventilation criteria required in WAC 16-233-111 (2)(c) or the pesticide product labeling have been met, and either inhalation exposure levels are below PELs in WAC 296-307-624, Part Y-6 Respiratory hazards, or respiratory protection is worn according to requirements in WAC 296-307-594, Part Y-5 Respirators.

(2) *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:

(a) No hand labor activity is performed.

(b) The time in treated areas where a restricted-entry interval is in effect does not exceed one hour in any twenty-four-hour period for any worker.

(c) No such entry is allowed during the first four hours after the application ends.

(d) No such entry is allowed until any inhalation exposure level listed in the pesticide product labeling has been reached or any ventilation criteria required in WAC 16-233-111 (2)(c) or the pesticide product labeling have been met, and either inhalation exposure levels are below PELs in WAC 296-307-624, Part Y-6 Respiratory hazards, or respiratory protection is worn according to requirements in WAC 296-307-594, Part Y-5 Respirators.

(3) *Exception for an agricultural emergency.*

(a) 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.

(b) 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 Washington state department of agriculture 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 Washington state department of agriculture 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 (a) of this subsection.

(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 twenty-four-hour period in treated areas where such a restricted-entry interval is in effect.

(iv) No such entry is allowed during the first four 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 in WAC 16-233-111 (2)(c) or the pesticide product labeling have been met, and either inhalation exposure levels are below PELs in WAC 296-307-624, Part Y-6 Respiratory hazards, or respiratory protection is worn according to requirements in WAC 296-307-594, Part Y-5 Respirators.

(vi) A decontamination site has been provided in accordance with WISHA regulations.

(4) *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:

(a) No hand labor activity is performed.

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

(c) No such entry is allowed during the first four hours after the application ends.

(d) No such entry is allowed until any inhalation exposure level listed in the pesticide product labeling has been reached or any ventilation criteria required in WAC 16-233-111 (2)(c) or the pesticide product labeling have been met, and either inhalation exposure levels are below PELs in WAC 296-307-624, Part Y-6 Respiratory hazards, or respiratory protection is worn according to requirements in WAC 296-307-594, Part Y-5 Respirators.

(e) 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.

(f) With the exception of irrigation tasks, the need for the task could not have been foreseen.

(g) The worker has no contact with pesticide-treated surfaces other than minimal contact with feet, lower legs, hands, and forearms.

(h) 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.

AMENDATORY SECTION (Amending WSR 18-01-054, filed 12/13/17, effective 1/13/18)

WAC 16-233-311 Agricultural employer responsibilities to protect workers entering treated areas during a restricted-entry interval—40 C.F.R., § 170.605. 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:

(1) The agricultural employer must ensure that the worker is at least eighteen years old.

(2) Prior to early entry, the agricultural employer must provide to each early-entry worker the information described in (a) through (h) of this subsection. The information must be provided orally in a manner that the worker can understand.

(a) Location of early-entry area where work activities are to be performed.

(b) Pesticide(s) applied.

(c) Dates and times that the restricted-entry interval begins and ends.

(d) Which exception in WAC 16-233-306 is the basis for the early entry, and a description of tasks that may be performed under the exception.

(e) Whether contact with treated surfaces is permitted under the exception.

(f) Amount of time the worker is allowed to remain in the treated area.

(g) Personal protective equipment required by the pesticide product labeling for early entry.

(h) Location of the pesticide safety information required in WAC 16-233-026(1) and the location of the decontamination supplies required in subsection (8) of this section.

(3) 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.

(4) 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 WAC 16-233-216 (2)(a) through (i).

(5) The agricultural employer must maintain the personal protective equipment in accordance with WAC 16-233-216 (3) and (4).

(6) 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.

(7)(a) 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.

(b) Each worker is instructed in the prevention, recognition, and first-aid treatment of heat-related illness.

(8) During any early-entry activity, the agricultural employer must provide decontamination supplies in accordance with WAC 16-233-221, 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.

(9) 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.

(10) 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 an adequate amount of water so that the workers may wash thoroughly. At least ten gallons of water for one employee and twenty gallons of water for two or more employees shall be provided at early entry sites that do not have running water.

AMENDATORY SECTION (Amending WSR 18-01-054, filed 12/13/17, effective 1/13/18)

WAC 16-233-316 Exceptions to personal protective equipment requirements specified on pesticide product labeling—40 C.F.R., § 170.607. (1) *Body protection.*

(a) 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.

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

(2) *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.

(3) *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.

(4) *Closed systems.*

(a) When pesticides are being mixed or loaded using a closed system that meets all of the requirements in (b) of this subsection, and the handler employer meets the requirements in (c) of this subsection, 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 protec-

tive 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 (a)(i) of this subsection may substitute protective eyewear, long-sleeved shirt, long pants, and shoes and socks for the labeling-specified personal protective equipment.

(b) The exceptions in (a) of this subsection 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.

(c) The exceptions in (a) of this subsection apply only where the handler employer has satisfied the requirements in WAC 16-233-031 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.

(5) *Enclosed cabs.*

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

~~(b) 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 applica-~~

~~tion 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.~~

~~(c) Handlers) handling tasks are performed from inside a cab that has a nonporous barrier which totally surrounds the occupants of the cab and prevents contact with pesticides outside of the cab, exceptions to personal protective equipment specified on the product labeling for that handling activity are permitted as provided in (a) and (b) of this subsection.~~

~~(b) Persons occupying an enclosed cab shall have all labeling-specified personal protective equipment immediately available and stored in a chemical-resistant container, such as a plastic bag. They shall wear such personal protective equipment if it is necessary to 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 the treated area, it must be removed before reentering the cab to prevent contamination of the cab.~~

~~(c) Persons occupying such an enclosed cab 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 manufacturer's written operating instructions. If any other type of respirator is required by the pesticide labeling for applicators, then that respirator)). If a respiratory protection device is specified on the pesticide product labeling for the handling activity, it must be worn.~~

~~(d) Persons occupying an enclosed cab that has a properly functioning ventilation system which is used and maintained in accordance with the manufacturer's written operating instructions and which is declared in writing by the manufacturer to provide respiratory protection equivalent to or greater than a dust/mist filtering respirator may substitute a long-sleeved shirt, long pants, shoes, and socks for the labeling-specified personal protective equipment. If a respiratory protection device other than a particulate/dust/mist filtering respirator is specified on the pesticide product labeling, it must be worn.~~

(6) *Aerial applications.*

(a) *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.

(b) *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.

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

(7) *Crop advisors.*

(a) Provided the conditions in (b) through (d) of this subsection 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 eye-wear for handlers.

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

(c) No such entry is allowed until any inhalation exposure level listed in the pesticide product labeling has been reached or any ventilation criteria required in WAC 16-233-111 (2)(c) or the pesticide product labeling have been met, and either inhalation exposure levels are below PELs in WAC 296-307-624, Part Y-6 Respiratory hazards, or respiratory protection is provided and worn according to requirements in WAC 296-307-594, Part Y-5 Respirators.

(d) 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.