

WSR 26-04-114

EXPEDITED RULES

DEPARTMENT OF AGRICULTURE

[Filed February 3, 2026, 8:58 a.m.]

Title of Rule and Other Identifying Information: Chapter 16-233 WAC, Worker protection standard (WPS).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department of agriculture (department) proposes to update WAC 16-233-016, 16-233-111, and 16-233-301 to meet the new minimum standards made to 40 C.F.R. 170 in 2024 by the United States Environmental Protection Agency (EPA) in rule-making Docket No. EPA-HQ-OPP-2022-0133. The department also proposes harmonizing the emergency eye wash rules with already existing department of labor and industries (L&I) eye wash rules found in WAC 296-307-03930.

Reasons Supporting Proposal: The department is required to update the WPS rules to meet the minimum standards adopted in C.F.R. as part of our responsibilities and continued authority as the state lead agency, which enforces the Federal Insecticide Fungicide Rodenticide Act, 40 C.F.R. In 2024, EPA finalized rules that changed the "application exclusion zone" for pesticide applications in 40 C.F.R. 170.405, 170.505, and 170.601. These changes necessitate changes in our state rules (WAC 16-233-016, 16-233-111, and 16-233-301), which mirror the federal rules. Additionally, L&I shares enforcement of federal WPS standards with the department and have stricter requirements for eye washing facilities in WAC 296-307-03930. RCW 17.21.440 requires the department to adopt rules for safety and health standards that are at-least-as-effective-as the federal standard and that the standards adopted by the department shall be in coordination with L&I. Changes to WAC 16-233-221 will bring L&I's rules into accord with already existing rules and ensure consistency of enforcement across all agencies.

Statutory Authority for Adoption: RCW 17.21.030(2), 17.21.440, and 15.58.040(2).

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: Washington department of agriculture, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Caleb Cole, 1111 Washington Street S.E., Olympia, WA, 206-492-1969; Enforcement: Tim Stein, 1111 Washington Street S.E., Olympia, WA, 509-990-8869.

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: Aligning chapter 16-233 WAC with 40 C.F.R. 170 and standards specified in chapter 296-307 WAC meet the

criteria for expedited adoption under RCW 34.05.353 (1)(b) by adopting, without material change, federal regulations and 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, Rules Coordinator, Washington State Department of Agriculture, 1111 Washington Street S.E., [Olympia, WA 98501,] phone 360-902-1802, fax 360-902-2092, email grobinson@agr.wa.gov, BEGINNING 9:00 a.m., February 3, 2026, AND RECEIVED BY 5:00 p.m., April 6, 2026.

February 3, 2026

Kelly McLain, Assistant Director
Agriculture Environmental Services Division

RDS-6752.1

AMENDATORY SECTION (Amending WSR 20-21-029, filed 10/12/20, effective 11/12/20)

WAC 16-233-016 Definitions—40 C.F.R., § 170.305. Terms used in this chapter have the same meanings they have in the Federal Insecticide, Fungicide, and Rodenticide Act, as amended. In addition, the following terms, when used in this chapter, shall have the following meanings:

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

(2) "Agricultural employer" means any person who is an owner of, or is responsible for the management or condition of, an agricultural establishment, and who employs any worker or handler.

(3) "Agricultural establishment" means any farm, forest operation, or nursery engaged in the outdoor or enclosed space production of agricultural plants. An establishment that is not primarily agricultural is an agricultural establishment if it produces agricultural plants for transplant or use (in part or their entirety) in another location instead of purchasing the agricultural plants.

(4) "Agricultural plant" means any plant, or part thereof, grown, maintained, or otherwise produced for commercial purposes, including growing, maintaining or otherwise producing plants for sale or trade, for research or experimental purposes, or for use in part or their entirety in another location. Agricultural plant includes, but is not limited to, grains; fruits and vegetables; wood fiber or timber products; flowering and foliage plants and trees; seedlings and transplants; and turf grass produced for sod. Agricultural plant does not include pasture or rangeland used for grazing.

(5) "Application exclusion zone" means the area surrounding the point(s) of pesticide discharge from the application equipment that

must generally be free of all persons (~~other than appropriately trained and equipped handlers~~) during pesticide applications.

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

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

(8) "Commercial pesticide handler employer" means any person, other than an agricultural employer, who employs any handler to perform handler activities on an agricultural establishment. A labor contractor who does not provide pesticide application services or supervise the performance of handler activities, but merely employs laborers who perform handler activities at the direction of an agricultural or handler employer, is not a commercial pesticide handler employer.

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

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

(11) "Designated representative" means any persons designated in writing by a worker or handler to exercise a right of access on behalf of the worker or handler to request and obtain a copy of the pesticide application and hazard information required by WAC 16-233-021(8) in accordance with WAC 16-233-026(2).

(12) "Early entry" means entry by a worker into a treated area on the agricultural establishment after a pesticide application is complete, but before any restricted-entry interval for the pesticide has expired.

(13) "Employ" means to obtain, directly or through a labor contractor, the services of a person in exchange for any type of compensation including a salary, wages, or piece-rate wages, without regard to who may pay or who may receive the salary or wages. It includes obtaining the services of a self-employed person, an independent contractor, or a person compensated by a third party, except that it does not include an agricultural employer obtaining the services of a handler through a commercial pesticide handler employer or a commercial pesticide handling establishment.

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

(15) "Enclosed space production" means production of an agricultural plant indoors or in a structure or space that is covered in whole or in part by any nonporous covering or that is covered and enclosed in a way that would obstruct natural airflow, and that is large enough to permit a person to enter. Structures, with a cover that does not have any walls such as shade houses made of fencing or fabric to

provide shade on plants that do not obstruct airflow, are not considered enclosed spaces.

(16) "Fumigant" means any pesticide product that is a vapor or gas, or forms a vapor or gas upon application, and whose pesticidal action is achieved through the gaseous or vapor state.

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

(18) "Handler" means any person, including a self-employed person, who is employed by an agricultural employer or commercial pesticide handler employer and performs any of the following activities:

(a) Mixing, loading, or applying pesticides.

(b) Disposing of pesticides.

(c) Handling opened containers of pesticides, emptying, triple-rinsing, or cleaning pesticide containers according to pesticide product labeling instructions, or disposing of pesticide containers that have not been cleaned. The term does not include any person who is only handling unopened pesticide containers or pesticide containers that have been emptied or cleaned according to pesticide product labeling instructions.

(d) Acting as a flagger.

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

(f) Assisting with the application of pesticides.

(g) Entering an enclosed space after the application of a pesticide and before the inhalation exposure level listed in the labeling has been reached or one of the ventilation criteria established in WAC 16-233-111 (2)(c) or the labeling has been met to operate ventilation equipment, monitor air levels, or adjust or remove coverings used in fumigation.

(h) Entering a treated area outdoors after application of any soil fumigant during the labeling-specified entry-restricted period to adjust or remove coverings used in fumigation.

(i) Performing tasks as a crop advisor during any pesticide application or restricted-entry interval, or before the inhalation exposure level listed in the pesticide product labeling has been reached or one of the ventilation criteria established in WAC 16-233-111

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

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

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

(21) "Labor contractor" means a person, other than a commercial pesticide handler employer, who employs workers or handlers to perform

tasks on an agricultural establishment for an agricultural employer or a commercial pesticide handler employer.

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

(23) "Owner" means any person who has a present possessory interest (e.g., fee, leasehold, rental, or other) in an agricultural establishment. A person who has both leased such agricultural establishment to another person and granted that same person the right and full authority to manage and govern the use of such agricultural establishment is not an owner for purposes of this chapter.

(24) "Personal protective equipment" or "PPE" means devices, appliances or apparel that are worn to protect the body from exposure to safety and health hazards. PPE that protects against chemical hazards such as pesticides or pesticide residues including, but not limited to: Coveralls, chemical-resistant suits, chemical-resistant gloves, chemical-resistant footwear, respirators, chemical-resistant aprons, chemical-resistant headgear, and protective eyewear.

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

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

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

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

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

(i) Arranging for the application of the pesticide.

(ii) Mixing and loading the pesticide.

(iii) Making necessary preparations for the application of the pesticide, including responsibilities related to worker notification, training of workers or handlers, providing decontamination supplies, providing pesticide safety information and pesticide application and hazard information, use and care of personal protective equipment, providing emergency assistance, and heat stress management.

(b) Application of the pesticide.

(c) Post-application activities intended to reduce the risks of illness and injury resulting from handlers' and workers' occupational exposures to pesticide residues during and after the restricted-entry interval, including responsibilities related to worker notification, training of workers or early-entry workers, providing decontamination supplies, providing pesticide safety information and pesticide application and hazard information, use and care of personal protective equipment, providing emergency assistance, and heat stress management.

(d) Other pesticide-related activities including, but not limited to, transporting or storing pesticides that have been opened, cleaning equipment, and disposing of excess pesticides, spray mix, equipment wash waters, pesticide containers, and other pesticide-containing materials.

(29) "Worker" means any person, including a self-employed person, who is employed and performs activities directly relating to the production of agricultural plants on an agricultural establishment.

(30) "Worker housing area" means any place or area of land on or near an agricultural establishment where housing or space for housing is provided for workers or handlers by an agricultural employer, own-

er, labor contractor, or any other person responsible for the recruitment or employment of agricultural workers.

AMENDATORY SECTION (Amending WSR 20-21-029, filed 10/12/20, effective 11/12/20)

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

~~(a) ((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.~~

~~(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.~~

~~(d)) The application exclusion zone shall be as follows:~~

~~(i) The application exclusion zone is the area that extends 100 feet horizontally from the point(s) of pesticide discharge 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 or air-propelled applications.~~

~~(C) As a fumigant, smoke, mist, or fog.~~

~~(D) As a spray using nozzle configurations which produce a drop-let size of smaller than medium, in accordance with the meaning given to "medium" in ANSI/ASAE S572, ANSI/ASAE S572.1, ANSI/ASAE S572.2, or~~

ANSI/ASAE S572.3 (all incorporated by reference in subsection (3) of this section).

(ii) The application exclusion zone is the area that extends 25 feet horizontally from the point(s) of pesticide discharge from the application equipment in all directions when the pesticide is sprayed from a height of greater than 12 inches from the soil surface or planting medium using nozzles or nozzle configurations which produce a droplet size of medium or larger, in accordance with the meaning given to "medium" in ANSI/ASAE S572, ANSI/ASAE S572.1, ANSI/ASAE S572.2, or ANSI/ASAE S572.3 (all incorporated by reference in subsection (3) of this section).

(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) During any outdoor production pesticide application, the agricultural employer must not allow or direct any worker or other person 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, except for:

(i) Appropriately trained and equipped handlers involved in the application; and

(ii) Owners of the agricultural establishment and their immediate family members who remain inside closed buildings, housing, or shelters under the conditions specified in WAC 16-233-301.

(c) 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.

Table with 2 columns: Application Method and AEZ Description. Row 1: Aerially, Air blast, spray quality, fumigant, smoke, mist, fog, or aerosol. Row 2: 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.

<p>*During pesticides being applied: (WAC 16-233-111)</p>	<p>Prohibit workers and any persons, other than appropriately trained and equipped handlers, from being in the AEZ:</p>
<p>Otherwise—No AEZ</p>	<p>Follow applicable label directions for restricted-entry intervals.))</p>

(2) *Enclosed space production pesticide applications.*

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

(b) After the time specified in column 3 of Table ((2)) 1 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 Table ((2)) 1 under (d) of this subsection.

(c) When column 3 of Table ((2)) 1 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)) 1

Entry Restrictions During Enclosed Space Production Pesticide Applications

1. When a pesticide is applied:	2. Prohibit workers and any persons, other than appropriately trained and equipped handlers, from being in AEZ:	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, the pesticide product label requires a respirator during application	Entire enclosed space	The ventilation criteria of subsection (2)(c) of this section are met	Treated area
(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

(3) Incorporation by reference. The material listed in this subsection (3) is incorporated by reference into this section.

(a) ANSI/ASAE S572 FEB2004, Spray Nozzle Classification by Droplet Spectra, reaffirmed February 2004 (ANSI/ASAE S572).

(b) ANSI/ASAE S572.1 MAR2009 (R2017), Spray Nozzle Classification by Droplet Spectra, reaffirmed December 2017 (ANSI/ASAE S572.1).

(c) ANSI/ASAE S572.2 JUL2018, Spray Nozzle Classification by Droplet Spectra, ANSI approved July 2018 (ANSI/ASAE S572.2).

(d) ANSI/ASAE S572.3, Spray Nozzle Classification by Droplet Spectra, ANSI approved February 2020 (ANSI/ASAE S572.3).

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

WAC 16-233-211 Requirements during applications to protect handlers, workers, and other persons—40 C.F.R., § 170.505. (1) *Prohibition from contacting workers and other persons with pesticides during application.* The handler employer and the handler must ensure that no pesticide is applied so as to contact, directly or through drift, any worker or other person, other than an appropriately trained and equipped handler involved in the application.

(2) *Suspending applications.* ((The))

(a) Any handler performing ((the)) a pesticide application must immediately suspend ((a)) the pesticide application if any worker or other person ((, other than an appropriately trained and equipped handler involved in the application,)) is in the application exclusion zone described in WAC 16-233-111 (1) (a) or the area specified in column 2 of the table in WAC 16-233-111 (2) (d) ((-)), except for:

(i) Appropriately trained and equipped handlers involved in the application; and

(ii) The owner(s) of the agricultural establishment and members of their immediate families who remain inside closed buildings, housing, or shelters, provided that the handlers have been expressly instructed by the owner(s) of the agricultural establishment that only immediate family members remain inside those closed buildings, housing, or shelters and that the application should proceed despite the presence of the owner(s) or their immediate family members inside those closed buildings, housing, or shelters.

(b) A handler must not resume a suspended pesticide application while any workers or other persons remain in an application exclusion zone described in WAC 16-233-111 (1) (a) or the area specified in column 2 of the table in WAC 16-233-111 (2) (d) except for:

(i) Appropriately trained and equipped handlers involved in the application; and

(ii) The owner(s) of the agricultural establishment and members of their immediate families who remain inside closed buildings, housing, or shelters, provided that the handlers have been expressly instructed by the owner(s) of the agricultural establishment that only immediate family members remain inside those closed buildings, housing, or shelters and that the application should proceed despite the presence of the owner(s) or their immediate family members inside those closed buildings, housing, or shelters.

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

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

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

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

AMENDATORY SECTION (Amending WSR 22-23-063, filed 11/9/22, effective 12/10/22)

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 10 gallons of water for one employee and 20 gallons of water for two or more employees 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 temperature that will not cause illness or injury when it contacts the skin or eyes or if it is swallowed. If a water source is used for mixing pesticides, it must not be used for decontamination or eye flushing supplies, unless equipped with properly functioning valves or other mechanisms that prevent contamination of the water with pesticides, such as anti-backflow siphons, one-way or check valves, or an air gap sufficient to prevent contamination.

(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 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 minutes, at least six gallons of water, that meets the requirements of WAC 296-307-03930(2). 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 20-21-029, filed 10/12/20, effective 11/12/20)

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 (and, where specified in the following, certain handlers) 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 (6) through (10).

(ii) WAC 16-233-026.

(iii) WAC 16-233-101.

(iv) WAC 16-233-106.

(v) WAC 16-233-111 (1)(b) and 16-233-211(2), but only in regard to owner(s) of the establishment and their immediate family members who remain inside closed buildings, housing, or shelters. This exception also applies to handlers (regardless of whether they are immediate family members) who have been expressly instructed by the owner(s) of the establishment that:

(A) Only the owner(s) or their immediate family members remain inside the closed building, housing, or shelter; and

(B) The application should proceed despite the presence of the owner(s) or their immediate family members remaining inside the closed buildings, housing, or shelters.

~~(vi)~~ WAC 16-233-121.

~~((vi))~~ (vii) WAC 16-233-126 and 16-233-221.

~~((vii))~~ (viii) WAC 16-233-201.

~~((viii))~~ (ix) WAC 16-233-206.

~~((ix))~~ (x) WAC 16-233-211 (3) and (4).

~~((x))~~ (xi) WAC 16-233-216 (3) through (5).

~~((xi))~~ (xii) 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.