



Differences Between State and Federal Worker Protection Standard Requirements

Most of the state's Worker Protection Standard (WPS) rules are consistent with the federal WPS. This fact sheet describes those specific areas where the state rules differ from the federal requirements. State rules can be found in:

- Department of Agriculture (WSDA) WAC 16-233
- Department of Labor and Industries (L&I) WAC 296-307

The state's rules for both agencies are more stringent than the federal rules. Therefore, by following all of the requirements in the state WPS rules, employers will also comply with federal rules.

Note: In most cases, L&I's WAC 296-307 is cited because WSDA has not yet adopted changes to match the L&I requirements.

Definition of "Employ"

The definition of "employ" partially determines who receives protections under the Worker Protection Standard. The federal definition, in part, states:

"Employ means to obtain, directly or through a labor contractor, the services of a person in exchange for a salary or wages, including piece-rate wages..."

The state definition, in part, states:

*"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..."*

If an individual is receiving compensation by bartering or other means, state rules define them as an employee so they must receive WPS protections. (See WAC 296-307-10820)

Agricultural Employer's "Immediate Family" Exemptions

Agricultural owners and their "immediate family" are exempt from many of the Worker Protection Standard requirements. The federal WPS requirements expanded the definition of immediate family to include:

- "in-laws" (mothers/fathers/brothers/sisters/sons/daughters)
- grandparents and grandchildren
- aunts, uncles, nieces, nephews, and first cousins

However, the state did not broaden the definition of immediate family. Therefore, the individuals listed above must receive the full WPS protection in Washington. (See WAC 296-307-10820)

Respirator Use and Gas/Vapor (OV) Cartridge Replacement Requirements:

Federal WPS rules require a medical evaluation, training and fit testing for respirator use. The state's rules additionally require employers to abide by L&I's respirator program requirements found in WAC 296-307-594, Part Y-5. Among these requirements, employers must designate a program administrator to be responsible for the respirator program, and have a written respiratory protection program.

Federal and state requirements have change-out criteria for disposable filtering face-piece respirators and for gas- or vapor-removing (e.g., OV) respirator cartridges [see WAC 16-233-216(4)(f) and WAC 16-233-216(4)(g), respectively]. "In the absence of any other instructions or indications of service life," the federal requirements allow up to **eight hours of cumulative use** for disposable filtering face-piece respirators (e.g., dust/mist filtering respirators, such as an N95) and gas- or vapor-removing (e.g., OV) respirator cartridges. State rules require that, "In the absence of any other instructions or indications of service life," filtering face-piece respirators and gas- or vapor- removing respirator cartridges be replaced **at the end of each day's work period**. This means that neither the filtering face-piece respirators nor the gas- or vapor-removing cartridges can be reused on a subsequent day (in the absence of other indicators). For example, if your only respiratory protection task for the day lasted just one-hour, the respiratory protection device (particulate face-piece filtering respirator or OV cartridge) would need to be discarded when the task is completed. [See WAC 296-307-11220(4)(f)&(g)]

The state allows workers to forgo wearing a PPE label-required particulate filtering face-piece respirator in an enclosed cab with a properly functioning air ventilation system only if the manufacturer of the enclosed cab declares in writing that the cab provides respiratory protection equivalent to or greater than a dust/mist filtering respirator. Examples of these types of respirators include NIOSH-approval number prefix TC-84A, e.g., N-, R-, P-type particulate filter and air purifying half-face or full-face elastomeric respirator with a combination cartridge or particulate filter. [See WAC 296-307-11420(5)(d)]

PPE Required When Two or More Pesticides are Mixed, Loaded, and Applied

The state rules clarify that when two or more pesticides are mixed and applied, handlers and early-entry workers must wear PPE that is protective of all the pesticides applied in the mix. Follow PPE requirements on the most restrictive pesticide label in the mix. [See WAC 296-307-10920(4) and WAC 296-307-11220(2)]

Protection from Inhalation Exposure During Early-Entry

The state added requirements to make sure inhalation exposure levels are below the Permissible Exposure Limits (PELs) for air contaminants (as found in L&I's WAC 296-307-624, Part Y-6) before allowing:

- Early-entry under a restricted entry interval. (See WAC 296-307-11410)
- Exceptions for personal protective equipment for crop advisors. (See WAC 296-307-11420)

Decontamination Water Required for Handlers and Early-Entry Workers

The federal rules require at least three gallons of decontamination water per pesticide handler and per early-entry worker be provided (in the field and where PPE is removed). The state rules require at least 10 gallons of water for one handler or early-entry worker, and 20 gallons for two or more handlers or early-entry workers at sites that do not have running water. [See WAC 296-307-10930, WAC 296-307-11225(2), and WAC 296-307-11415(10)]

Working on Pesticide-Contaminated Equipment

In both state and federal rules, any person employed or supervised by an agricultural employer must be trained as a pesticide handler before they work on pesticide-contaminated equipment. Under federal rules, non-employees, such as a mechanic, who clean, service, adjust, or repair pesticide-contaminated equipment must be provided with certain information to prevent exposures. Under the state rules, non-employees who are brought in must be provided with that information, **and** the pesticide-contaminated equipment must be decontaminated, if feasible, before they work on it. [See WAC 296-307-10825(7)]

Removing Posted Warning Signs

The federal rules allow warning signs to remain posted after the restricted-entry interval (REI) has expired, as long as all the following conditions are met:

- The agricultural employer instructs any workers on the establishment who may come within one-quarter mile of the treated area not to enter that treated area while the signs are posted.
- The agricultural employer ensures that workers do not enter the treated area while the signs remain posted, other than entry permitted by §170.603 of this part.
- Signs remain visible and legible during the time posting is required.

State rules do not allow for warning signs to remain posted as above. Posted warning signs must be removed or covered within three days after the end of the application or any restricted-entry interval, whichever is later. [See WAC 296-307-10925(2)(a)]

Keeping Records of Application and Hazard Information (SDS)

The federal rules require records of pesticide applications and hazard information (SDS) be maintained for two years. The state rules require that those records be maintained for seven years. [See WAC 296-307-10830(2)(e)]