

U.S. Environmental Protection Agency
Comparison of Proposed Revisions to EPA’s Worker Protection Standard Application Exclusion Zone (40 CFR 170)

On November 1, 2019, EPA proposed revisions to the existing Worker Protection Standard (WPS) ([40 CFR 170](#)) provisions related to the Application Exclusion Zone (AEZ).

Note that this document provides general guidance to EPA, certifying authorities, agricultural employers, applicators and the public. This document is not binding on EPA or any outside parties, and EPA may depart from the guidance where circumstances warrant and without prior notice. The full text of the proposed rule, including the proposed regulatory text, and more information on the proposed changes to the regulation are available at www.regulations.gov using Docket ID [EPA-HQ-OPP-2017-0543](#).

Current WPS reg citation	2015 WPS requirement	Proposed change	Why
170.405(a)(1)	The application method, spray height, and spray quality droplet size and volume median diameter (diameter of 294 microns) must be used by pesticide applicators and handlers to determine the size of the AEZ for outdoor production pesticide applications.	Maintain application method and spray heights as criteria for determining the AEZ; eliminate spray quality and droplet size and volume median diameter as criteria. Instead: <ul style="list-style-type: none"> • Limit AEZ to 100 ft distances for aerial applications, air blast or air-propelled applications and fumigant, smoke, mist or fog outdoor applications. • Limit AEZ to 25 ft during applications using a spray method not previously listed and when sprayed at a height greater than 12 inches from the soil surface or planting medium. 	<ul style="list-style-type: none"> • Spray sizes are no longer appropriate based on information from American Society of Agricultural & Biological Engineers. • The criteria in the current regulation can be confusing and difficult to comply with and enforce.
170.405(a)(2)	Agricultural employers must not allow or direct anyone other than appropriately trained and equipped handlers/applicators to enter or remain in the treated area or AEZ during application.	Adds exception to allow persons working on or in easements to remain within the AEZ during an application so that the handler does not have to suspend the application.	<ul style="list-style-type: none"> • Persons working on/in easements (e.g., utility workers) are not employed by the agricultural establishment and are not within the agricultural employer’s control; this proposal provides regulatory relief to handlers and agricultural employers and may prevent pesticide applications from being disrupted. • Even though persons could remain working in an easement within the AEZ, they are still protected by the “do not contact” provision.

170.501(c)(3)(xi)	Handler training states: "Handlers must suspend a pesticide application if workers or other persons are in the application exclusion zone."	Train handlers to suspend an application when persons are in the AEZ within the boundaries of the agricultural establishment; train handlers on the proposed exceptions in 170.405(a)(2) for (1) trained and equipped handlers and (2) persons working on or within easements.	Updates the handler training requirements to reflect the proposed changes to 170.405 and 505.
170.505(b)	Handlers must suspend pesticide applications if workers or other persons* are in the AEZ, which includes outside boundaries of agricultural establishment.	Handlers must suspend the application if workers or other persons* are in the AEZ within the boundaries of the agricultural establishment (does not include outside the boundaries of the agricultural establishment).	<ul style="list-style-type: none"> • Makes the handlers' duty to suspend an application consistent with the agricultural employers' duty to exclude persons from AEZ. • Employer lacks control over persons not within the boundary of establishment. • Handlers are still subject to complying with the "do not contact" provision.
170.505(b)	Handlers must suspend pesticide applications if workers or other persons* are in the AEZ.	Includes exception for persons working on or in easements within the AEZ so that the handler does not have to suspend application.	<ul style="list-style-type: none"> • Persons working on/in easements are not employed by agricultural establishments and are not within the agricultural employer's control. • Even though easement workers could remain within the AEZ, they are still protected by the "do not contact" provision.
170.601(a)	Owners of agricultural establishments and their immediate families are exempt from many but not all WPS requirements. Owners/families would have to leave their home if the home is within the AEZ during application.	Exempt owners of agricultural establishments and their immediate families from the AEZ requirements so they can stay in their own home during pesticide applications if the home is within the AEZ.	The current requirement poses an unnecessary burden on farm owners. Family members will take appropriate steps to protect others in the family to ensure they will not be contacted by spray during pesticide applications.

*Exception: trained and equipped handlers/applicators are allowed to remain in AEZ during application.