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### III. Summary of the Final Rule Amendment

EPA is amending the WPS to exempt qualified crop advisors from some requirements. EPA is also exempting persons performing crop advising tasks from some of the WPS requirements, only if the tasks are performed under the direct supervision of a certified or licensed crop advisor. This rule also establishes a grace period for all persons while doing crop advising tasks in order to allow time to acquire certification or licensing.

EPA is including in new §§ 170.104 and 170.204 exemptions for knowledgeable and experienced crop advisors from the requirement of using personal protection equipment (PPE) (§ 170.240), knowledge of labeling and site specific information (§ 170.232), decontamination (§§ 170.150 and 170.250), and emergency assistance (§§ 170.160 and 170.260) requirements of the WPS. The crop advisor exemption applies only to individuals performing crop advising tasks in the treated area and only after application ends. Certified or licensed crop advisors may substitute pesticide safety training received during the certification or licensing program if such training is at least equivalent to the WPS training required by § 170.230.

A temporary grace period for all individuals while performing crop advisor tasks is established until May 1, 1996 to allow time for acquiring certification or licensing.

### IV. EPA's Amendment Decision

Based on information submitted in comments and EPA's knowledge and understanding of crop advisor activities, EPA has concluded that an amendment exempting qualified crop advisors and persons they directly supervise is appropriate. Further, based on comments received, EPA believes that crop advisors, through their training and expertise, can assess which risk reduction measures are most appropriate depending on the situation. Finally, EPA believes that crop advisors can successfully communicate these judgments to persons they directly supervise, thereby assuring that both advisors and persons they directly supervise carry out their responsibilities safely.

Crop advisor tasks typically do not require extended periods of time in recently treated fields, thus lessening potential risk of exposure to pesticide residues through direct or incidental contact. Crop advisors commented that

in practice, it is typically necessary to wait a period of time after application to properly assess the effectiveness of the recommended treatment. EPA recognizes, however, that some situations may result in substantial exposure to pesticide residues, such as entering greenhouses shortly after fumigation, or entering treated areas during the first 4 hours after an application or before the ventilation criteria/inhalation exposure levels have been met. However, crop advisors, because of their knowledge, training and experience gained in the field, are in a unique position to understand pesticide-related hazards and protect themselves and persons they directly supervise from potential exposure. EPA expects that they would take appropriate protective steps, such as using appropriate PPE, or delaying entering into the treated area, especially where fumigants and double notification pesticides have been used.

The provisions set forth in the exemption provide protective measures for crop advisors and persons they directly supervise. The exemption does not allow entry into the treated area before the application ends and applies only to persons performing crop advisor tasks in the treated area. The crop advisor must make specific determinations regarding the appropriate PPE, appropriate decontamination supplies, and how to safely conduct the crop advisor tasks. The crop advisor must convey this information to each person under their direct supervision in a language that the person understands. Before entering a treated area, the crop advisor must inform, through an established practice of communication, each person under their direct supervision of the pesticide product and active ingredient(s) applied, method and time of application, and the restricted entry interval. The crop advisor must instruct each person whom they directly supervise regarding which tasks to undertake and how to contact the crop advisor. EPA believes that these terms will significantly limit exposure to pesticide residues, and consequently, the risk.

This exemption has substantial benefits for crop advisors by allowing them flexibility to make informed judgements regarding the need for protection on a case-by-case basis. The exemption also encourages the use of crop advisors, whose activities support agricultural productivity by maximizing the use of integrated pest management practices while minimizing chemical inputs, creating both environmental and economic benefits.

In summary, in deciding to grant this exemption to crop advisors and persons they supervise, EPA has weighed the risk of possible increased pesticide exposure and the benefits of crop advisor activities during the REI and the 30-day period following the expiration of the REI, and finds ample justification for this exemption for the reasons summarized in this preamble and discussed in detail in the response to comments.

### V. Summary of Response to Comments

EPA received 169 comments referring to the crop advisor proposal. Comments were received from States, commodity groups, farmworker groups, and individuals.

In the January 11, 1995 document, EPA proposed to exempt certified or licensed crop advisors and their employees from several provisions of the pesticide WPS while performing crop advisor tasks. A temporary exemption until January 1, 1996 was proposed for all persons performing crop advisor tasks to allow time for crop advisors to obtain certification or licensing.

#### A. General

EPA proposed to exempt a qualified subset of crop advisors, those who are certified or licensed, from all requirements of the WPS. Acceptable certification or licensing would have to include training at least equivalent to the WPS handler training.

While many comments supported the proposal as written, a number of comments expressed concerns. Farmworker groups and some State Departments of Agriculture stated that crop advisors are not different enough from other workers or handlers and that different WPS requirements for them would not be justified. Representatives of and individual crop advisors stated that they can determine what PPE is needed according to the activities they plan to conduct while in a treated area and that they carry decontamination supplies, including water, with them.

EPA believes that, because of their training and experience, crop advisors typically have considerably greater knowledge about the potential health effects of pesticides and ways to mitigate exposure than many other agricultural workers. Consequently, they are, as a class, capable of judging what actions may safely be conducted within a pesticide-treated area subject to WPS requirements. EPA is persuaded that the exposure for crop advisor tasks is minimal and crop advisor tasks contribute to the maintenance and expansion of integrated pest