

the Agency is concerned that crop advisors must be able to transfer their knowledge and guidance effectively to assistants, particularly if they are not in the same location. Therefore, EPA has established in §§ 170.104 and 170.204 specific conditions in this amendment to assure that crop advisors provide persons they supervise with adequate direction.

#### *E. Grace Period*

EPA also proposed to exempt all individuals performing crop advisor activities from all the WPS requirements until January 1, 1996, to allow time for individuals to obtain certification or licensing. After January 1, 1996, only crop advisors who are certified or licensed and employees under their direct supervision would be exempt.

A number of comments pointed out that examinations for certification programs are scheduled infrequently, often only twice a year, and that the January 1, 1996, date would be difficult to meet since one of 1995's exams may have already taken place. One comment suggested a 3-month temporary exemption to minimize the time that all crop advisors would be working without benefit of the WPS protections.

EPA believes that a grace period until May 1, 1996, is a reasonable period to allow crop advisors to obtain certification or licensing. Sections 170.104(c) and 170.204(c) provide that this grace period will apply to all individuals while performing crop advising tasks until May 1, 1996.

#### **VI. Reevaluation of Crop Advisor Exemption**

The Agency is adopting this amendment in order to provide the flexibility to crop advisors under the WPS. As discussed more fully above, the Agency believes that any added risks associated with pesticide exposure of those performing crop advisor activities will be outweighed by the benefits of this action. The Agency intends over the next growing seasons to collect information to evaluate the effectiveness of this action. In particular, EPA is interested in determining whether the conditions imposed by this action successfully protect crop advisors and persons under their direct supervision against pesticide poisonings. EPA is also interested in better characterizing the circumstances in which this exclusion is being used and in understanding whether the exclusion addresses the practical problems of performing crop advising tasks adequately. Finally, EPA would like to obtain information on the extent of compliance with the

conditions in the exclusion and any practical problems with enforcement.

To obtain a better understanding of the implementation and impacts of this exclusion, EPA will work with USDA and states to gather relevant information. The Agency will hold public meetings in agricultural areas to provide those directly affected by the WPS, growers, enforcement staff, and agricultural workers, an opportunity to comment on these actions and the WPS rule in general. As appropriate, EPA may conduct surveys and review incident data to assess the impact of the exemption. The Agency invites any interested person who has concerns about the implementation of this action to send comments to the Agency at the address listed under the **ADDRESSES** section of this document.

#### **VII. Technical Amendments**

EPA is revising §§ 170.202 and 170.102, which exempt owners of agricultural establishments from subparts B and C requirements for workers and handlers, by reorganizing the paragraphs into three sections: for applicability (§§ 170.102 and 170.202), exceptions (§§ 170.103 and 170.203), and exemptions (§§ 170.104 and 170.204). The existing exemptions for agricultural owners are included in the new §§ 170.104 and 170.204. No substantive change has been made to the exemptions for agricultural establishment owners.

#### **VIII. Public Docket**

A record has been established for this rulemaking under docket number OPP-250100A. This record is available for public inspection from 8 a.m. to 4:30 p.m., Monday through Friday. The public record is located in Rm. 1132, Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway., Arlington, VA. Written requests should be mailed to: Public Response and Program Resources Branch (7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

#### **IX. Statutory Review**

As required by FIFRA Section 25(a), this rule was provided to the USDA, and to Congress for review. EPA consulted informally with USDA during the development of the final rule and, through this exchange, addressed all of the Department's comments. The final rule was provided formally to USDA, as required by FIFRA. The Department of Agriculture had no comment on the final rule. The FIFRA Scientific Advisory Panel waived its review.

#### **X. Regulatory Assessment Requirements**

##### *A. Executive Order 12866*

Pursuant to Executive Order 12866 (58 FR 51735, October 4, 1993), it has been determined that this is a "significant regulatory action" because it raises potentially novel legal or policy issues. This action was submitted to the Office of Management and Budget (OMB) for review under the Executive Order. Any comments or changes made during OMB review, have been documented in the public record.

In addition, the Agency estimates that the total potential cost savings associated with the amendment ranges from \$20 to \$23 million over a 10-year period, with a single crop advisor saving approximately \$1,150 over a 10-year period.

##### *B. Executive Order 12898*

Executive Order 12898 (environmental justice) was taken into account in developing the WPS amendments.

##### *C. Unfunded Mandates Reform Act*

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995, which the President signed into law on March 22, 1995, EPA has assessed the effects of this regulatory action on State, local, and tribal governments, and the private sector. This action does not result in the expenditure of \$100 million or more by any State, local or tribal governments, or by anyone in the private sector. The cost savings associated with this action are described Unit X.A. above.

In addition to the consultations prior to proposal, EPA has had several informal consultations regarding the proposed rule with some States through the EPA regional offices and at regularly scheduled State meetings. No significant issues or information were identified as a result of EPA's discussion with the States.

##### *D. Regulatory Flexibility Act*

This rule was reviewed under the provisions of section 3(a) of the Regulatory Flexibility Act, and it was determined that this rule would not have an adverse impact on any small entities. The rule will provide cost savings to an estimated 2,500 to 5,000 crop advisors and an additional 15,000 employees of crop advisors who will be affected. I therefore certify that this regulatory action does not require a separate Regulatory Impact Analysis under the Regulatory Flexibility Act.