

pesticides, but also workers in or on farms, forests, nurseries, and greenhouses, as well as pesticide handlers who mix, load, apply, or otherwise handle pesticides for use at these locations in the production of agricultural commodities. The revisions to the WPS were intended to reduce the risk of pesticide poisonings and injuries among agricultural workers who are exposed to pesticide residues and pesticide handlers who may face more hazardous levels of exposure.

Under the 1992 WPS, crop advisors are defined by the tasks performed, specifically, as persons who assess pest numbers or damage, pesticide distribution, or the status or requirements of agricultural plants. The term does not include any person who is performing hand labor tasks. Crop consultants, pest control advisors, silviculturalists, scouts and crop advisors commonly perform crop advising tasks on farms, nurseries, greenhouses and forests. As such, these individuals when performing crop advisor tasks are included under the definition of crop advisor in the WPS.

Persons performing crop advisor tasks during the pesticide application, before the inhalation exposure level listed in the labeling has been reached or one of the ventilation criteria has been met, or during a restricted entry interval (REI), are included in the WPS's definition of handlers. As handlers, crop advisors may enter treated areas during the REI without time limitations, if provided with the personal protective equipment (PPE) required on the product labeling and other protections as handlers. Employees of agricultural establishments who are performing crop-advising tasks in a treated area within 30 days of the expiration of an REI are provided the same protections as workers under Part 170. Employees of commercial pesticide handling establishments who are performing crop advisor tasks in a treated area after the expiration of an REI are excluded from the definition of "worker" under Part 170 and, therefore, their presence in the treated area does not trigger any WPS requirements.

During the 1992 rulemaking, USDA expressed concerns about limiting the access of crop consultants and integrated pest management (IPM) scouts to treated areas immediately following pesticide applications. In response to this concern, EPA included crop advisors in the definition of handlers rather than workers so as to allow crop advisors unlimited access to treated areas during application and the REIs.

Since promulgation of the WPS, EPA has received a number of comments on the requirements for crop advisors. Crop advisor groups and the National Association of State Departments of Agriculture (NASDA) have commented that crop advisors are capable, by virtue of their knowledge, training and experience, of determining the appropriate precautions to be followed when working in pesticide treated areas, and therefore should be excluded from the WPS. The National Alliance of Independent Crop Consultants (NAICC) commented that crop consultants, and their field survey and scouting employees, should be exempted from many of the provisions of the WPS.

In April 1994, Congress passed the Pesticide Compliance Dates Extension Act which, among other things, exempted crop advisors from the requirements of the WPS until January 1, 1995. This delay was to allow time for EPA to resolve concerns that had been raised relative to the WPS, including the crop advisor requirements. Since the delay legislation, EPA has received additional comments, which are discussed under the appropriate sections in this preamble.

III. Exemption of a Qualified Subset of Crop Advisors from WPS Requirements

EPA is proposing to exempt a qualified subset of crop advisors, those who are certified or licensed, and their crop advisor employees from all requirements of the WPS except for pesticide safety training. Crop advisors who are certified or licensed could substitute the training received during licensing or certification, if equivalent to the WPS training.

EPA is also proposing 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 their direct employees will be exempt. All others performing crop advising tasks will be subject to the full WPS requirements. Based on the comments received since the 1992 rulemaking, EPA reconsidered the requirements applicable to crop advisors and has determined that there may be a subset of crop advisors, those who are licensed or certified and trained in pesticide safety, that could be exempted from providing the protections of the WPS for themselves and their employees.

In general, the purpose of the WPS is to protect agricultural employees from the risks of exposure to pesticides. Trained crop advisors who are licensed

or certified are generally more informed about the hazards associated with pesticides and good pesticide safety practices and should be capable of making informed judgement about risks and what protections should be provided for individuals performing crop advising tasks.

EPA discussed the WPS with the Agronomy Society of America in order to obtain more information that would help EPA define the subset of crop advisors that could potentially be exempted. The Agronomy Society of America informed EPA that it has a Certified Crop Advisor program administered in each participating State by a board made up of representatives of various State agencies, universities, commodity associations, and other at-large members. In order to be certified as a crop advisor under this program, the individual must pass an examination on specified subject areas, have a combination of education and experience as a crop advisor, and to maintain certification, complete continuing education credits. The subject areas in the examination include pesticide safety, WPS requirements, and various subjects related to agricultural plant production.

In addition, a variety of licensing and certification programs for crop advisors are administered by States across the country. For example, California licenses crop advisors and requires that licensees meet certain minimum qualifications including a minimum number of college level semester units in areas related to agriculture, and two years of technical experience.

The National Alliance of Independent Crop Consultants (NAICC) commented that most of their members have degrees in agriculture and train their employees in pesticide safety. NAICC further suggested that nationally recognized registries of crop consultants, or State level licenses or certifications, could be used to define the crop advisors who would be exempt from WPS. Those individuals not meeting the requirements of a licensing or certification program could continue to work as crop advisors under the same protections as currently required in the WPS. NASDA recommended in a July 1994 petition for rulemaking that the WPS "exclude paid crop advisors that work on a full-time basis for a group of agricultural employers but only part-time for any single farmer." NASDA did not provide its rationale for excluding this category of crop advisors from the WPS. NASDA also recommended that the WPS exclude persons such as government agency employees, pesticide company representatives, and