

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 170**

[OPP-250097A; FRL-4949-9]

RIN No. 2070-AC69**Pesticide Worker Protection Standard; Grace Period for Providing Worker Safety Training****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule; amendment.

SUMMARY: EPA is amending the 1992 Worker Protection Standard (WPS), by making the 5-day grace period (the number of days of employment before workers must be trained) effective January 1, 1996. Additionally, effective January 1, 1996, EPA is requiring agricultural employers to assure that untrained workers receive basic pesticide safety information before they enter a treated area on the establishment.

EFFECTIVE DATE: This rule will become effective July 17, 1995.

FOR FURTHER INFORMATION CONTACT: Jeanne Heying, Office of Pesticide Programs (7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number and e-mail address: Room 1121, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington VA, Telephone: 703-305-7164, Heying.Jeanne@epamail.epa.gov.

ADDRESSES: The Agency invites any interested person who has concerns about the implementation of this action to submit written comments identified by docket number "OPP-250097A" to: By mail: Public Response and Program Resources Branch, Field Operations Division (7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number "OPP-250097A." No Confidential Business Information (CBI) should be submitted through e-mail. Electronic

comments on this document may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in Unit VI of this document.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the Virginia address given above from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

SUPPLEMENTARY INFORMATION: This document discusses the background leading to this final rule amending the Worker Protection Standard; summarizes the public's comments on the provisions of the proposed amendments (60 FR 2820, January 11, 1995); provides EPA's response to comments and final determination with respect to modifying the training provisions of the Worker Protection Standard, and provides information on the applicable statutory and regulatory review requirements.

I. Statutory Authority

This rule is issued under the authority of section 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136w(a).

II. Background

In 1992 EPA revised its Worker Protection Standard (40 CFR part 170) (57 FR 38102, August 21, 1992) which is intended to reduce the risk of pesticide poisonings and injuries among agricultural workers who are exposed to pesticide residues. The WPS is also intended to reduce the risk of pesticide poisonings and injuries among pesticide handlers who may face more hazardous levels of exposure. The 1992 WPS superseded the 1974 WPS and expanded the WPS scope not only to include workers performing hand labor operations in fields treated with pesticides, but also to include workers in or on farms, forests, nurseries, and greenhouses, as well as pesticide handlers who mix, load, apply, or otherwise handle pesticides. The WPS contains requirements for pesticide safety training, notification of pesticide applications, use of personal protective equipment, restricted entry intervals

following pesticide application, and decontamination and emergency medical assistance in the event of an accident.

The 1992 WPS requires agricultural employers to assure that before the 6th day of employment (referred to as the grace period) a worker receives basic pesticides safety training before entering any areas on the agricultural establishment where, within the last 30 days, a pesticide has been applied or a restricted entry interval (REI) has been in effect. For the first 5 years after the effective date of the WPS, however, the WPS allows employers up to the 16th day of employment to assure that the worker receives the training. Additionally, workers are required to be retrained at 5-year intervals.

Since the issuance of the 1992 WPS, farmworker groups have expressed an interest in enhancing specific protection measures, while grower groups, the National Association of State Departments of Agriculture and others have expressed an interest in addressing practical, operational concerns. The Agency received various requests and comments in the form of letters, petitions, and individual and public meetings to address concerns with the WPS, some specifically suggesting changes to the training requirements.

In response, EPA proposed five actions to revise elements of the WPS. These actions were published on January 11, 1995 (60 FR 2820), and proposed to:

(1) Shorten the time periods before which employers must train workers and retrain workers and handlers in pesticide safety.

(2) Exempt those who perform crop advising tasks from certain requirements.

(3) Allow early entry to pesticide treated areas to perform certain time-sensitive irrigation activities.

(4) Allow early entry to pesticide treated areas to perform certain time-sensitive activities resulting in "limited contact" with pesticide-treated surfaces.

(5) Allow workers to enter areas treated with certain lower risk pesticides after 4 hours rather than 12 hours.

This action addresses the proposed rulemaking to shorten the time periods before which employers must train workers and retrain workers and handlers in pesticide safety. Final determinations on the other four actions mentioned above are being published elsewhere in this issue of the **Federal Register**.

III. Summary of the Final Rule Amendment

The Agency is revising 40 CFR 170.130(a)(3) to require that basic pesticide safety information be provided to workers before entry. New §170.130(a)(3)(iii), the exception for the first 5-year period, allows a 15-day grace period until January 1, 1996. The Agency is thereby accelerating the transition to a 5-day grace period by approximately 2 years.

The Agency is adding a new paragraph §170.130(c) and redesignating existing paragraphs to specify the content by including a reference to new paragraph (c). The Agency has decided to retain the 5-year retraining interval in §170.130(a)(1). No other sections of the training provisions are affected by this final action.

IV. Summary of Response to Comments

EPA received 91 comments referring to the pesticide safety training proposal from farm worker groups, individuals, State, commodity groups, and growers. Many comments from farmworker groups were supportive of eliminating a grace period provision and requiring retraining annually. Comments from commodity groups, growers and State Departments of Agriculture expressed concern regarding eliminating a grace period and supported maintaining a grace period and a longer retraining interval. A more detailed summary of the issues addressed by comments is presented below and in the Response to Comments document contained in the public docket.

A. Grace Period and Interim Grace Period

EPA proposed several options: eliminating the grace period (from the current 15 days to 0 days) after 1 year; shortening the grace period from 15 days to between 1 and 5 days; or establishing a weekly training program for those requiring training.

Comments, received primarily from farmworker groups, opposed a grace period of any length stating that training prior to potential exposure would provide greater protection for workers. Other industries which require worker training before potential exposure were cited as examples of how a 0-day grace period could be feasible in agriculture. Comments also stated that a grace period can create greater administrative cost and difficulty with enforcement given diverse crop production practices and high worker turnover.

Growers and many States noted that a training grace period is necessary to cope with unanticipated circumstances

that might require hiring large numbers of workers to harvest a crop quickly, for example, and with no time or capacity to train them. Additionally, the U.S. Department of Agriculture (USDA) and others pointed out that the training provisions are supplemental to other WPS provisions, such as central posting, that are intended to prevent or mitigate worker exposure to pesticides and that WPS training is not the primary means to avoid such exposure. USDA comments noted that WPS training is valuable reinforcement for the other WPS protections; however the existence of other methods of risk prevention and mitigation reduces the urgency for workers to have had training prior to the commencement of work at each new job.

Some comments also supported making training available on a weekly basis for similar reasons discussed above, emphasizing the benefit of flexibility, the ability to absorb training costs, and the ability to plan training sessions based on hiring needs and practices. In addition to the options proposed, several comments supported alternative grace period options or providing an orientation session covering basic pesticide safety information before a new employee begins work. The more complete WPS pesticide safety training program would follow.

EPA believes the WPS is comparable, in large measure, to requirements in other industries for training prior to exposure to hazardous chemicals. Pesticide handlers and early-entry workers must be trained prior to applying pesticides or entering treated areas during the restricted-entry interval (REI). The current training grace period applies only to agricultural workers who do not handle pesticides but may be exposed to pesticide residues after the REI. Prior to or in the absence of the worker training, the REI serves its intended purpose of limiting agricultural workers' exposure to pesticides by prohibiting routine early entry to pesticide-treated areas.

EPA agrees that providing training before potential exposure would be more protective than after potential exposure, and that such a requirement would be easier to enforce. EPA strongly recommends that all agricultural employers provide the full WPS pesticide safety training to workers before they are allowed to enter pesticide treated areas on the establishment. However, EPA acknowledges that, given the diversity of agricultural operations across the United States, a training grace period may be needed to provide flexibility to

agricultural establishment owners and will likely reduce administrative and compliance costs. EPA believes, that under some circumstances, without a grace period, agricultural employers may be in the position of needing to provide daily training during busy harvest periods. Daily training (estimated to take 30 to 40 minutes at a minimum), along with the need to hire a translator in some cases, could mean a significant loss in time, increase in cost and loss of agricultural productivity. Notwithstanding, EPA believes that it is feasible to provide basic safety information before untrained workers enter treated areas without compromising the flexibility afforded by a 5-day grace period.

Effective January 1, 1996, EPA is requiring that all agricultural employers assure that untrained workers receive basic pesticide safety information before they enter a pesticide treated area on the establishment. The agricultural employer must assure the basic pesticide safety information is communicated to agricultural workers in a manner they can understand (e.g., by providing written materials, handouts, posters, or oral communication or by other means). Employers must be able to verify that they have complied with this requirement. EPA recommends a system which involves employee signature acknowledging receipt of the required information. Other verifiable means of showing compliance would be acceptable. EPA will develop and distribute, in cooperation with USDA and States, a model handout that will contain the basic pesticide safety information to satisfy this requirement. Agricultural employers can use this particular handout, develop their own, or use other materials that contain the basic pesticide safety information required by this rule. No more than five days after initial employment has commenced, all agricultural workers must receive complete WPS pesticide safety training before they enter pesticide treated areas.

A few comments specifically addressed the issue of when the 15-day grace period should expire. Some comments supported keeping the 15-day grace period until October 20, 1997, while others preferred ending the 15-day grace period after 1 year. EPA believes that a year (from implementation) is sufficient time to enhance training programs, acquire training materials and identify translators in the necessary languages. A lengthy (about 2 years) lead time was provided before the training provisions of the 1992 rule were enforceable. The

lead time, until January 1, 1996, allows for a substantial number of workers to be trained before the 5-day grace period is effective. The majority of workers are expected to be trained the first year under a 15-day grace period. Training after the first year is expected to be limited to new entrants to the workforce and those whose training is not recognized by a new employer.

Therefore the Agency has decided to retain a 15-day grace period until January 1, 1996; thereafter a grace period of 5 days will become effective.

EPA is revising § 170.130(a)(3) by adding a new paragraph (i) to require that basic pesticide safety information be provided to workers before entry. The remaining paragraphs in this section are renumbered accordingly. Also EPA is revising § 170.130(a)(3)(iii) to eliminate the 15-day grace period on December 31, 1995 and replace it with a 5-day grace period.

EPA is adding a new paragraph § 170.130(c) to specify the content of the pesticide safety information. The remaining paragraphs in this section are renumbered accordingly and EPA is revising new § 170.130(e) by including a reference to new paragraph (c).

B. Retraining Interval for Workers and Handlers

EPA proposed the following options for the retraining interval: keep the 5 year retraining interval; establish a 3 year retraining interval; or require annual retraining.

The following types of comments were supportive of a 5-year retraining interval: the level of safety information was fairly basic; the training would be easily retained, especially as workers incorporate the training into their work habits; that WPS signs, posters, and supervisor instructions would reinforce worker safety protections. Some comments noted that a 5-year interval would allow States the flexibility to establish a more frequent retraining interval that might better adapt to existing agricultural practices, workforce characteristics and educational and administrative programs in each State. Some comments supported shorter retraining interval for handlers and a 5-year retraining interval for workers.

Some comments supported a 3-year retraining interval for both handlers and workers. A few comments supported a 3-year retraining period for handlers, noting increased risk of exposure for handlers compared to workers.

Numerous comments supported an annual retraining requirement noting the need for repetitive training to improve retention. Some comments

supported annual retraining for handlers only. A few comments indicated that training programs and materials were now available to reduce the costs of frequent training. However, many comments specifically noted that annual retraining would increase employer costs, especially for small growers, who may have to secure the services of trainers and interpreters.

EPA has decided to maintain the 5 year retraining interval for workers and handlers. The Agency believes that the 5-year interval is adequate to cover basic safety principles without undue burden. The 5-year retraining interval will continue to allow States and growers the flexibility to tailor their individual retraining intervals to best fit their needs and capabilities.

Therefore, no change is made to the retraining provision in § 170.130(a).

V. Reevaluation of Training Rule

The Agency is adopting this amendment in order to ensure that agricultural workers receive needed training while still providing the agricultural sector flexibility to address practical concerns with regard to the timing and cost of training. As discussed more fully above, the Agency believes that any added risks associated with pesticide exposure of workers from activities conducted during the 5-day grace period will be limited by other requirements in the WPS. EPA intends to reevaluate this decision after it has been implemented, because the WPS program is relatively new and there is relatively little experience either with the practical consequences of compliance or the extent of worker risks under the WPS.

The Agency intends to collect information over the next several growing seasons to evaluate the effectiveness of this amendment. In particular, EPA is interested in determining whether, collectively, the requirements imposed by the WPS successfully protect workers against pesticide poisonings. EPA is also interested in better characterizing the extent and timing of training and in understanding whether the 5-day grace period addresses the needs of growers and workers adequately. Finally, EPA would like to obtain information on the extent of compliance with the conditions in the training requirement and any practical problems with enforcement.

To obtain a better understanding of the implementation and impacts of this amendment, 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 how the rules are affecting agriculture. 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 at the beginning of this rule under the **ADDRESSES** section.

VI. Public Docket

A record has been established for the rulemaking and this administrative decision under docket number “OPP-250097A” (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for the rulemaking and this administrative decision, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in **ADDRESSES** at the beginning of this document.

VII. 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. USDA had no

comment on the final rule. The FIFRA Scientific Advisory Panel waived its review.

VIII. 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.

The total cost of this regulatory action will depend upon the additional training costs that may be incurred as a result of a shorter training grace period for the period from January 1, 1996 to October 20, 1997, as well as the cost of providing basic safety information to all workers before they enter areas subject to WPS pesticide safety training. The cost of reducing the training grace period from 15 days to 5 days has been estimated by EPA and is presented in the Impact Assessment for the Worker Protection Standard, Training Provisions Rule. EPA has reviewed its Impact Assessment and has determined (with the concurrence of USDA) that whatever the incremental cost of this revision may be, it should be modest and that these additional costs are warranted.

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 costs associated with this action are described in Unit VIII.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 was identified as a result of EPA's discussion with the States.

D. Regulatory Flexibility Act

This rule was reviewed under the provisions of sec. 3(a) of the Regulatory Flexibility Act, and it was determined that the rule would not have an adverse impact on small entities. The smallest entities regulated under the Worker Protection Standard are family-operated agricultural establishments with no hired labor. These operations are not subject to the WPS training requirements, and therefore have no training cost associated with this rule. These small entities (with no hired labor) represent about 45 percent of the agricultural establishments within the scope of the WPS. The smallest of those entities which do hire labor are those with only one hired employee. Estimated costs per worker or handler are similar for an establishment with one employee as for larger establishments, causing no significant disproportionate burden on small entities.

I therefore certify that this proposal does not require a separate analysis under the Regulatory Flexibility Act.

E. Paperwork Reduction Act

EPA has determined that there are no information collection burdens under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., associated with the requirements contained in this final amendment.

List of Subjects in 40 CFR Part 170

Environmental protection, Pesticides and pests, Intergovernmental relations, Occupational safety and health, Reporting and recordkeeping requirements.

Dated: April 26, 1995.

Lynn M. Browner,

Administrator.

Therefore, 40 CFR part 170 is amended as follows:

PART 170—[AMENDED]

1. The authority citation continues to read as follows:

Authority: 7 U.S.C. 136w.

2. Section 170.130 is amended by revising the section heading and paragraph (a)(3), redesignating paragraphs (c) and (d) as paragraphs (d) and (e), respectively, adding paragraph (c), and revising newly designated paragraph (e)(1) to read as follows:

§ 170.130 Pesticide safety training for workers.

(a) * * *

(3) Requirements for other agricultural workers—(i) Information

before entry. As of January 1, 1996, and except as provided in paragraph (a)(2) of this section, before a worker enters any areas on the agricultural establishment where, within the last 30 days a pesticide to which this subpart applies has been applied or the restricted-entry interval for such pesticide has been in effect, the agricultural employer shall assure that the worker has been provided the pesticide safety information specified in paragraph (c), in a manner that agricultural workers can understand, such as by providing written materials or oral communication or by other means. The agricultural employer must be able to verify compliance with this requirement.

(ii) *Training before the 6th day of entry.* Except as provided in paragraph (a)(2) of this section, before the 6th day that a worker enters any areas on the agricultural establishment where, within the last 30 days a pesticide to which this subpart applies has been applied or a restricted-entry interval for such pesticide has been in effect, the agricultural employer shall assure that the worker has been trained.

(iii) *Exceptions during interim period.* Until December 31, 1995, and except as provided by paragraph (a)(2) of this section, before the 16th day that a worker enters any areas on the agricultural establishment where, within the last 30 days a pesticide to which this subpart applies has been applied or a restricted-entry interval has been in effect, the agricultural employer shall assure that the worker has been trained. After December 31, 1995 this exception no longer applies.

* * * * *

(c) *Pesticide safety information.* The pesticide safety information required by paragraph (a)(3)(i) shall be presented to workers in a manner that the workers can understand. At a minimum, the following information shall be provided:

(1) Pesticides may be on or in plants, soil, irrigation water, or drifting from nearby applications.

(2) Prevent pesticides from entering your body by:

(i) Following directions and/or signs about keeping out of treated or restricted areas.

(ii) Washing before eating, drinking, using chewing gum or tobacco, or using the toilet.

(iii) Wearing work clothing that protects the body from pesticide residues.

(iv) Washing/showering with soap and water, shampoo hair, and put on clean clothes after work.

(v) Washing work clothes separately from other clothes before wearing them again.

(vi) Washing immediately in the nearest clean water if pesticides are spilled or sprayed on the body. As soon as possible, shower, shampoo, and change into clean clothes.

(3) Further training will be provided within 5 days.

* * * * *

(e) *Verification of training.* (1) Except as provided in paragraph (e)(2) of this section, if the agricultural employer assures that a worker possesses an EPA-approved Worker Protection Standard worker training certificate, then the requirements of paragraph (a) and (c) of this section will have been met.

* * * * *

[FR Doc. 95-10871 Filed 5-2-95; 8:45 am]

BILLING CODE 6560-50-F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 170

[OPP-250100A; FRL-4928-7]

RIN 2070-AC82

Pesticide Worker Protection Standard; Requirements for Crop Advisors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is amending the 1992 Worker Protection Standard (WPS), by exempting qualified crop advisors from some requirements. EPA is also exempting persons from certain of the WPS requirements while performing crop advising tasks under the direct supervision of a certified or licensed crop advisor. This rule also establishes a grace period for all persons doing crop advising tasks to allow time to acquire certification or licensing.

EFFECTIVE DATE: This rule will become effective July 17, 1995.

FOR FURTHER INFORMATION CONTACT: Donald E. Eckerman, Office of Pesticide Programs (7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number and e-mail address: Rm. 1121, Crystal Mall #2, 1921 Jefferson Davis Highway., Arlington, VA 22202. Telephone: 703-305-5062, eckerman.donald@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: This **Federal Register** document discusses the background and events leading to this final rule amending the WPS; summarizes the public's comments on the provisions of the proposed amendments (60 FR 2827, Jan. 11,

1995); provides EPA's response to comments and final determination with respect to amendment of the crop advisor provisions of the WPS; and provides information on the applicable statutory and regulatory review requirements.

I. Statutory Authority

This rule is issued under the authority of section 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136w(a).

II. Background

In 1992, EPA revised the WPS (40 CFR part 170) (57 FR 38102, August 21, 1992), which is intended to reduce the risk of pesticide poisonings and injuries among agricultural workers who are exposed to pesticide residues and to reduce the risk of pesticide poisonings and injuries among pesticide handlers who may face more hazardous levels of exposure. The 1992 WPS superseded a rule promulgated in 1974 and expanded the WPS scope to not only include workers performing hand labor operations in fields treated with pesticides, but also to include workers in or on farms, forests, nurseries, and greenhouses, as well as pesticide handlers who mix, load, apply, or otherwise handle pesticides. The WPS contains requirements for pesticide safety training, notification of pesticide applications, use of personal protective equipment, restricted entry intervals following pesticide application, decontamination supplies and emergency medical assistance.

Under the 1992 WPS, crop advisors are defined by the tasks performed. Specifically, a person is a "crop advisor" when assessing 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, foresters, scouts and crop advisors while performing crop advising tasks on farms, nurseries, greenhouses and forests are included under the definition of crop advisor in the WPS.

During the 1992 rulemaking, the U.S. Department of Agriculture (USDA) expressed concerns about limiting the access of crop consultants and integrated pest management scouts to treated areas during and immediately following pesticide applications. In response to this concern, EPA included crop advisors in the definition of handlers. Thus, persons performing crop advisor tasks during pesticide application, and any restricted entry interval (REI), could enter treated areas as handlers. Employees of agricultural

establishments performing crop-advising tasks in a treated area within 30 days of the expiration of an REI are considered to be workers under 40 CFR part 170. Finally, employees of commercial pesticide handling establishments performing crop advisor tasks in a treated area after the expiration of an REI are not included in the scope of 40 CFR part 170.

Since the issuance of the 1992 WPS, farmworker groups have expressed an interest in enhancing specific protection measures, while grower groups, the National Association of State Departments of Agriculture and others have expressed an interest in addressing practical, operational concerns. The Agency received various requests and comments in the form of letters, petitions, and conversations at individual and public meetings to address concerns with the WPS, some specifically suggesting an exemption for crop advisors.

In response, EPA proposed five actions to revise elements of the WPS. These actions were published on January 11, 1995 (60 FR 2820), and proposed to: (1) Exempt those who perform crop advising tasks from certain requirements; (2) shorten the time periods before which employers must train workers and retrain workers and handlers in pesticide safety; (3) allow early entry to pesticide-treated areas to perform certain time-sensitive irrigation activities; (4) allow early entry to pesticide-treated areas to perform certain time-sensitive activities resulting in "limited contact" with pesticide-treated surfaces; and (5) allow workers to enter areas treated with certain lower risk pesticides after 4 hours rather than 12 hours.

This action addresses the proposed rulemaking (NPRM) to exempt those who perform crop advising tasks from certain requirements. The rule amendment established by this action will exempt certified or licensed crop advisors and persons under their direct supervision while performing crop advising tasks from certain handler requirements during the REI and certain worker requirements during the 30-day period after the expiration of the REI. However, crop advisors and persons under their direct supervision will not be able, under this exception, to enter the treated area until after pesticide application ends. If a person is a certified or licensed crop advisor, they will be exempt from the pesticide safety training required for workers and handlers.

Final determinations on the other four actions mentioned above are being