

Worker Protection Standard—Certified Crop Advisor Exemption¹

Frederick M. Fishel and Tatiana Sanchez²

The Worker Protection Standard (WPS) is a federal regulation designed to protect agricultural workers (people involved in the production of agricultural plants) and pesticide handlers (people mixing, loading, or applying pesticides or doing other tasks involving direct contact with pesticides). It has been in full implementation since 1995. This document provides general guidance to help you comply with the WPS requirements for agricultural pesticides, 40 CFR part 170, as amended in 2015. This document provides responses to some frequently asked questions about the WPS requirements but does not include all of the requirements, nor all of the information necessary to be in compliance. A complete reference for the WPS is provided by “How to Comply with the Worker Protection Standard for Agricultural Pesticides: What Employers Need to Know” is available at <https://www.epa.gov/sites/production/files/2016-10/documents/hcmanual-oct16.pdf>.

Background

Under the 1992 Worker Protection Standard (WPS), crop advisors are defined by the tasks performed. Specifically, **a crop advisor is a person who assesses pest numbers or damage, pesticide distribution, or the status or requirements of agricultural plants. The term does not include anyone performing hand labor tasks defined by WPS, including planting, weeding, harvesting, etc.** Crop consultants, pest control advisors, foresters, scouts, and crop advisors, when performing crop-advising tasks on

farms, nurseries, greenhouses, and forests, are included in the definition of crop advisor in the WPS.

The Environmental Protection Agency (EPA) included crop advisors in the definition of handlers because of concerns expressed about limiting the access of crop consultants and integrated pest management scouts to treated areas during and immediately following pesticide applications. Thus, persons performing crop advisor tasks during pesticide application and any restricted-entry interval (REI) can enter treated areas as handlers.

Employees of farms, nurseries, greenhouses, and forests performing crop-advising tasks in a treated area within 30 days of the expiration of a restricted entry interval (REI) are considered workers under the WPS. 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 WPS.

The WPS refers to Certified Crop Advisors as well as Crop Advisors. What is the difference between the two terms?

Under the WPS, a “crop advisor” is any person who assesses pest numbers or damage, pesticide distribution or the status, condition, or requirements of agricultural plants. In comparison, a “certified crop advisor” (CCA) is a person who is certified or licensed as a crop advisor by a program

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2. Frederick M. Fishel, professor, Agronomy Department; and Tatiana Sanchez, commercial horticulture Extension agent II, UF/IFAS Extension Alachua County; UF/IFAS Extension, Gainesville, FL 32611.

acknowledged as appropriate in writing by the EPA or the Florida Department of Agriculture and Consumer Services (FDACS). The WPS does not require a “crop advisor” to have any specific certification or training to be recognized as a crop advisor. Certain WPS provisions apply only to “certified crop advisors,” such as an exemption from certain personal protective equipment (PPE) requirements.

What are the allowable exemptions for CCAs under the WPS?

CCAs and persons under their direct supervision, **when performing crop-advising tasks**, are exempted from the following WPS provisions, provided that they have knowledge of:

- all labeling requirements related to safe use of the pesticide;
- the specific location and description of areas on the agricultural establishment that have been treated with a pesticide (or that are under a REI) while the crop advisor is on the establishment and the restrictions on entering those treated areas.
- personal protective equipment (PPE);
- decontamination requirements; and
- emergency assistance requirements.

What are the conditions that must be met for the CCA to be exempted?

The conditions that must be met in order for the CCA to be exempted from these WPS requirements include the following:

1. The exemption applies only when performing crop-advising tasks in a treated area.
2. No entry is permitted in the treated area until the pesticide application is completed. (CCAs may enter the treated area during an application if they follow the WPS requirements for pesticide handlers.)
3. The certification and licensing program for the crop advisor requires pesticide safety training that includes, at a minimum, all the information required for WPS handler training.
4. The CCA must determine the appropriate PPE and decontamination supplies needed for the tasks and how to conduct the tasks safely. The CCA must convey this

information to each person under his/her direct supervision in a language the person understands.

5. Before entering a treated area, the CCA must inform each person under his direct supervision of the pesticide product and active ingredient(s) applied, method of application, time of application, the restricted-entry interval, which tasks to undertake, and how to contact the CCA.

The information in item (4) above (with the exception of which tasks to undertake and how to contact the CCA) must be provided to independent/commercial crop advisors by the operators of agricultural establishments who hire them.

A person is considered to be under the direct supervision of the CCA when he or she exerts the controls listed in items (4) and (5) above. The CCA does not have to be physically present, but must be readily accessible to employees at all times.

Do non-certified crop advisors need to be trained under the WPS?

Yes. Non-certified crop advisors are not exempt from the WPS training requirements, and they need to receive the appropriate WPS training before performing any crop advising activities in a pesticide treated area.

Do non-certified crop advisors need to be trained as workers or as handlers? When are crop advisors considered early-entry workers?

Crop advisors are considered handlers and would need to be trained as such if they ever enter treated areas to conduct crop-advising activities while an REI is in effect. Crop advisors are considered workers and would need to be trained as such if they only enter treated areas after the REI has ended (but within 30 days after the REI). They would only need to be trained as workers in this case. Crop advisors are never considered early entry workers—they are either considered to be handlers if they enter a treated area during an REI; or, they are considered workers if they enter a treated area after the REI has expired.

Who has the responsibility for providing WPS-required training for non-certified crop advisors since these persons are not exempt from WPS training requirements?

The responsibility for providing WPS-required training for non-certified crop advisors falls on different people

depending upon the non-certified crop advisor's employment situation. There are multiple employment situations that can be encountered with crop advisors (i.e., both CCAs and non-certified crop advisors) on agricultural establishments. For example:

1. The crop advisors may be direct employees of an agricultural establishment (i.e., they are on the payroll of the agricultural establishment as an employee of the establishment doing crop advising tasks) in which case the agricultural employer on the agricultural establishment has the full responsibility for providing WPS training and other applicable WPS protections.
2. The crop advisor may be hired by the agricultural establishment through a labor contractor (which is different than being hired through a "commercial pesticide handling establishment" (CPHE) or employer). In this case, the agricultural employer of the agricultural establishment still has the ultimate responsibility for providing WPS training and other applicable WPS protections. However, there could also be shared or joint responsibilities for some protections depending on the contractual agreement between the agricultural establishment and the labor contractor.
3. Crop advisors may also be considered employees of a CPHE that provides "handling" (i.e., crop advising) services for an agricultural establishment. In this case, the CPHE is the handler's employer and has the responsibility of providing applicable WPS handler training and protections for their handlers. In this last case, the CCA or crop advisor may be an employee of a larger CPHE so they are the handlers working for an employer, or they may be a self-employed handler/CCA/crop advisor. NOTE: Crop advisors may be exempt from the WPS training requirements if they are "certified" as an applicator of restricted use pesticides, in which case they would meet both handler and worker training requirements of the WPS.

I understand that non-certified crop advisors employed by, and operating under the supervision of, a CCA are no longer exempt from WPS training requirements if they are performing crop advising tasks on an agricultural establishment during an REI or within 30 days after the REI. Can a CCA provide WPS training for their employees?

In order to train a non-certified crop advisor employee as a worker or handler under the WPS, the certified crop advisor would have to have undergone an EPA-approved Train-the-Trainer program for workers or handlers (as

appropriate), be certified as an applicator of restricted use pesticides, or be designated as a trainer by the EPA or the FDACS.

I understand that the certified crop advisor exemption allows the certified crop advisor to "self-determine" their PPE if they must enter a field to conduct crop advising activities during an REI. What options do non-certified crop advisors have for selection of PPE when conducting crop-advising tasks during an REI?

It is correct that the CCA exemption allows them to "self-determine" their PPE if they must enter a field to conduct crop advising activities during an REI. A non-certified crop advisor performing crop advising tasks during the REI must wear one of the three following sets of PPE, but he or she may choose between any of the following options and select the least restrictive:

- the label-required PPE for handlers;
- the label-required PPE for early-entry workers; OR
- a "universal set" of PPE that is good for conducting any crop advising task during the REI (but NOT during application), which consists of the following: coveralls, shoes plus socks, waterproof gloves, and protective eyewear (protective eyewear only required if label requires protective eyewear for handlers).

What are the available programs to become a licensed/certified crop advisor for the purpose of WPS exemptions?

Programs recognized as appropriate by the EPA or a state lead agency for pesticide enforcement may certify or license crop advisors for purposes of this exemption. Crop advisor certification programs must contain pesticide safety training that is at least equivalent to WPS handler training. The following programs have been acknowledged by the EPA and the FDACS as appropriate:

1. The Florida Department of Agriculture and Consumer Services (FDACS) WPS Crop Advisor certification/licensing program.
2. The Certified Crop Advisor (CCA) program sponsored by the American Society of Agronomy.
3. The Certified Professional Crop Consultant (CPC) program sponsored by the National Alliance of Independent Crop Consultants (NAICC).

Can you provide more details, including contact information for these three acknowledged programs?

FDACS Certification. FDACS has established a certification and licensing program for crop advisors who want to use the WPS crop advisor exemption and who do not certify under another approved program. The FDACS certification process involves documenting education and/or crop-advising experience and passing an examination. Contact the FDACS Bureau of Licensing and Enforcement at (850) 617-7870 or online at <http://www.freshfromflorida.com/Divisions-Offices/Agricultural-Environmental-Services/Bureaus-and-Sections2/Bureau-of-Licensing-and-Enforcement>.

CCA Certification. The American Society of Agronomy has established a voluntary professional certification program in the area of crop production. The CCA certification process involves documenting education, crop-advising experience, and passing comprehensive national and state exams. The exams are offered twice each year. A state board administers the program in Florida. Contact the Florida Fertilizer and Agrichemical Association (FFAA) at (863) 686-4827.

CPCC Certification. The National Alliance of Independent Crop Consultants has established a voluntary professional certification program that is not restricted to its members. The CPCC program requires, at a minimum, a bachelor's degree in an agricultural discipline and six years of field experience. Five years of experience is required with a master's and four years with a Ph.D. Passage of a licensing exam is also required. Contact the National Alliance of Independent Crop Consultants at (901) 861-0511.

Additional Information

Fishel, Frederick M. 2015. *A Summary of Revisions to the Worker Protection Standard— 2015*. PI261. Gainesville: University of Florida Institute of Food and Agricultural Sciences. <http://edis.ifas.ufl.edu/pi261>

US EPA. 2016. *How to Comply with the 2015 Revised Worker Protection Standard for Agricultural Pesticides: What Owners and Employers Need to Know*. EPA 735-B-16-001. United States Environmental Protection Agency. https://www.epa.gov/sites/production/files/2016-09/documents/htcmanual_final.pdf