

**U.S. Environmental Protection Agency  
Proposed Revisions: EPA Certification of Pesticide Applicator Rule (40 CFR 171)**

| Item  | Proposed Revision  | Existing Rule   |
|---|--|---|
| <b>Private Applicator Competency</b>  |  |   |
| <b>Enhance Private Applicator Competency Standards Unit VI.A.</b>   | Private applicators must demonstrate competency in the general core competency standards similar to those for commercial applicators (i.e., <b>label and labeling comprehension; safety; environment; pests; pesticides; equipment; application techniques; laws and regulations; responsibilities for supervisors of noncertified applicators; stewardship</b> ) along with general knowledge of agricultural pest control. | Private applicators must be certified as competent on 5 general topics: recognizing pests, reading and understanding labeling, applying pesticides in accordance with the labeling, recognizing environmental conditions and avoiding contamination, recognizing poisoning symptoms and procedures to follow in the case of a pesticide accident. |
| <b>Strengthen Private Applicator Competency Gauge Unit VI.B.</b>  | Private applicators must either <b>attend a training program covering the mandatory competency standards (Unit VI.A.) or pass a written exam.</b>  | Private applicator certification can be done by written or oral exam, or other method approved as part of the State certification plan.   |
| <b>Eliminate Non-Reader Certification for Private Applicators Unit VI.C.</b>  | No “non-reader” option for persons who cannot read to obtain certification to use specific RUPs.   | States can offer an alternative, product-specific certification process for persons who cannot read.  |
| <b>Categories for Private and Commercial Applicators</b>  |  |   |
| <b>Establish Application Method-Specific Categories for Private and Commercial Applicator Certification Unit VII.</b> | Establish categories for private and commercial applicators performing: <b>aerial application, soil fumigation, and non-soil fumigation.</b>   | No additional certification required to use certain application methods that may present higher risks if not conducted properly.  |

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| <b>Establish Predator Control Categories for Private and Commercial Applicator Certification Unit VIII.</b>            | Add categories for private and commercial applicators: <b>sodium fluoroacetate in livestock protection collars and sodium cyanide delivered through M-44 devices.</b>   | No predator control categories established in rule. Registration decisions and labeling for sodium fluoroacetate (Compound 1080) used in livestock protection collars and sodium cyanide delivered through M-44 devices include specific competency standards and require applicators to be competent. |
| <b>Exam and Training Security Requirements</b>   |   |  |
| <b>Security and Effectiveness of Exam and Training Administration Unit IX.</b>   | Require candidates to <b>present identification</b> for initial and recertification exams and training sessions.<br><br>Codify policy requiring <b>all exams to be closed book and proctored.</b>   | No requirement to present identification at exam or training sessions. Competency for commercial applicators must be determined on the basis of written examination. EPA policy requires that all certification exams be closed book and proctored.  |
| <b>Strengthen Standards for Noncertified Applicators Working Under the Direct Supervision of Certified Applicators</b> |   |  |
| <b>Enhance Competence of Noncertified Applicators Unit X.A.</b>  | Noncertified applicators must receive <b>annual training on safe pesticide application and protecting themselves and others from pesticide exposure</b> (similar to WPS handler training).<br><br>Exemption from training requirement for those with valid WPS handler training and those who have passed the commercial core exam. | Noncertified applicators must be competent to use RUPs. No specific training requirements. For specific applications, the certified applicator must provide verifiable instructions including detailed guidance for applying the pesticide.  |
| <b>Establish Qualifications for Training Providers Unit X.B.</b>   | Noncertified applicator training can only be provided by one of the following: <b>a currently certified applicator, a State-designated trainer of certified applicators, or a person who has completed a train-the-trainer course under the WPS.</b>  | The certified applicator provides required instructions. No qualifications required other than certification.  |

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| <b>Establish Qualifications for Certified Applicators Supervising Noncertified Applicators Unit X.C.</b> | Supervising applicators must: <ul style="list-style-type: none"> <li>• Be certified in the category in which they supervise applications.</li> <li>• <b>Ensure noncertified applicators under their supervision have satisfied the training requirement.</b></li> <li>• For specific applications, <b>provide a copy of all applicable labeling to the noncertified applicator</b> and provide specific instructions related to the application.</li> <li>• Ensure <b>means for immediate communication</b> between the supervisor and supervisee are immediately available.</li> </ul> | Supervising applicators must demonstrate practical knowledge of supervisory requirements. For specific applications, supervising applicator must provide detailed guidance for applying the pesticide properly and provisions for contacting the certified applicator. |
| <b>Expand Commercial Applicator Recordkeeping to Include Noncertified Applicator Training Unit XI.</b>   | Require <b>commercial applicators to maintain records of noncertified applicators' training</b> that include: the trained noncertified applicator's printed name and signature, the date of the training, the name of the person who provided the training, and the supervising commercial applicator's name.   | No commercial applicator recordkeeping required related to providing verifiable instructions to noncertified applicators.  |
| <b>Minimum Age for Certified and Noncertified Applicators</b>  |   |  |
| <b>Establish a Minimum Age for Certified Applicators Unit XII.</b>                                       | Persons must be at least <b>18 years old</b> to be certified as a commercial or private applicator.   | No minimum age requirement.  |
| <b>Establish a Minimum Age for Noncertified Applicators Unit XIII.</b>                                   | Persons must be at least <b>18 years old</b> to qualify as a noncertified applicator using RUPs under the direct supervision of a commercial or private applicator.   | No minimum age requirement.  |
| <b>National Certification Period and Standards for Recertification</b>                                   |   |  |

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| <b>National Certification Period</b><br>Unit XIV.A.                          | Require all applicators to renew their certification (recertify) at least <b>every 3 years</b> .   | States must ensure that applicators maintain a continuing level of competency and ability to apply pesticides safety and properly. |
| <b>Recertification Requirements</b><br>Unit XIV.B.                           | <p><b>One continuing education unit (CEU) is 50 minutes of active training time.</b></p> <p>To renew their certification, <b>commercial applicators</b> must earn <b>6 CEUs covering core content and 6 CEUs per category of certification</b>, or they must pass written exams for core and each category of certification.</p> <p>To renew their certification, <b>private applicators</b> must earn <b>6 CEUs covering the general private applicator certification requirements and 3 CEUs per category of certification</b>, or they must pass written exams for general private applicator certification and each category of certification.</p> <p>Applicators must earn at least half of the required CEUs in the 18 months preceding the expiration of their certification.</p> | States must ensure that applicators maintain a continuing level of competency and ability to apply pesticides safety and properly. |
| <b>Revise State Certification Plan Requirements</b>                          |  |  |
| <b>State Plan Modification to Implement Proposed Changes</b><br>Unit XV.3.i. | <p>Certification plans must meet or exceed new standards and requirements.</p> <p>States, tribes, and territories may either <b>adopt the proposed standards for noncertified applicator training or prohibit the use of RUPs by noncertified applicators working under the direct supervision of certified applicators.</b></p>   | Certification plans must meet or exceed existing standards and requirements.   |

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| <p><b>Program Reporting and Accountability<br/>Unit XV.3.ii.</b></p>  | <p><b>Reporting must include:</b></p> <ul style="list-style-type: none"> <li>• For private and commercial applicators - new, recertified, and total number of applicators holding certifications, <b>by category and subcategory</b> (if applicable).</li> <li>• Any changes to the certification plan not previously evaluated by EPA.</li> <li>• Any planned changes to the certification plan.</li> <li>• <b>Number, description and narrative discussion of enforcement actions taken for incidents involving RUPs.</b></li> </ul> | <p>Reporting must include:</p> <ul style="list-style-type: none"> <li>• Total number of applicators, private and commercial, by category, currently certified; and number of applicators, private and commercial, by category, certified during the last reporting period.</li> <li>• Any changes in commercial applicator subcategories.</li> <li>• A summary of enforcement activities related to use of restricted use pesticides during the last reporting period.</li> <li>• Any significant proposed changes in required standards of competency.</li> <li>• Proposed changes in plans and procedures for enforcement activities related to use of restricted use pesticides for the next reporting period.</li> <li>• Any other proposed changes from the State plan that would significantly affect the State certification program.</li> </ul> |
| <p><b>Civil and Criminal Penalty Authority<br/>Unit XV.3.iii.</b></p> | <p>States must have authority to assess civil <b>and</b> criminal penalties for commercial and private applicators.</p>  | <p>States must have authority to assess civil and/or criminal penalties for commercial and private applicators.</p>   |

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| <p><b>Commercial Applicator Recordkeeping Unit XV.3.iv.</b></p> | <p>States must require commercial applicators to maintain <b>records about RUP use including:</b></p> <ul style="list-style-type: none"> <li>• <b>Name and address of person for whom RUP applied</b></li> <li>• <b>Location of application</b></li> <li>• <b>Size of area treated</b></li> <li>• <b>Site to which RUP was applied</b></li> <li>• <b>Time and date of application</b></li> <li>• <b>Product name and EPA registration number of RUP applied</b></li> <li>• <b>Total amount of RUP applied per application and location</b></li> <li>• <b>Name and certification number of certified applicator and name(s) of any noncertified applicator that made the application under the direct supervision of the certified applicator.</b></li> </ul> <p>States must require commercial applicators to maintain <b>records related to the qualifications of noncertified applicators working under their direct supervision.</b></p> | <p>State plans must include requirements for certified commercial applicators maintain for at least 2 years routine operational records containing information on kinds, amounts, uses, dates, and places of application of RUPs.</p> |
| <p><b>RUP Dealer Recordkeeping Unit XV.3.v.</b></p>             | <p><b>RUP dealer recordkeeping must include:</b></p> <ul style="list-style-type: none"> <li>• Name and address of each person to whom the RUP was distributed or sold.</li> <li>• The applicator’s certification number, issuing authority, certification expiration date, and categories of certification.</li> <li>• The product name and EPA registration number of the RUP(s) distributed or sold in the transaction, and the State special local need registration number on the label of the RUP if applicable.</li> <li>• The quantity of the pesticide(s) distributed or sold in the transaction.</li> <li>• The date of the transaction.</li> </ul>  | <p>No federal requirement for RUP dealers to maintain records.</p>  |

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| <b>Certified Applicator Credentials</b><br><b>Unit XV.3.vi.</b>                       | <b>Certified applicator credentials must include:</b> <ul style="list-style-type: none"> <li>• The full name of the certified applicator.</li> <li>• The certification, license, or credential number of the certified applicator.</li> <li>• The type of certification (private or commercial).</li> <li>• The category(ies), including any application method-specific category(ies) and subcategories of certification, in which the applicator is certified, as applicable.</li> <li>• The expiration date of the certification.</li> <li>• A Statement that the certification is based on a certification issued by another State, Tribe or Federal agency, if applicable, and the identity of that State, Tribe or Federal agency.</li> </ul> | No federal requirements for what information must be included on documents used to verify an applicator's certification.  |
| <b>Reciprocal Applicator Certification</b><br><b>Unit XV.3.vii.</b>                   | Certification plans must specify <b>whether, and if so under what circumstances, the state would issue reciprocal certifications.</b><br><br>Reciprocal certifications subject to specific conditions.  | No requirements for states to provide specific information on requirements and procedures for issuing reciprocal certification.   |
| <b>State Plan Maintenance, Modification, and Withdrawal</b><br><b>Unit XV.3.viii.</b> | <b>Codify policy that substantial modifications</b> include: <ul style="list-style-type: none"> <li>• Deletion of a mechanism for certification and/or recertification.</li> <li>• Establishment of a new private applicator subcategory, commercial applicator category, or commercial applicator subcategory.</li> <li>• Any other changes that the Agency has notified the State, Tribal or Federal agency that the Agency considers to be are substantial modifications.</li> </ul>   | States may not make substantial modifications to their certification plan without EPA approval.<br><br>The regulation does not outline what constitutes a substantial modification.<br><br>EPA policy states that substantial modifications include: <ul style="list-style-type: none"> <li>• Deletion of a mechanism for certification and/or recertification.</li> <li>• Establishment of a new private applicator subcategory, commercial applicator category, or commercial applicator subcategory.</li> <li>• Any other changes that the Agency has notified the State, Tribal or Federal agency that the Agency considers to be are substantial modifications.</li> </ul> |

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| <b>Federal Agency Certification Plans</b>   |   |  |
| <b>Establish Provisions for Review and Approval of Federal Agency Plans</b><br>Unit XVI.A.      | Delete Government Agency Plan option from the regulation.<br><br><b>Codify existing policy</b> to allow Federal agencies to develop their own plans for certifying applicators.<br><br><b>Federal agency certification plans must meet or exceed the standards in the proposed regulation.</b>  | Option to develop a single, federal government-wide Government Agency Plan to certify federal employees applying RUPs. <i>Government Agency Plan never developed.</i><br><br>EPA policy allows Federal agencies to develop their own plans for certifying applicators, as long as the plan meets or exceeds the applicable standards in the regulation for State plans, and complies with requirements of the policy.  |
| <b>Certification in Indian Country</b>  |   |  |
| <b>Clarify Options for Establishing a Certification Program in Indian Country</b><br>Unit XVII. | <b>Three options for applicator certification programs in Indian Country:</b> <ul style="list-style-type: none"> <li>• Tribes may <b>enter into an agreement with EPA</b> to recognize certifications issued under other EPA-approved certification plans (State, Tribal, or Federal); no concurrence from or agreement with State is needed</li> <li>• Tribes may <b>develop and implement a Tribal certification plan</b> (requires Tribes to develop and submit a Tribal certification plan that meets or exceeds the proposed standards)</li> <li>• EPA may <b>administer a Federal certification plan for applicators in Indian country</b> that meets or exceeds the proposed standards. EPA may include multiple tribes and geographic areas under a single plan.</li> </ul> | Three options for applicator certification programs in Indian Country: <ul style="list-style-type: none"> <li>• Tribes may <b>utilize State certification</b> to certify applicators (requires concurrence by the State(s) and an appropriate State-Tribal cooperative agreement)</li> <li>• Tribes may <b>develop and implement a Tribal certification plan</b> (requires Tribes to develop and submit an appropriate Tribal certification plan to EPA for approval)</li> <li>• EPA may <b>administer a Federal certification plan for applicators in Indian country</b></li> </ul> |
| <b>EPA-Administered Plans</b>   |   |  |
| <b>Revise Provisions for EPA-Administered Plans</b><br>Unit XVIII.                              | EPA-administered federal certification plans must meet the proposed standards for State certification plans, including RUP applicator certification, recertification, and noncertified applicator qualifications, as well as plan reporting and maintenance requirements.   | The current rule establishes requirements for EPA-administered certification in States or areas of Indian country without EPA-approved certification plans in place, including specific standards for certification and recertification of pesticide applicators.  |
| <b>Definitions – Unit XIX.A.– (R)vised or (N)ew</b>   |   |  |
| Application (N)   | The dispersal of a pesticide on, in, at, or around a target site.   |  |



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| Application method (N)            | The application using a particular type of equipment, mechanism, or device used in the application of a pesticide, including, but not limited to, ground boom, air-blast sprayer, wand, and backpack sprayer, as well as methods such as aerial, chemigation, and fumigation.  |                      |
| Compatibility (R)                 | The extent to which a pesticide can be combined with other chemicals without causing undesirable results.  |                      |
| Dealership (R)                    | Any establishment owned or operated by a restricted use pesticide retail dealer where restricted use pesticides are distributed or sold.   |                      |
| Fumigant (N)                      | Any pesticide product that is a vapor or gas, or forms a vapor or gas upon application, and whose pesticidal action is achieved through the gaseous or vapor state.  |                      |
| Fumigation (N)                    | Application of a fumigant.   |                      |
| Indian country (N)                | (1) All land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation.<br>(2) All dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a State.<br>(3) All Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same. |                      |
| Indian Tribe (N)                  | Any Indian or Alaska Native Tribe, band, nation, pueblo, village, or community included in the list of Tribes published by the Secretary of the Interior pursuant to the Federally Recognized Indian Tribe List Act.   |                      |
| Non-target organism (R)           | Any plant, animal or other organism other than the target pests which a pesticide is intended to affect.   |                      |
| Noncertified applicator (N)       | Any person who is not certified in accordance with 40 CFR 171 to use or supervise the use of restricted use pesticides in the pertinent jurisdiction, but who is using restricted use pesticides under the direct supervision of a person certified as a commercial or private applicator certified in accordance with this part.  |                      |
| Personal protective equipment (N) | Devices and apparel that are worn to protect the body from contact with pesticides or pesticide residues, including, but not limited to, coveralls, chemical-resistant suits, chemical-resistant gloves, chemical-resistant footwear, respirators, chemical-resistant aprons, chemical-resistant headgear, and protective eyewear.   |                      |
| Principal place of business (R)   | The principal location, either residence or office, where a person conducts a business of applying restricted use pesticides. A person who applies restricted use pesticides in more than one State or area of Indian country may designate a location within a State or area of Indian country as its principal place of business for that State or area of Indian country.   |                      |
| Toxicity (R)                      | The property of a pesticide that refers to the degree to which the pesticide and its related derivative compounds are able to cause an adverse physiological effect on an organism as a result of exposure.  |                      |

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| Use (N)                       | <p>(1) Pre-application activities, including, but not limited to:</p> <ul style="list-style-type: none"> <li>(i) Arranging for the application of the pesticide.</li> <li>(ii) Mixing and loading the pesticide.</li> <li>(iii) Making necessary preparations for the application of the pesticide, including responsibilities related to providing training, a copy of a label and use-specific instructions to noncertified applicators, and complying with any applicable requirements under part 170 of this chapter.</li> </ul> <p>(2) Applying the pesticide, including supervising the use of a pesticide by a noncertified applicator.</p> <p>(3) Post-application activities, including, but not limited to, transporting or storing pesticide containers that have been opened, cleaning equipment, and disposing of excess pesticides, spray mix, equipment wash waters, pesticide containers, and other materials contaminated with or containing pesticides.</p> |                      |
| Use-specific instructions (N) | The information and requirements specific to a particular pesticide product or work site that are necessary in order for an applicator to use the pesticide in accordance with applicable requirements and without causing unreasonable adverse effects.  |                      |