

# EPA's Proposed Revisions to the Applicator Certification Rule



Pesticide Program Dialogue Committee  
October 21, 2015

# Certification Overview

- **The federal Certification of Pesticide Applicators Rule has been in place since 1974**
  - Establishes requirements for determining the competency of applicators of restricted use pesticides (RUPs)
  - Sets standards for States, Tribes and Federal agencies to administer programs to certify applicators
- **The Certification rule covers private applicators, commercial applicators, and those using RUPs under their direct supervision**

# Applicator Classification

- Private applicators – certified to apply RUPs to own or employers’ property in producing an agricultural commodity, e.g., crops grown for food, raising livestock
  - ~489,000 private applicators
- Commercial applicators – certified to apply RUPs “for hire” or on property owned by another for a variety of uses
  - ~414,000 commercial applicators
- Noncertified applicators – only authorized to use RUPs under the direct supervision of a certified applicator
  - Estimated: 947,000; actual number unknown

# Certification Program Administration

- FIFRA authorizes states, tribes, and territories to certify applicators under a “certification plan” approved by EPA
  - The state/tribal/territorial certification plan must meet or exceed the standards in EPA’s certification regulation
  - Federal agencies can administer certification programs under 1977 policy
- EPA has approved certification plans for all 50 states & Washington D.C., 3 territories, 4 tribes, 4 federal agencies; EPA directly administers 2 certification plans
- Most states have adopted at least some standards more stringent than the federal standards; there is variance among states’ standards for various parts of the rule



# Reasons for Rule Change

- **Pesticide Exposure and Incidents**
  - Current pesticide illnesses to applicators and the public incidents may be avoidable
  - Studies show possible associations between pesticide exposure and adverse health effects
- **Negative Environmental Impacts**
  - Data on the damage associated with ecological incidents are difficult to capture and quantify
  - Review of EPA's ecological incident database found 245 incidents from 2009 through 2013 where use of RUPs/likely RUPs damaged crops or killed fish, bird, bees, or other animals

# Goals for the Proposed Revisions

- Reduce adverse effects resulting from avoidable pesticide exposures
- Ensure applicators meet the level of competency EPA assumes when registering a product as restricted use
- Encourage reciprocity between states to reduce burden on applicators and state certification programs



# Proposed Changes: Private Applicators Initial Certification

## Current Rule

- States require private applicators to attend training (no standards), pass a written exam, or demonstrate competency through an alternate mechanism
- Mechanism allows non-readers to be certified

## Proposal

- Enhance competency standards to cover necessary information
- Require private applicators to pass a written exam for certification or complete training on the proposed enhanced certification standards
- Eliminate mechanism that allows non-readers to be certified

# Proposed Changes: Application Method-Specific Categories

## Current Rule

- No specific certification requirements to use certain application methods

## Proposal

- Require commercial and private applicator certification for specific high-risk application methods
  - Aerial application
  - Soil fumigation
  - Non-soil fumigation



# Proposed Changes: Exam/Training Administration

## Current Rule

- Commercial applicator certification must be based on a written exam

## Proposal

- Require private applicator exams, if offered, to be written
- Require candidates to present identification for initial and recertification exams and training sessions
- Codify policy requiring all exams to be closed book and proctored



# Proposed Changes: Recertification

## Current Rule

- States must have process to assure continued competency (no standards for the process or timeframe)

## Proposal

- Establish 3 year certification period
- Commercial applicators recertify by exam or 6 hours training for core and each category
- Private applicators recertify by exam or 6 hours training for general certification and 3 hours of training for each category
- Require applicators to earn at least half of the required hours within 18 months of their certification expiration date

# Proposed Changes: Minimum Age

## Current Rule

- No minimum age

## Proposal

- Require private applicators, commercial applicators and those under their supervision to be at least 18 years old



# Proposed Changes: Noncertified Applicators

## Current Rule

- Application of an RUP by “a competent person acting under the instructions and control of a certified applicator”
- No required demonstration of competency of noncertified applicator

## Proposal

- Noncertified applicator establishes competency through:
  - Annual training on safety, application, personal protection, pesticide labeling
  - Passing the core exam or
  - Being currently qualified as a pesticide handler under the Worker Protection Standard (WPS)



# Proposed Changes: Supervisors of Noncertified Applicators

## Current Rule

- Supervising applicators must provide guidance for applying the pesticide properly and instructions on how to contact the supervising applicator

## Proposal

- Supervising applicator must ensure noncertified applicators are qualified (maintain records for 2 years), and for specific applications provide labeling and instructions for the application
- Ensure that immediate communication is possible

# Other Proposed Changes

- Updates to state plan requirements to match revised regulation
- Revisions to options for tribal certification
- Codifying policy for federal agency certification programs

# Proposed Implementation

- EPA will provide resources for implementation of the rule when finalized
  - Certification Plan and Reporting Database
  - Exams & Manuals
  - Other resource requested
- Timeframe
  - 2 years after final rule publishes – must submit revised certification plans reflecting the new rule requirements
  - 4 years after the final rule publishes, certification must be done in accordance with revised rule
  - Existing plans for states, tribes, and federal agencies that have submitted revised plans stay in effect until EPA approves the revised plan

# Costs

- Annual Cost: \$47.2 million
- Private Applicator
  - Per-applicator costs range from \$0/yr - \$124/yr
  - Average per-applicator cost: \$40/yr
- Commercial Applicator
  - Per-applicator costs range from \$1.34/yr - \$212/yr
  - Average per-applicator cost: \$66/year
- State/Gov't Agencies
  - Annual costs range from \$3,000/yr - \$21,000/yr
  - Average annual cost:\$6,700/yr



# Benefits from Reducing Acute Incidents

- Reduce the effects of acute and chronic illness from RUP exposure
  - Primarily to certified and noncertified applicators, but also families, farmworkers, bystanders
- Estimated quantified benefits: \$80.5 million annually



# Comment Period

- The comment period currently scheduled to close 90 days after the proposed changes publish in the Federal Register
  - Published on August 24, 2015 - comment period scheduled to end November 23, 2015
  - Received 1 formal request to extend comment period and anticipate receiving additional requests
  - Will publicize any extension to the comment period

# Submitting Comments

## How?

- Go to <http://www.regulations.gov>
- Search for the docket for the Certification proposal: **EPA-HQ-OPP-2011-0183**

## Resource for Developing Effective Comments

- [http://www.regulations.gov/docs/Tips\\_For\\_Submitting\\_Effective\\_Comments.pdf](http://www.regulations.gov/docs/Tips_For_Submitting_Effective_Comments.pdf)



# Tips for Commenting Effectively

- Organize your comments by topic area, e.g., private applicator competency, recertification, state plans
- Identify credentials and experience that may distinguish your comments from others – highlight any relevant personal or professional experience
- When possible, support your comment with substantive data, facts, and/or expert opinions
- A single, well-supported comment may carry more weight than a thousand form letters. The Agency reviews form letters submitted during the public comment period, but the number received has less impact than the content

# Questions?

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