

EPA's Revisions to the Applicator Certification Rule



September 2016
EPA Regional Call

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., 6 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

Public Comments

- Proposal Issued for public comment August 24, 2015
- Over 700 individual comments received
- Commenters included
 - State and Tribal pesticide regulators
 - Pesticide applicators
 - Farmers
 - University extension programs
 - Farm bureaus
 - Associations
 - Nonprofit organizations
- Many comments from state and pesticide safety programs provide details describing intricacies of their certification programs and how the proposal would impact them

Main Comment Areas

Main comment areas

- Recertification / equivalency issues
- Impact on applicators of general use pesticides
- Reciprocity – general opposition
- Minimum age of 18
- Unfunded mandate
- Implementation timing
- Costs underestimated

General reaction to comments

- Based on the information and concerns expressed in the comments, EPA is considering more flexible options for the final rule in areas where different approaches can accomplish the goals of the proposal.



Proposed Changes

- Private Applicator Certification & Competency
- Additional Certification Categories
- Exam & Training Administration
- Minimum Age
- Recertification
- Noncertified Applicators of RUPs
- Supervision of Noncertified Applicators
- State Certification Plans
- Tribal Certification
- Federal Agency Certification Plans
- Other Proposed
- Implementation

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
- Competency standards cover 5 general points
- Mechanism allows non-readers to be certified

Proposal

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



Private Applicators Initial Certification

- Texas would not be affected by this because we already require this



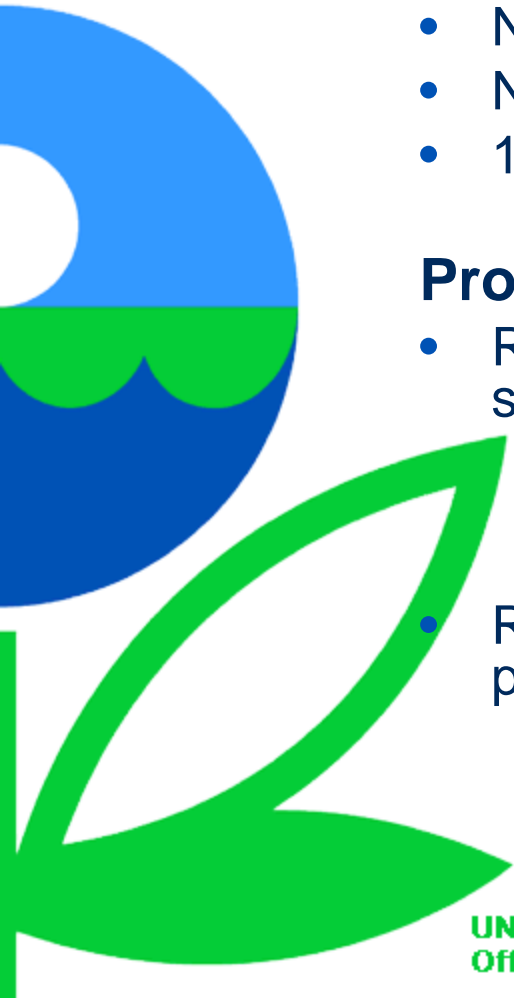
Additional Categories

Current Rule

- No specific certification requirements to use certain application methods
- No categories for predator control
- No categories for private applicators
- 11 federal categories for commercial applicators

Proposal

- Require commercial and private applicator certification for specific high-risk application methods
 - Aerial application
 - Soil fumigation
 - Non-soil fumigation
- Require commercial and private applicator certification for predator control
 - Codify competency standards established by product labeling for sodium fluoroacetate and sodium cyanide.



Additional Categories

- Texas would not be affected by this because we already require this



Exam & Training Administration

Current Rule

- Commercial applicator certification must be based on an exam.
- No administration

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



Exam & Training Administration

- Texas would not be affected by this because we already require this



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



Minimum Age

- Texas would be affected by this. A rule change would be required to put in place minimum age in Texas



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



Recertification

- Texas has a 5 year license for private applicators requiring 15 CEU's
- Texas requires 5 CEU's each year for Commercial, Non-Commercial and Non-Commercial political licenses



Supervision 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



Supervision of Noncertified Applicators

- Texas laws and regulations already have this requirement



State Certification Plans

Proposal – Certification Plans

- Certification plans must meet or exceed new standards and requirements
- Adopt the proposed standards for noncertified applicator training or prohibit the use of RUPs by noncertified applicators

State Certification Plans

Proposal

- Reporting
 - Reporting by category and subcategory
 - Number, description, and narrative discussion of enforcement actions taken for incidents involving RUPs
- Recordkeeping
 - Specify contents of commercial applicator records, including qualifications of supervised applicators
 - Require RUP dealers to maintain records



State Certification Plans

Proposal

- Certification Credentials
 - Certified applicator credentials must include specific content
- Reciprocal Certification
 - Certification plans must specify whether, and if so under what circumstances, the state would issue reciprocal certification

State Certification Plans

- The Texas state certification plan already meets or exceeds most of the proposed requirements.



Other Proposed Changes

- Regulatory definitions
- Recordkeeping requirements for Applications (commercial applicators)
 - Sale of RUPs (pesticide dealers)
- Competency standards for commercial applicators
- Others
- **(Texas already has these)**



Implementation

- EPA will provide resources for implementation of the rule when finalized
 - Certification Plan and Reporting Database
 - Exams & Manuals
 - Other resource requested
- Proposed 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



Implementation of EPA's Revised Agricultural Worker Protection Regulation



June 2016



Goals of the Revised Rule

- Improve occupational protections for agricultural workers and handlers to make them comparable to those for workers in other industries covered by OSHA
- Reduce acute occupational pesticide exposures and incidents
- Address concerns raised through years of stakeholder engagement through EPA's Federal Advisory Committee, the National Assessment process, and in meetings with regulatory partners



Implementation Timeline

Date	Milestone
September 28, 2015	Final rule signed and announced.
November 2, 2015	Final rule published in the <i>Federal Register</i> .
January 1, 2016	Final rule becomes effective. Compliance with existing rule during 2016
January 2, 2017	Compliance required for most of revised rule (e.g. notification, personal protection equipment, restricted entry intervals)
January 2, 2018	Compliance required for remaining requirements <ul style="list-style-type: none">• New content in worker and handler training• New content on pesticide safety information display• Handlers suspend applications if anyone is in the application exclusion zone.



Rule Framework - Strengthen Existing Protections

w/ Specific Changes - Compliance 2017*
Add New Protections - Compliance 2018+

- Inform
 - Training (2017* - 2018+)
 - Pesticide safety information (2018+)
 - Notification (2017*)
 - Information exchange (2017*)





Rule Framework - Strengthen Existing Protections

w/ Specific Changes - Compliance 2017*
Add New Protections - Compliance 2018+

- Protect

- Restricted entry intervals (REIs) (2017*)
- Personal protective equipment (PPE) (2017*)
- Application exclusion zones (AEZs) (2017*)
- Suspend applications (2018+)

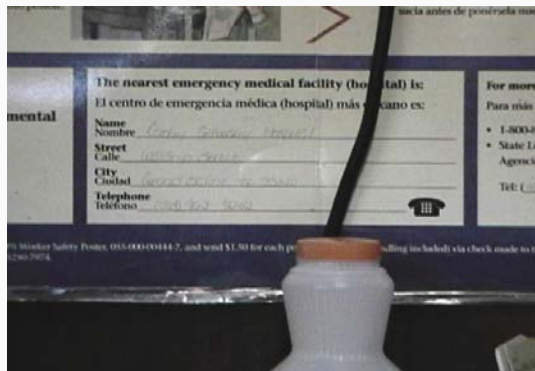




Rule Framework - Strengthen Existing Protections

w/ Specific Changes - Compliance 2017*
Add New Protections - Compliance 2018+

- Mitigate
 - Routine decontamination supplies (2017*)
 - Emergency eyewash (2017*)
 - Emergency assistance (2017*)





Revised Rule Elements - Compliance 2017

- Training
- Notification
- Information Exchange
- Restricted Entry Intervals
- Personal Protective Equipment
- Application Exclusion Zones
- Routine Decontamination Supplies
- Emergency Eyewash
- Emergency Assistance



Outreach and Implementation Strategy

- From day one signing, communicate the rule's basic facts to farmworkers, agricultural employers, and state regulators
- Reach out with educational materials to the farmworker communities through farmworker service organizations and media campaigns
- Educate the regulated community with information materials through national, state and local commodity organizations
- Train regional EPA staff and state staff on programmatic and enforcement aspects of the rule
- Work with other federal agencies to help them find ways to support the implementation of the rule



On Rule Signing Day: Expanded Web Page and Conference Calls English & Spanish

Basic Facts to Inform Farmworkers, Ag Employers, and State Regulators

- Current Rule – Revised Rule Comparison Table
- Revised Rule Highlights Fact Sheet
- Learn More About Worker Safety
- Basic Regulatory Information
- Frequently Asked Questions
- Overview of Revised Rule - video
- Migrant Clinicians Support for Revised Rule - video
- Hispanic Farmer Speaks in Support of Rule – video
- Thoughts from a Former Farmworker – video
- Sector Focused Calls:
 1. States, Tribes, Local Governments.
 2. NGOs, Enviros
 3. Ag Groups, Related Business Groups



Training on Implementation for EPA Regional Staff and State Regulatory Partners

- Nov 2015: EPA Regional program and OECA staff – 3 day
- Dec 2015: National training for state and tribal program staff – 4 day
- Feb 2016: Region 10 states (program & inspectors) – 2 day
- Mar 2016: Region 7 states (program & inspectors) – 2 day
- Mar 2016: Region 5 states (program & inspectors) – 4 day
- April 2016: Region 8 states & tribes (program & inspectors) – 2 day
- April 2016: Region 2 states & territories (programs & inspectors) – 2 day
- April 2016: Training for Region 3 states (programs & inspectors) – 2 day
- May 2016: Training for Region 1 states (program & inspectors) – 1 day
- May 2016: Training for Region 9 (Hawaii) (programs & inspectors) – 2 day
- May 2016: National training for state and tribal inspectors – 4 day
- June 2016: National training for state and tribal program staff – 4 day
- Aug 2016: Training for Region 4 states (programs & inspectors) – 2 day



Power Point - Webinar Presentations

- Sept 2015: National Farmworker Service Organizations Conference
- Oct 2015: Pesticide Program Dialogue Committee
- Oct 2015: Agri-Safe Network
- Oct 2015: National Pesticide Policy Coalition
- Nov 2015: Crop Life America
- Dec 2015: State FIFRA Issues & Evaluation Group
- Dec 2015: Wilber Ellis Ag
- Dec 2015: National Council of Agricultural Employers
- Jan 2016: Florida Association of County Agents
- Jan 2016: Tribal Pesticide Program Committee
- Feb 2016: National Alliance of Crop Advisors.
- Feb 2016: Department of Labor Agriculture Task Force
- Feb 2016: Pesticide Stewardship Alliance
- Feb 2016: National Council of Farm Cooperatives
- Mar 2016: Western Migrant Stream
- Mar 2016: American Association of Pesticide Control Officials



Power Point - Webinar Presentations

- Mar 2016: National Farm Bureau
- Mar 2016: Grain Growers Association
- Apr 2016: National Migrant and Seasonal Head Start Association
- Apr 2016: Migrant Clinicians Network
- Apr 2016: National Farmworkers Conference
- May 2016: Pesticide Program Dialogue Committee
- May 2016: Western Forum for Migrant and Community Health
- May 2016: National Advisory Committee for Migrant Health
- May 2016: Western Regional Pesticide Meeting
- Jun 2016: National Agri-Women's Association
- June 2016: State FIFRA Issues & Evaluation Group
- Jul 2016: American Association of Pesticide Control Officials
- Aug 2016 Assoc. Structural Pest Control Officials
- Sept 2016: Agricultural Retailers Association
- Sept 2016: American Association of Pesticide Safety Educators



Monthly Conference Calls on Rule Implementation

- Federal Inter Agency Task Force
 - DoL: OSHA, Wage & Hour Division, Employment & Training Division
 - HHS: NIOSH, NIEHS, NCI (Ag Health Study), National Rural Health Association, Migrant Head Start Programs
 - HUD: Colonias Program, Borders Programs
 - Office of Childrens' Health Advisory Committee
 - National Environmental Justice Advisory Committee
- Farm Worker Justice NGO Coalition
- EPA Regional Coordinators for Pesticide Worker Safety
- American Association of Pesticide Control Officials – Regulatory Work Group



Grant & Contract Support for Implementation

Association of Farmworker Opportunity Programs

- Conduct national English & Spanish pesticide safety training for farmworkers & families - ongoing 5 year cooperative agreement

University of California Davis & Oregon State University

- Develop English & Spanish materials and resources for pesticide worker safety training and compliance assistance in agricultural – ongoing 5 year cooperative agreement

Migrant Clinicians Network

- Workers & Health project works with health center outreach teams to conduct health and safety training for vulnerable, Hispanic agricultural worker populations – ongoing 5 year cooperative agreement

Contract - Outreach to Farm Worker Communities

- Focused outreach to Hispanic farmworkers - PSAs, videos, pamphlets, translations in Spanish and indigenous languages – multi year contract begins July 2016

Contract - Outreach & Marketing Agricultural Employers

- Broad outreach to variety of farmers and farmer organizations - videos, fact sheets, focused webinars, sector specific training sessions – multi year contract begins August 2016



Materials Development in Support of Implementation

- Association of Farmworker Opportunity Programs (NGO)
 - Scripted training programs for worker safety and take home exposure prevention
 - Multi-media worker training material – English and Spanish
 - Spanish edition of **Recognition and Management of Pesticide Poisonings**
- UC Davis / Oregon State (Land Grant Institutions)
 - How to Comply Manual (Draft)
 - Worker and handler training videos – English and Spanish
 - Agricultural sector specific training materials
 - Web based archive of training materials
 - Materials for different languages with low literacy appropriateness
- EPA
 - Employer's How To Comply Manual (Final), Employer's Quick Reference Guide, Inspector Guidance Manual