



# Certification of Pesticide Applicators Updates *40 CFR 171*

Office of Pesticide Programs

ASPCRO  
August 21, 2024


## Outline

- Certification Plans Implementation Updates
  - Background - Certification of Pesticides Rule
  - Certification Plan Implementation
  - Certification Plan Modifications
  - EPA-funded Cooperative Agreements



# Certification Plans Implementation Updates

# What is the Certification of Pesticide Applicators (CPA) Rule? (40 CFR 171)

- The [Certification of Pesticide Applicators Rule](#) (CPA) 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
  - RUPs are pesticides that, without additional regulatory restrictions, may cause unreasonable adverse effects on human health or the environment
    - RUPs present such potential significant risk that EPA must ensure applicators are competent to apply them properly
    - RUPs may be purchased and used only by or under the direct supervision of a certified applicator
    - Many of the fumigants are classified as RUPs
  - The Certification rule covers commercial applicators, private applicators (*for pest control in the production of agricultural commodities*), and those using RUPs under their direct supervision
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## *First major revision to CPA since 1974!!!*

### •Proposed Rule – August 2015

- <https://www.federalregister.gov/documents/2015/08/24/2015-19988/pesticides-certification-of-pesticide-applicators>

### •Final Rule published January 2017

- <https://www.federalregister.gov/documents/2017/01/04/2016-30332/pesticides-certification-of-pesticide-applicators>

## Pesticides; Certification of Pesticide Applicators

A Rule by the Environmental Protection Agency on 01/04/2017

PUBLISHED DOCUMENT

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**DOCUMENT DETAILS**

**Printed version:**  
PDF

**Publication Date:**  
01/04/2017

**Agency:**  
Environmental Protection Agency

**Dates:**  
This final rule is effective March 6, 2017.

**Effective Date:**  
03/06/2017

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FRL-9956-70

**RIN:**  
2070-AJ20

**Document Number:**  
2016-30332

DOCUMENT DETAILS

**AGENCY:**  
Environmental Protection Agency (EPA).


**ACTION:**  
Final rule.

**SUMMARY:**  
EPA is updating the existing regulation concerning the certification of applicators of restricted use pesticides (RUPs) in response to public comments received on the proposal and based on extensive stakeholder review of the existing regulation and its implementation since 1974. The final revised regulation will ensure Federal certification program standards adequately protect applicators, the public, and the environment from risks associated with use of RUPs. The final rule will improve the competency of certified applicators of RUPs, increase protection for noncertified applicators using RUPs under the direct supervision of a certified applicator through enhanced pesticide safety training and standards for supervision of noncertified applicators, and establish a minimum age requirement for certified and noncertified applicators using RUPs under the direct supervision of a certified applicator. Recognizing EPA's commitment to work more closely with Tribal governments to strengthen environmental protection in Indian country, the final rule will provide more practical options for establishing certification programs in Indian country.

**DATES:**  
This final rule is effective March 6, 2017.


DOCUMENT STATISTICS

# CPA Rule Revisions

- The 2017 CPA Rule updated the standards to ensure that persons using RUPs are competent to use these products without causing unreasonable adverse effects to themselves, the public, or the environment. The rule also:
    - Establishes a nation-wide minimum age (18) for certified applicators and persons working under their direct supervision.
    - Establishes a maximum recertification interval of 5 years.
    - Requires specialized certifications for people using specific application methods (e.g., fumigation, aerial).
    - Provides expanded options for establishing certification programs in Indian Country that acknowledge tribal sovereignty.
    - Establishes protection for noncertified applicators by requiring training before they can use RUPs (under the direct supervision of a certified applicator).
    - Clarifies and streamlines requirements for states, tribes, and federal agencies to administer their own certification programs, while granting flexibility to tailor programs to the needs of each state, tribe, or federal agency.
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# Certification Rule – Overall Status of Plan Implementation

- States, Tribes and federal agencies (certifying authorities) are actively making changes to certification/licensing programs, such as adding or updating applicator certification categories
    - Updates to previously existing categories and standards, such as the Industrial, Institutional, and Structural (IIS) Pest Control Category
    - Adding new categories (e.g., soil fumigation, non-soil fumigation, etc.)
  - Most states have adopted at least some standards more stringent than the federal standards; there is wide variance among states' standards for various parts of the rule
    - Applicators, industry, and registrants may not be all that familiar with the CPA because the implementation and enforcement of the programs occur mostly through each State
  - Certification programs are being updated according to the outline in each individual state, territory, or tribal certification plan
  - All approved certification plans are available in EPA's Certification of Pesticide Applicators Reporting Database (CPARD)
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# Certification Rule - Adding/Changing Categories

- States adding specialized certification categories for private and commercial applicators
    - Certain application methods (soil fumigation, non-soil fumigation, aerial application)
    - Predator control (sodium fluoroacetate in livestock protection collars and sodium cyanide delivered through M-44 devices)
  - States may vary in approach as long as competency standards are addressed. For new fumigation categories:
    - Certifying authorities may combine or keep separate soil and non-soil
    - Certifying authorities may further subdivide and/or split fumigation categories
  - States updating programs' manuals and exams to address category-specific information
  - Changes may go into effect at different times based on the individual state, territory, or tribe's implementation schedule
  - Meanwhile, existing plans and relevant parts of their programs remain in effect until their plan is implemented
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# Focus for 2024 (and beyond)

## Implementing plans

- Certifying authorities to follow their plans' implementation schedules
- Frequent and consistent communication between SLAs and Regions on issues and/or changes to their plans and implementation schedule
  - Accomplished through EPA cooperative agreement project officers and/or certification rule contacts

## EPA's role in a nutshell

- Provide technical assistance
- Review annual reporting
- Track implementation progress
- Review and approve plan modifications
- Support development of tools/resources (e.g., fund grants)
- Implement EPA Plan in Indian country (e.g., issue federal certifications)

# (Some) Specific Tasks for 2024

- Collect and Review annual reports (CPARD)
- Incorporate implementation into FIFRA cooperative agreements
  - Workplan negotiations
  - Tracking plan progress
- Support modifications to plans
  - Develop modification guidance
  - Review modifications
- Implement EPA Plan for Indian country
  - Issue federal certifications
  - communicate changes
  - Update related materials/training
- Engage/support states, territories, and tribes
  - Certification & Training (C&T) PREP
  - Pre-SFIREGs, SFIREG, AAPCO
  - Tribal Pesticide Program Committee (TPPC)
- Increased engagement with PSEPs
  - EPA Regional meetings
  - AAPSE
  - Certification & Training Leaders (CATL)

# Engaging with Co-regulators and PSEPs

- Pesticide Regulatory Education Program (PREP), C&T-focused – April 22 – 25, 2024
  - Includes a mixture of states and territories (i.e., state lead agencies), tribes, and PSEPs
  - All EPA Regions and HQ will have staff present
- AAPCO, State FIFRA Issues Research and Evaluation Group (SFIREG), and pre-SFIREGs meetings
  - Keeping lines of communication and information sharing open with co-regulators
  - Provide a mechanism to share and receive feedback
  - Status updates, consistency, implementation support, modification guidance, and promoting collaboration and resource sharing between states and PSEPs
- Pesticide Safety Education Programs (PSEPs)
  - Meetings with PSEPs and SLAs to hear concerns or answer questions about the implementation process
  - New – EPA HQ (i.e., CWPB) meeting ~monthly with PSEPs focused on Certification & Training
  - Regional EPA-facilitated PSEP + SLA virtual meetings
- Tribal Pesticide Program Council (TPPC)
  - Maintaining dialogue on the EPA Plan for Indian Country
  - Provide technical assistance and answer questions in relation to developing individualized plans or MOAs



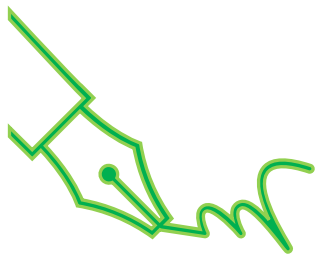
# Certification Plan Modifications

# Modifying a Plan **after** EPA Approval

*Changes to approved plans are expected!!!!*

## **§171.309**

EPA must determine changes will not impair compliance with federal laws/regulations.



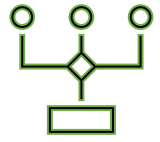
**NON-SUBSTANTIAL** – within 90 days of effective date or in the required annual report, whichever comes first .

## **SUBSTANTIAL – BEFORE MAKING...**

Must consult with EPA on

1. additions or deletions of a certification or recertification mechanism,
2. a new category or subcategory,
3. any other changes EPA considers substantial

# Tracking of Plan Implementation and Modifications



EPA regional project officers and/or certification rule contacts

- Regular meetings or check-ins



Processing substantial modifications to plans now, as needed



Certification Plan and Reporting Database (CPARD)

- Annual reporting

# Modifications to EPA-approved Certification Plans

- [§171.309](#): Modification and withdrawal of approval of certification plans
  - (a) Modifications to approved certification plans. A State, Tribe, or Federal agency may make modifications to its approved certification plan, provided that all of the following conditions are met:




# 1. Determining Compliance

- ***Before modifying*** an approved certification, the State, Tribe, or Federal agency must determine that the proposed modifications ***will not impair*** the certification plan's compliance with the requirements of this part or any other Federal laws or regulations.


## 2. Requirement for Agency Notification

- The State, Tribe, or Federal agency must notify the EPA of any plan modifications within **90 days** after the final State, Tribal, or Federal agency plan modifications ***become effective or when it submits its required annual report*** to the Agency, whichever occurs first.

### 3. Additional Requirements for Substantial Modifications to Approved Certification Plans

- ***Before*** making any substantial modifications to an approved certification plan, the State, Tribe or Federal agency ***must consult with the EPA and obtain approval*** of the proposed modification. Substantial modifications include the following:
    - (i) Addition or deletion of a mechanism for certification and/or recertification.
    - (ii) Establishment of a new private applicator category, private applicator subcategory, commercial applicator category, or commercial applicator subcategory.
    - (iii) **Any other changes that the Agency has notified the State, Tribal or Federal agency that the Agency considers to be substantial modifications.**
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## 4. Agency Decision

- The Agency shall make written determination regarding the modified certification plan's compliance with the requirements of this part. The Agency shall give the certifying authority submitting a certification plan ***notice and opportunity for an informal hearing before rejecting the plan***. The Agency's approval may be subject to reasonable terms and conditions. If the Agency approves the modifications to a certification plan, that approval shall specify a schedule for implementation of the modified certification plan.
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# Categories of Plan Modifications

- **Substantial Modifications**

- As required and defined by §171.309(a)(3), must receive EPA approval prior to implementing

- **Notable Modifications**

- Can be implemented prior to EPA approval, but must be reported to EPA for review within 90 days of becoming effective or when the Certifying Authority submits its annual certification plan data, whichever comes first


- **Incidental Changes**

- Specific changes that are minor and narrow in scope. These changes can be completed before EPA notification, and only need to be reported to the EPA when the Certifying Authority's annual certification plan data
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# Examples of Modifications Under Consideration (Not Final)

Substantial Modifications	Notable Modifications	Incidental Changes
<ul style="list-style-type: none"><li>• <b>Addition or deletion of a mechanism for certification and/or recertification</b></li><li>• <b>Establishment of a new private applicator category, private applicator subcategory, commercial applicator category, commercial applicator subcategory</b></li><li>• Significant changes to legal authorities</li><li>• Changes to the final implementation date 12 months or greater</li></ul>	<ul style="list-style-type: none"><li>• Changes to personnel</li><li>• Changes to statutory/regulatory language</li><li>• Changes to plan text</li><li>• Changes to certification/recertification period</li><li>• Changes to competency standards</li><li>• Changes to exam administration</li><li>• Changes to exam passing grade</li><li>• Changes to recertification by CEUs process</li><li>• Addition or deletion of Direct Supervision of noncertified applicators</li><li>• Changes to reciprocity</li><li>• Changes to final implementation date less than 12 months</li></ul>	<ul style="list-style-type: none"><li>• Changes to personnel titles</li><li>• Changes to grammar and punctuation</li><li>• Changes to formatting</li><li>• Changes to credential design</li></ul>

# Draft Process Framework

- Modification guidance and form – Planned for Fall 2024 Release
    - Working on developing guidance to outline process and expectations
    - Working on creating either a form or table to help submit and track modifications
  - Modification framework provided to certifying authorities
    - Sought feedback in Spring on the framework
    - [SFIREG survey – April 2024](#)
  - Guidance will outline:
    - Categorization of modifications
    - EPA Review of Submitted Modification Requests
    - Written Determination Process
      - Approval—Begin implementing according to the implementation schedule.
      - Rejection—Revert to most recently approved certification plan.
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# **EPA Certification and Training Cooperative Agreement Updates**



# EPA Certification and Training Cooperative Agreements

- **HQ-managed assistance agreements** to support implementation include
  - Pesticide Safety Education Program (PSEP) Funding
  - Pesticide Education Resource Collaborative (PERC)
  - Field Implementation Meeting Support
- **Region-managed assistance agreements**
  - FIFRA cooperative agreements (STAG)
  - Multi-purpose Grants

# PSEP cooperative agreement: Pesticide Safety Education Funds Management Program

- New 5-year cooperative agreement with Extension Foundation began October 1, 2023
- **Received \$1.5 M in both FYs 2023 and 2024**
- Provides funds to PSEPs at Land Grant Universities
- Encourages collaboration with Minority-Serving Institutions (MSIs)
- Subaward projects include:
  - Collaborations with MSIs and Tribes
  - Translation of materials into Spanish and Mandarin
  - Spanish translation SOPs and glossaries
- <https://extension.org/national-programs-services/pesticide-safety/>

**EXTENSION**  
FOUNDATION

# Pesticide Educational Resources Collaborative

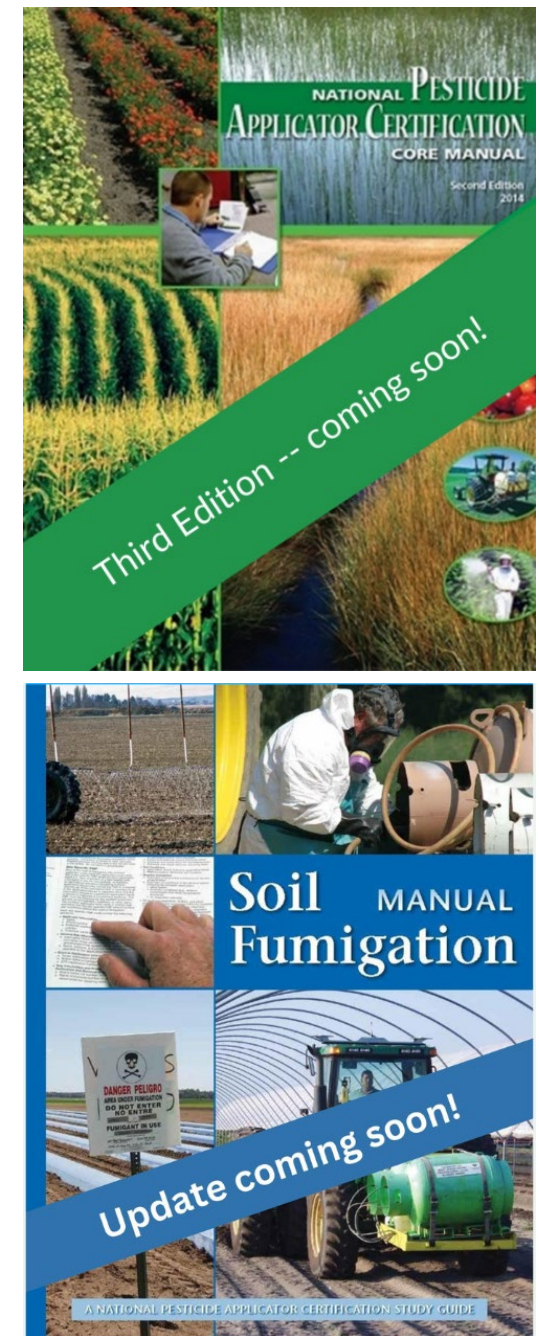


- Recipient: UC Davis in collaboration with OR State
- **Received \$1.2 M annually FYs 2021-2024**
- Coordinates the development of pesticide-related educational resources (e.g., manuals, videos, guides) that meet national needs related to implementing the **Certification of Pesticide Applicators** regulation.
- Applicator Certification – seed treatment manual, non-soil fumigation certification manual, Core Manual addendum, noncertified applicator training
- <https://pesticideresources.org/ct/index.html>



# PERC Certification Resources

- PERC completed Core Manual addendum (Dec. 2021)
  - Available: <https://pesticideresources.org/ct/corecomp.html>
- Upcoming resources
  - Revising the 2014 National Pesticide Applicator Certification Core Manual and Exam Bank (English), expected in 2024
  - Revising the 2014 National Pesticide Applicator Certification Core Manual and Exam Bank (Spanish), expected in 2025-2026
  - Revising the 2012 Soil Fumigation Manual and Exam Bank (English), expected in 2024



# Field Implementation Meeting Support

- Recipient: Michigan State University with subawards to National Pesticide Safety Education Center and Migrant Clinicians Network
- **Received up to \$500K annually, for a total of \$2.5M during FYs 2019 - 2024**
- Meetings of stakeholders : State government, PSEPs, clinicians, farmworker groups, other nonprofits, companies and associations (notably, **PACT conferences**)
- Collaboration Teams: Respirator, IPM Education, Pacific Island PSE, Pollinators, Dicamba, Paraquat and Invasive Species
- Certification and Training Assessment Group (CTAG): worked on online exams, label-mandated training, and delivering various online trainings.
- Webinars (such as, PACT 2023 Series and PACT 2021 Series)
- **Agreement concluded at the end of July 2024. No NOFO planned to be released in FY 2024**