



# **Certification of Pesticide Applicators Regulation (40 CFR Part 171): Status Update**

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# Overview

- 2017 Certification of Pesticide Applicators Regulation
- Timeline & Important Dates
- Review & Approval Process
- Implementation of Revised Certification Plans
- Tools, Information, and Support
- FAQs



# **2017 Certification of Pesticide Applicators Regulation**

The 2017 Certification of Pesticide Applicators (CPA) regulation replaces the previous 1974 CPA and establishes new federal standards for people who use restricted use pesticides (RUPs).



# 2017 Certification of Pesticide Applicators Regulation

New certification standards and requirements:

- New **minimum age requirements** for certified applicators and noncertified applicators working under the direct supervision of a certified applicator
- New **certification standards and competency requirements** for private and commercial applicator certification
- New **requirements for noncertified applicators** working under the direct supervision of a certified applicator
- New **requirements** for State, Tribal and Federal agency **certification plans**
- New **RUP dealer recordkeeping** requirement to maintain records of sales



# Implementation Timeline for Certification Rule

**12/12/2016**  
Revised CPA  
final rule  
signed by EPA  
Administrator

**1/4/2017**  
Revised CPA  
final rule  
published in  
the Federal  
Register

**3/6/2017**  
Revised CPA  
final rule  
becomes  
effective

**3/4/2020**  
Date For  
Certification  
Plans to be  
Submitted to  
EPA based on  
1/4/2017 rule

**3/4/2022**  
EPA Completes its  
Initial Review of  
Revised  
Certification Plans  
and Some Revised  
Plans Will Start to  
Become Effective

Approved certification plans will become effective according to implementation plans included in the individual plans and approved by EPA.



# Important Dates

- Certifying authorities have until **March 4, 2020** to submit modified certification plans (**which may include provisions contingent upon legislative/regulatory action, etc.**) to EPA.
- **Existing plans remain in effect** until EPA approves or rejects the revised plan or **March 4, 2022**, whichever is earlier.
- Timeframe for implementation/compliance with revised certification plan will be decided on a **case-by-case basis** as part of EPA's review and approval of each revised certification plan.



# Certification Plan Review & Approval Process

- **States, tribes, and territories** submit draft plan to Regions for review;
- **Federal agencies** submit draft plan to EPA HQ
- Region resolves questions and issues and **engages EPA's Certification Plan Work Group** for input, equivalency decisions, clarification, and consistency check, etc.
- Regional Administrator signs **letter (with approval date)** after OCSPP AA concurrence
- HQ publishes annual FR Notice(s) from 2020 to 2022 of a list of EPA-approved plans to date.





# Implementation of Revised Certification Plans

- EPA HQ and Regions have been meeting weekly to discuss issues and questions
- Applicators and dealers may not immediately see the changes once the relevant revised certification plans are approved.
  - Each certifying authority will have different implementation timelines based on the revisions that will need to be in place for implementation.



# Tools, Information, and Support

- **EPA Website:** Comparison chart of the old and 2017 regulation
- **EPA Certification Plan Revisions Workgroup**
  - Works to provide a consistent approach to EPA review and approval
- **CPA Q&As**
  - Responses to state plan and rule implementation questions with regular updates
- **Development of training for noncertified applicators**
  - Scheduled to start in 2020



# Tools, Information, and Support

- **Materials developed for certifying authorities**
  - Certification plan checklist
  - Certification plan final outline
  - Certification reg text crosswalk old vs. new
  - Q&A document
- **Review/approval process**
  - State lead agency summary packet released Oct. 11, 2019
- **EPA Plan for Indian Country Tribal Consultation**
  - Schedule estimated early 2020



# Frequently Asked Questions

## When are revised certification plans due?

- Revised certification plans are due by March 4, 2020. This date is not flexible, however, EPA anticipates dialogue and revisions to the original submission between March 4, 2020 and March 4, 2022.
- Revised state, tribal, and territory certification plans should be sent to the relevant EPA regions.
- Federal agency certification plans should be sent to EPA HQ.

## What needs to be included?

- Certification plan (including all of the elements specified in 171.303(a) for states), plan application, plan implementation timeline, governor's letter, Attorney General (AG)/legal counsel letter, and citations to regulations.



# Frequently Asked Questions

## **What if there are sections that are pending?**

- Revised plan submissions may contain sections that are pending and/or contingent upon legislative/regulatory action (implementation timeline must be included).



# Frequently Asked Questions

## What is the minimum age?

- All certified applicators (commercial or private) must be at least 18 years old. Noncertified applicators using RUPs under the direct supervision of a certified applicator must be at least 18 years old.
- Exception: Persons using RUPs under the supervision of a private applicator who is an immediate family member must be at least 16 years old. Exception does not apply if the RUP is a fumigant, sodium cyanide, sodium fluoroacetate, or an RUP to be applied aerially.



## Frequently Asked Questions

**When do certifying authorities need to ensure that certification exams meet the new exam standards?**

The 2017 CPA contains no deadline for implementation of modified certification plans, such as updating certification exams. EPA will base each certifying authority's implementation period on the particular circumstances of that jurisdiction and the requests from the certifying authority but anticipates that **most certifying authorities will be allowed two years from the date of EPA approval to fully implement** their revised certification plans. Certifying authorities should include in their modified plans a proposed schedule to bring exams and other aspects of their certification program up to the required standards.



# Frequently Asked Questions

**Does the revised rule require states to establish a minimum number of Continuing Education Units (CEU) required for recertification for the plan to be acceptable?**

No. The revised rule does not require states or certifying authorities to establish specific CEU requirements. The rule requires certifying authorities to describe how their recertification program meets or exceeds the recertification standards outlined in the rule, so the plan should explain how and why the certifying authority's proposed requirements (CEU or other) will meet the required standards.





# Frequently Asked Questions

## What are the options for federally recognized tribes?

1. Tribal Reliance on Certifications Issued by Specified Jurisdictions (Tribal-EPA Agreement)
  - Reliance on certifications from other jurisdictions and on EPA implementation and/or enforcement
2. Certifications Issued by a Tribe (Tribal Certifications)
3. EPA-Administered Certification Plan (EPA Plan)
4. No Tribal Plan and Opt-out of EPA Plan



**Other Questions?**



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