

U.S. Environmental Protection Agency
Detailed Comparison of Revisions to EPA’s Certification of Pesticide Applicators Rule (40 CFR 171)

On December 12, 2016, EPA issued revisions to the existing Certification of Pesticide Applicators rule (40 CFR 171). These revisions provide assurance that certified applicators and noncertified applicators under their direct supervision are competent to use restricted use pesticides (RUPs) in a manner that will not cause unreasonable adverse effects to human health or the environment.

Note that this document provides general guidance to EPA, certifying authorities, certified applicators, and the public. This document is not binding on EPA or any outside parties, and EPA may depart from the guidance where circumstances warrant and without prior notice. The full text of the revised regulation, and more information on the final changes to the regulation, is available at: www.epa.gov/pesticide-worker-safety/revised-certification-standards-pesticide-applicators.

Item	Final Requirement	Proposed Revision	Existing Rule
Enhance Private Applicator Competency Standards	<p>Private applicators must demonstrate competency in pest control in the production of agricultural commodities in regard to topics similar to those in the core competency standards for commercial applicators (i.e., label and labeling comprehension; safety; environment; pests; pesticides; equipment; application techniques; laws and regulations; responsibilities for supervisors of noncertified applicators; stewardship).</p> <p>Private applicator competency must include ability to read and understand pesticide labeling.</p> <p>Eliminate the proposed competency standard that required candidates to identify specific pests.</p> <p><i>171.105(a)</i></p>	<p>Private applicators must demonstrate competency in pest control in the production of agricultural commodities in regard to topics similar to those in the core competency standards for commercial applicators (i.e., label and labeling comprehension; safety; environment; pests; pesticides; equipment; application techniques; laws and regulations; responsibilities for supervisors of noncertified applicators; stewardship).</p> <p>Private applicator competency must include ability to read and understand pesticide labeling.</p>	<p>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.</p>

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Strengthen Private Applicator Competency Gauge	<p>Private applicators must either attend a training program covering the mandatory competency standards or pass a written exam.</p> <p>No requirement for persons currently certified as private applicators to complete initial certification requirements under the revised competency standards.</p> <p><i>171.105(h)</i></p>	<p>Private applicators must either attend a training program covering the mandatory competency standards or pass a written exam.</p>	<p>Private applicator certification can be done by written or oral exam, or other method approved as part of the State certification plan.</p>
Eliminate Non-Reader Certification for Private Applicators	<p>No “non-reader” option for persons who cannot read to obtain certification to use specific RUPs.</p>	<p>No “non-reader” option for persons who cannot read to obtain certification to use specific RUPs.</p>	<p>States can offer an alternative, product-specific certification process for persons who cannot read.</p>
Pollinator Issues	<p>No specific requirements related to pollinator protection added to regulation.</p> <p>Applicators in categories likely to affect pollinators should receive information on protecting pollinators in competency standards under “avoiding harm to non-target organisms” and under reading and understanding labeling requirements.</p>	<p>Add “presence of pollinators” as topic under “Environment” heading in proposed general private applicator competency standards and commercial core competency standards.</p> <p>Requested comment on whether to add pollinator protection to proposed training program for noncertified applicators.</p>	<p>No specific competency standards related to pollinator protection.</p>

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Establish Additional Categories for Private and Commercial Applicator Certification	<p>Establish categories for private and commercial applicators performing: aerial application, soil fumigation, and non-soil fumigation.</p> <p>No concurrent certification required.</p> <p>Certifying authorities are not required to adopt these categories if a category is not needed in a particular jurisdiction.</p> <p>Allow certifying authorities to combine soil fumigation and non-soil fumigation into a single certification category.</p> <p><i>171.101(m)-(o), 171.103(d)(13)-(15), 171.105(d)-(f)</i></p>	<p>Establish categories for private and commercial applicators performing: aerial application, soil fumigation, and non-soil fumigation.</p> <p>For commercial applicators, require concurrent certification in at least one pest control category to be eligible for certification in application method-specific category.</p>	<p>No additional certification required to use certain application methods that may present higher risks if not conducted properly.</p>

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<p>Allow Certifying Authorities to Develop a “Limited Use” Category</p>	<p>Allow certifying authorities to adopt a limited use category. A limited use category covers a small number of applicators engaged in a use that does not clearly fit within any of the commercial applicator categories, and allows only the use of a limited set of RUPs by specific application methods. <i>See Unit VII.B. of the preamble for more details.</i></p> <p>Certification plans must include the following elements for each limited use category:</p> <ul style="list-style-type: none"> • A definition of the limited use category, specifying the RUPs, use sites, and specific application methods permitted • An explanation of why it is not practical to include the limited use category in any of the existing commercial categories • A requirement that candidates for certification in a limited use category pass the core exam and demonstrate competency to use RUPs covered by the limited use category • Specific competency standards for the limited use category • Process for applicators to demonstrate competency to use the RUPs covered by the limited use category; does not have to be accomplished by a written examination • A description of the recertification standards for the limited use category • A description of the limited use certification credential (must clearly only authorize purchase and use of specific RUPs) <p><i>171.303(a)(4)</i></p>	<p>No change proposed; requested comments on whether to allow certifying authorities to develop/adopt “limited use” category to certify commercial applicators.</p>	<p>All commercial applicators must certify by passing written exams covering core and category competency standards.</p>
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<p>Establish Predator Control Categories for Private and Commercial Applicator Certification</p>	<p>Add categories for private and commercial applicators: sodium fluoroacetate in livestock protection collars and sodium cyanide delivered through M-44 devices.</p> <p>Certifying authorities are not required to adopt these categories if a category is not needed in a particular jurisdiction.</p> <p><i>171.101(k)-(l), 171.103(d)(11)-(12), 171.105(b)-(c)</i></p>	<p>Add categories for private and commercial applicators: sodium fluoroacetate in livestock protection collars and sodium cyanide delivered through M-44 devices.</p>	<p>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.</p>
<p>Identification of Candidates for Certification and Recertification</p>	<p>Require all candidates for initial certification (exam or training) and recertification by exam to present a government-issued photo identification OR other similarly reliable form of identification approved by the certifying authority.</p> <p><i>171.103(a)(2)(iii), 171.105(h)(1), 171.105(h)(2)(i)</i></p> <p>Require certifying authorities to verify successful completion of each recertification course/event (e.g., training, workshop, continuing education), including the identity of candidates for recertification. No specific requirement to verify identity based on government-issued photo identification.</p> <p><i>171.107(b)(1), 171.107(b)(2)(iii)</i></p>	<p>Require candidates to present identification for initial and recertification exams and training sessions.</p>	<p>No requirement to present identification at exam or training sessions.</p>

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Establish Exam Standards	<p>All exams must be proctored. Only materials approved by the certifying authority, provided and collected by the proctor, may be used during exams (final rule does not use the term “closed-book exams”).</p> <p>Requires certifying authorities to adopt specific exam administration standards; allows certifying authorities to establish standards that meet or exceed federal standards.</p> <p><i>171.103(a)(2), 171.303(a)(5)-(6)</i></p>	<p>Codify policy requiring all exams to be closed book and proctored.</p> <p>Impose specific requirements for exam administration and security on the proctor.</p>	<p>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.</p>
Enhance Competence of Noncertified Applicators	<p>Qualify as a noncertified applicator by any of the following:</p> <ul style="list-style-type: none"> • Completing training outlined in the rule at 171.201(d). • Completing training as a handler under the Worker Protection Standard (40 CFR 170). • Holding a valid applicator certification in an unrelated category or from another jurisdiction. • Satisfying the requirements for noncertified applicators established by the certifying authority that meet or exceed federal standards. <p>Training requirements must be satisfied annually.</p> <p><i>171.201(c)</i></p>	<p>Noncertified applicators must receive annual training on safe pesticide application and protecting themselves and others from pesticide exposure (similar to WPS handler training).</p> <p>Exemption from training requirement for those with valid WPS handler training and those who have passed the commercial core exam.</p>	<p>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.</p>

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<p>Establish Qualifications for Trainers of Noncertified Applicators</p>	<p>Noncertified applicator training outlined in the rule at 171.201(d) can only be provided by one of the following: a currently certified applicator, a Certifying authority-designated trainer of certified applicators or handlers, or a person who has completed an EPA-approved train-the-trainer course under the WPS.</p> <p><i>171.201(d)(2)</i></p>	<p>Noncertified applicator training can only be provided by one of the following: a currently certified applicator, a State-designated trainer of certified applicators or handlers, or a person who has completed an EPA approved train-the-trainer course under the WPS.</p>	<p>The certified applicator provides required instructions. No qualifications required other than certification.</p>
<p>Establish Qualifications for Certified Applicators Supervising Noncertified Applicators</p>	<p>Supervising applicators must:</p> <ul style="list-style-type: none"> • Be certified in the category in which they supervise applications. • Ensure noncertified applicators under their supervision are qualified under 171.201(b)(2) and (c), including the minimum age requirement. • Ensure the noncertified applicator has access to applicable labeling during use and provide specific instructions related to the application. • Ensure noncertified applicator has PPE and wears it properly for the intended purpose. • Ensure equipment is in proper operating condition. <p>Ensure a means for immediate communication between the supervisor and supervisee are immediately available.</p> <p><i>171.201(b)</i></p>	<p>Supervising applicators must:</p> <ul style="list-style-type: none"> • Be certified in the category in which they supervise applications. • Ensure noncertified applicators under their supervision have satisfied the training requirement. • For specific applications, provide a copy of all applicable labeling to the noncertified applicator and provide specific instructions related to the application. <p>Ensure a means for immediate communication between the supervisor and supervisee are immediately available.</p>	<p>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.</p>

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Expand Commercial Applicator Recordkeeping to Include Noncertified Applicator Training	Require commercial applicators to verify the existence of and have access to records documenting noncertified applicators' qualification. Record content depends on method of qualification. <i>171.201(e)</i>	Require commercial applicators to maintain records of noncertified applicators' training 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.
Establish a Minimum Age for Certified Applicators	Persons must be at least 18 years old to be certified as a commercial or private applicator. <i>171.103(a)(1), 171.105(g)</i>	Persons must be at least 18 years old to be certified as a commercial or private applicator.	No minimum age requirement.
Establish a Minimum Age for Noncertified Applicators	Persons must be at least 18 years old to qualify as a noncertified applicator using RUPs under the direct supervision of a commercial or private applicator. Exception: Persons using RUPs under the supervision of a private applicator who is an immediate family member and in compliance with 171.201(b)(2)(iii) must be at least 16 years old. <i>171.201(b)(2)(iii)</i>	Persons must be at least 18 years old to qualify as a noncertified applicator using RUPs under the direct supervision of a commercial or private applicator.	No minimum age requirement.
Establish a National Certification Period	Require all applicators to renew their certification (recertify) <u>at least every 5 years.</u> <i>171.107(a)</i>	Require all applicators to renew their certification (recertify) at least every 3 years.	States must ensure that applicators maintain a continuing level of competency and ability to apply pesticides safely and properly.

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<p>Recertification Requirements</p>	<p>Recertification must include satisfactory completion of continuing education or exam. Establish performance standards for certifying authorities to develop and administer recertification programs.</p> <p>For recertification by continuing education, states must adopt criteria for:</p> <ul style="list-style-type: none"> • quantity of continuing education required to maintain certification • content covered by the continuing education program and how the certifying authority ensures the required content is covered • process the certifying authority uses to approve continuing education courses or events, including how any continuing education courses or events verify the applicator's successful completion of the course or event • how the certifying authority ensures the on-going quality of the continuing education program <p>For recertification by exam, states must establish:</p> <ul style="list-style-type: none"> • the process for reviewing, and updating as necessary, the written examination(s) to ensure that they evaluate whether a certified applicator continues to demonstrate competency <p>No requirements for when training must occur during the 5-year period.</p>	<p>One continuing education unit (CEU) is 50 minutes of active training time.</p> <p>To renew their certification, commercial applicators must earn 6 CEUs covering core content and 6 CEUs per category of certification, or they must pass written exams for core and each category of certification.</p> <p>To renew their certification, private applicators must earn 6 CEUs covering the general private applicator certification requirements and 3 CEUs per category of certification, 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>	<p>States must ensure that applicators maintain a continuing level of competency and ability to apply pesticides safely and properly.</p>
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	<i>171.107(b), 171.303(b)(4), 171.305(b)(3)</i>		
State Plan Modification to Implement Proposed Changes	Certification plans must meet or exceed new standards and requirements. <i>171.303, 171.305</i>	Certification plans must meet or exceed new standards and requirements.	Certification plans must meet or exceed existing standards and requirements.
Noncertified Applicators/Use of RUPs under the Supervision of a Certified Applicator	Certifying authorities may adopt standards for noncertified applicators that meet or exceed the federal standards, <u>or</u> prohibit the use of RUPs by noncertified applicators under the direct supervision of certified applicators. <i>171.303(b)(5) , 171.305(b)(4)</i>	States, tribes, and territories may either adopt the proposed standards for noncertified applicator training <u>or</u> prohibit the use of RUPs by noncertified applicators working under the direct supervision of certified applicators.	

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Program Reporting and Accountability	<p>Certifying authorities must report:</p> <ul style="list-style-type: none"> • For private and commercial applicators - new, recertified, and total number of applicators holding certifications, by category and subcategory (if applicable). • Any changes to the certification plan not previously evaluated by EPA. • Any planned changes to the certification plan. • A summary of enforcement activities related to the use of RUPs. <p><i>171.303(c), 171.305(c)</i></p>	<p>Reporting must include:</p> <ul style="list-style-type: none"> • For private and commercial applicators - new, recertified, and total number of applicators holding certifications, by category and subcategory (if applicable). • Any changes to the certification plan not previously evaluated by EPA. • Any planned changes to the certification plan. • Number, description and narrative discussion of enforcement actions taken for incidents involving RUPs. 	<p>Reporting must include:</p> <ul style="list-style-type: none"> • 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. • Any changes in commercial applicator subcategories. • A summary of enforcement activities related to use of restricted use pesticides during the last reporting period. • Any significant proposed changes in required standards of competency. • Proposed changes in plans and procedures for enforcement activities related to use of restricted use pesticides for the next reporting period. • Any other proposed changes from the State plan that would significantly affect the State certification program.
Civil and Criminal Penalty Authority	<p>States must have authority to assess civil and criminal penalties for commercial and private applicators. Tribes and federal agencies must have other specified means of enforcing compliance.</p> <p><i>171.303(b)(7)(iii), 171.305(b)(5), 171.307</i></p>	<p>States must have authority to assess civil and 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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Commercial Applicator Recordkeeping	<p>States must require commercial applicators to maintain records about RUP use including:</p> <ul style="list-style-type: none"> • Name and address of person for whom RUP applied • Location of application • Size of area treated • Site to which RUP was applied • Time and date of application • Product name and EPA registration number of RUP applied • Total amount of RUP applied per application and location • 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. <p>States must require commercial applicators to verify and have access to specific records related to the qualifications of noncertified applicators working under their direct supervision.</p> <p><i>171.303(b)(7)(vi)</i></p>	<p>States must require commercial applicators to maintain records about RUP use including:</p> <ul style="list-style-type: none"> • Name and address of person for whom RUP applied • Location of application • Size of area treated • Site to which RUP was applied • Time and date of application • Product name and EPA registration number of RUP applied • Total amount of RUP applied per application and location • 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. <p>States must require commercial applicators to maintain records related to the qualifications of noncertified applicators working under their direct supervision.</p>	<p>State plans must include requirements for certified commercial applicators to maintain for at least 2 years routine operational records containing information on kinds, amounts, uses, dates, and places of application of RUPs.</p>

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RUP Dealer Recordkeeping	<p>RUP dealer recordkeeping must include:</p> <ul style="list-style-type: none"> • Name and address of each person to whom the RUP was distributed or sold. • The applicator's certification number, issuing authority, certification expiration date, and categories of certification. • 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. • The quantity of the pesticide(s) distributed or sold in the transaction. • The date of the transaction. <p><i>171.303(b)(7)(vii)</i></p>	<p>RUP dealer recordkeeping must include:</p> <ul style="list-style-type: none"> • Name and address of each person to whom the RUP was distributed or sold. • The applicator's certification number, issuing authority, certification expiration date, and categories of certification. • 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. • The quantity of the pesticide(s) distributed or sold in the transaction. • The date of the transaction. 	<p>No federal requirement for RUP dealers to maintain records, except for any State or area of Indian country where EPA implements a certification plan.</p>
Certified Applicator Credentials	<p>Certifying authorities must describe the credentials or documents they will issue to each applicator verifying certification.</p> <p><i>171.303(a)(8), 171.305(a)(9)</i></p>	<p>Certified applicator credentials must include:</p> <ul style="list-style-type: none"> • The full name of the certified applicator. • The certification, license, or credential number of the certified applicator. • The type of certification (private or commercial). • The category(ies), including any application method-specific category(ies) and subcategories of certification, in which the applicator is certified, as applicable. • The expiration date of the certification. • 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. 	<p>No federal requirements for what information must be included on documents used to verify an applicator's certification.</p>

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Reciprocal Applicator Certification	<p>Certification plans must specify whether, and if so under what circumstances, the certifying authority would issue certifications based in whole or in part on a certifications issued by another certifying authority.</p> <p>Reciprocal certifications subject to specific conditions.</p> <p>No requirement for reciprocal certification to terminate automatically upon termination of the original certification.</p> <p><i>171.303(a)(9), 171.305(a)(10)</i></p>	<p>Certification plans must specify whether, and if so under what circumstances, the state would issue reciprocal certifications.</p> <p>Reciprocal certifications subject to specific conditions.</p>	<p>State plans must describe any arrangements with other states or jurisdictions relating to reciprocity.</p> <p>No requirements for states to provide specific information on their requirements and procedures for issuing reciprocal certification.</p>

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<p>State Plan Maintenance, Modification, and Withdrawal</p>	<p>Codify policy that substantial modifications include:</p> <ul style="list-style-type: none"> • Addition or deletion of a mechanism for certification and/or recertification. • Establishment of a new private applicator subcategory, commercial applicator category, or commercial applicator subcategory. • Any other changes that the Agency has notified the State, Tribal or Federal agency that the Agency considers to be substantial modifications. <p><i>171.309</i></p>	<p>Codify policy that substantial modifications include:</p> <ul style="list-style-type: none"> • Deletion of a mechanism for certification and/or recertification. • Establishment of a new private applicator subcategory, commercial applicator category, or commercial applicator subcategory. • Any other changes that the Agency has notified the State, Tribal or Federal agency that the Agency considers to be substantial modifications. 	<p>States may not make substantial modifications to their certification plan without EPA approval.</p> <p>The regulation does not outline what constitutes a substantial modification.</p> <p>EPA policy states that substantial modifications include:</p> <ul style="list-style-type: none"> • Deletion of a mechanism for certification and/or recertification. • Establishment of a new private applicator subcategory, commercial applicator category, or commercial applicator subcategory. • 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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<p>Establish Provisions for Review and Approval of Federal Agency Plans</p>	<p>Delete Government Agency Plan option from the regulation.</p> <p>Codify existing policy to allow Federal agencies to develop their own plans for certifying Federal agency employee applicators.</p> <p>Federal agency certification plans must meet or exceed the standards in the proposed regulation.</p> <p><i>171.305</i></p>	<p>Delete Government Agency Plan option from the regulation.</p> <p>Codify existing policy to allow Federal agencies to develop their own plans for certifying Federal agency employee applicators.</p> <p>Federal agency certification plans must meet or exceed the standards in the proposed regulation.</p>	<p>Option to develop a single, federal government-wide Government Agency Plan to certify federal employees applying RUPs. <i>Government Agency Plan never developed.</i></p> <p>Current EPA policy allows Federal agencies to develop their own plans for certifying Federal agency employee 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.</p>
<p>Clarify Options for Establishing a Certification Program in Indian Country</p>	<p>Three options for applicator certification programs in Indian Country:</p> <ul style="list-style-type: none"> • Tribes may enter into an agreement with EPA to recognize certifications issued under other EPA-approved certification plans (State, Tribal, or Federal) • Tribes may develop and implement a Tribal certification plan (requires Tribes to develop and submit a Tribal certification plan that meets or exceeds the proposed standards) • EPA may administer a Federal certification plan for applicators in Indian country that meets or exceeds the proposed standards. EPA may include multiple tribes and geographic areas under a single plan. <p><i>171.307</i></p>	<p>Three options for applicator certification programs in Indian Country:</p> <ul style="list-style-type: none"> • Tribes may enter into an agreement with EPA to recognize certifications issued under other EPA-approved certification plans (State, Tribal, or Federal) • Tribes may develop and implement a Tribal certification plan (requires Tribes to develop and submit a Tribal certification plan that meets or exceeds the proposed standards) • EPA may administer a Federal certification plan for applicators in Indian country that meets or exceeds the proposed standards. EPA may include multiple tribes and geographic areas under a single plan. 	<p>Three options for applicator certification programs in Indian Country:</p> <ul style="list-style-type: none"> • Tribes may utilize State certification to certify applicators (requires concurrence by the State(s) and an appropriate State-Tribal agreement) • Tribes may develop and implement a Tribal certification plan (requires Tribes to develop and submit an appropriate Tribal certification plan to EPA for approval) • EPA may administer a Federal certification plan for applicators in Indian country

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Revise Provisions for EPA-Administered Plans	<p>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.</p> <p><i>171.311</i></p>	<p>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.</p>	<p>The current rule establishes requirements for EPA-administered certification plans in States or areas of Indian country without EPA-approved certification plans in place, including specific standards for certification and recertification of pesticide applicators.</p>
Implementation Schedule	<p>Certifying authorities must submit revised certification plans within 3 years of effective date of final rule.</p> <p>If revised plan is timely submitted to EPA, existing plan will remain in effect until revised plan is approved by EPA.</p> <p>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.</p> <p><i>171.5</i></p>	<p>Certifying authorities must submit revised certification plans within 2 years of effective date of final rule.</p> <p>Existing certification plans may remain in effect up to 4 years from effective date of the rule.</p> <p>After 4 years from effective date of the rule or EPA approves revised certification plan, all certification must be done in accordance with revised certification plan.</p>	<p>Not applicable.</p>