



Pesticide Applicator Certification Rule Update

June 15, 2018

AAPCO Certification Rule Work Group

In April, 2018, a new AAPCO work group was formed to focus on the EPA Pesticide Applicator Certification Rule. After a delay due to the change in Federal administrations, the rule was fully implemented in December 2017, and will require many states to revise their state certification plan. The AAPCO Certification Rule Work Group has the following mission:

- Establish and maintain a line of communication between EPA and AAPCO member states to allow for quick and meaningful collaboration between states and EPA
- Provide for coordination among states and EPA regions so that revised certification plans are as consistent as possible
- Provide for a quick and efficient mechanism of communication between EPA's Applicator Certification Work Group and state lead agencies
- Serve as a sounding board for EPA's Certification Work Group when new ideas or concepts are proposed, and for state lead agencies needing assistance with certification plan implementation
- Collaborate with the Association of Structural Pesticide Control Regulatory Officials (ASPCRO) certification rule work group and the American Association of Pesticide Safety Educators (AAPSE) to make sure all government and university stakeholders are informed about the changes and decisions being made

Certification Rule Timeline

The following timeline was established by the final applicator certification rule:

- 12/12/2016 Rule signed by EPA Administrator
- 1/4/2017 Final rule published in Federal Register
- 3/6/2017 Final rule becomes effective
- 3/4/2020 Date by which all revised certification plans are due to EPA
- 3/4/2022 Date by which EPA has to complete review of all revised certification plans

Key Points to Remember

EPA has established a framework they intend to work within on how they will receive, review and approve or deny a state's revised certification plan. At this point, they have created an internal work group consisting of Headquarters staff (members from the Office of Pesticide Programs, Office of Enforcement and Compliance Assurance, and Office of General Counsel), and one representative from each EPA region who will also serve as the lead for their respective region.

This EPA work group will review all submitted state, tribal and federal revised certification plans. The current workflow will require states, tribes and federal agencies to submit revised certification plans to their respective regional certification plan lead person, who will conduct the preliminary review of the plan. The region will confer with the state, tribe or federal agency to resolve any questions or issues (such as equivalency decisions, clarifications, consistency and state authority to carry out the plan).

Once the region has resolved any issues, they will submit the draft state plan to the EPA work group for concurrence. If the EPA work group concurs with the regional review, they will notify the region the plan can be approved by the regional administrator, who signs a letter of approval and submits it with the proposed plan to the Assistant Administrator in the Office of Chemical Safety and Pollution Prevention. This is then the formal and final EPA review before EPA publishes a notice in the Federal Register that the plan is approved. Publication in the Federal Register opens a short public comment period, but if no substantive comments are submitted that warrant revision to the state plan, the plan is approved, accepted and entered into CPARD for public access.

It is critical for state lead agencies to understand what the primary deadline of March 4, 2020 represents to their program. That date is the deadline by which all states must submit their draft proposed changes of their state certification plan. So long as a state submits a draft proposed revision outlining all proposed changes to the state plan, EPA will allow the state to continue to operate under the certification plan that was in place prior to March 4, 2020. If the state fails to submit a draft proposed revision, they risk EPA disbaring the state from conducting a certification program.

Next Steps

EPA has developed a preliminary survey of state and tribal certification plans that is being circulated to states and tribes by the regional lead person for each region. Depending on the region, states may be asked to respond directly to the survey, or work cooperatively with the region's lead person to complete the survey. The survey is an internal tool for EPA to determine the potential work load for the EPA review group following the March 4, 2020 deadline.

EPA is also developing a checklist and guidance for states and tribes to use during their plan revision process. The checklist will also likely be used by regional leads to conduct their review of the submitted state or tribal draft revised plan. EPA has indicated the checklist and guidance may not be available to states until fall 2018, so the AAPCO Work Group will provide any assistance we can to assist states in the early effort of state plan revision. The Work Group is also sending in specific questions to the EPA Work Group on subjects identified as time critical and high priority. Future newsletter editions should provide those questions with the answers EPA provides.

Over the course of the next two years, the AAPCO Work Group will continue to provide updates and information we hope will help states revise their state plans and meet the deadlines of the final rule.