

Pesticide Operations and Management Committee (POM) Certification and Training (C&T) Survey Results Summary

April 12, 2024

Background: EPA is currently working to develop a “modifications to approved plans” guidance that will assist states in determining which plan modifications will require notification, or EPA-approval (*i.e.*, what constitutes a “substantial modification” under [40 CFR 171.309\(a\)\(3\)](#)). EPA is also considering a “non-notification” designation. EPA has indicated that they plan to build out the external guidance and put the draft out for public comment in Summer 2024.

Task: Generate a list of common and/or anticipated C&T plan modifications, evaluate whether such modifications, from a State Lead Agency (SLA) perspective, should be designated as one of the following:

- **Non-notification** – modification would be inconsequential; it would NOT require notification to EPA.
- **Notification** – modification would require notification to EPA within 90 days per [40 CFR 171.309\(a\)\(2\)](#), but not EPA approval.
- **Substantial** – modification would require prior approval by EPA per [40 CFR 171.309\(a\)\(3\)](#).

Discuss logistical considerations/concerns related to the notification/EPA-approval process. Examples of plan modifications may include modifying deadlines in the implementation timeline and addition of applicator categories.

Received 26 SLA Responses

1) List examples of common plan modifications that should be designated as a “non-notification”.

- a. GUP only category - Establishment or removal of categories or subcategories under which only general use pesticides can be used (since scope of 40 CFR 171 is limited to RUPs).
- b. §171.303(a)(9)(iii) a mechanism that allows the State to terminate an applicator's certification - Modification of procedures related to the use of this mechanism, such as communication practices with other certifying entities, specific documentation utilized to inform decision making, and the specific circumstances under which a certifying agency may choose to utilize this enforcement authority.
- c. §171.303(b)(6)(iii) Changes to qualified personnel (number of staff, job titles, and job functions).
- d. When a primary staff person at the SLA leaves/starts
- e. When someone from the Cooperating agency leaves/starts.
- f. If a new vendor is selected for 3rd party testing services
- g. Update to forms used for recertification course accreditation.

- h. minor policy updates to certification and recertification procedures not affecting competency or recertification standards.
- i. add verification and accountability components to recertification workshops.
- j. Also, if SLA changes a delivery method of exams and training.
- k. Changes to names, contact information and organization structure of lead agency and cooperating partners.
- l. Changes to FTE's assigned by cooperating partners (PESP /Extension) over which the lead agency has no control.
- m. Technical, non-substantive clarifications.
- n. Rewording of plan that ultimately provides the same meaning.
- o. -Changes to SLA management or personnel,
- p. changes to which States will receive Reciprocity,
- q. changes in State Licenses/Credentials
- r. other minor changes that don't affect the actual legal body of the State C&T Plan.
- s. Any names of individuals that are listed within the plan.
- t. Cooperating Agencies
- u. Description of information on the credential
- v. Minor changes to proposed language (e.g. grammatical changes)
- w. Minor deviations from the proposed implementation timeline
- x. Wording changes that are grammatical or otherwise unrelated to the rule itself.
- y. The addition or revision of state specific content that doesn't weaken the minimum requirements of the rule.
- z. All, other than those listed by EPA per 40 CFR 171.309(a)(3).
- aa. Changes to State Lead Agency Designation and Point of Contact (Section 1(a)) or to Other Agencies and Contacts (Section 1(b));
- bb. Addition of Qualified Personnel (positions) for SLA
- cc. Addition of Cooperating Agency Personnel
- dd. Addition of recordkeeping requirements if they exceed federal requirements.
- ee. Addition of recordkeeping requirements if they exceed federal requirements.
- ff. Additional exemptions from state certification for individuals applying general use pesticides.
- gg. The addition of any competencies which exceed federal requirements.
- hh. Changes to the information appearing on state issued certification cards/credentials.
- ii. Slight changes to the implementation schedule.
- jj. Slight changes to qualified personnel.
- kk. Minor amendments to timeframes for implementation (a delay of 6 months).
- ll. Changes that do not affect the plan itself.
- mm. additional rulemaking that was not explicitly mentioned in the plan but will be necessary to carry out the provisions of the plan changes. These rule changes would not have an impact on the way the program is carried out.
- nn. Changes to internal policies as well.
- oo. Changes to internal procedures regarding exam scheduling and process that do not change requirements in 40 CFR § 171.103 a (2)(i)

- pp. specific training manual updates, if generally the Agency says will meet federal requirements.
- qq. changes to certification cards or other paperwork issued to applicators.
- rr. contact information
- ss. qualified personnel changes (that don't impact FTEs more than 10% or so)
- tt. updates to attached policies unless significant changes are made.
- uu. Additional personnel
- vv. Internal operating policy type decisions such as collecting ID vs viewing.
- ww. Adjusting citation references if final rules and regulations are different than what was proposed initially.
- xx. Increased certification and training requirements
- yy. Modifications to enforcement matrix
- zz. Statutory or regulatory revisions that are not related to the requirements found in 40 CFR 171.
- aaa. Adding a category
- bbb. Adding an examination method (CBT or remote proctoring for example)

2) Do you anticipate any modifications to your existing plan that should be designated as a “non-notification”?

- a. Yes (please comment below if possible) Anticipate considering GUP only antimicrobial category Still in early stages of setting up channels of communication to facilitate the enforcement mechanism described in §171.303(a)(9)(iii). Have been experiencing intermittent changes to staffing levels. Anticipate modifications to position duties.
- b. Unknown at this time
- c. Unknown at this time
- d. Yes (please comment below if possible) MDA has added verification and accountability components to their in-person and online (including self-paced) recertification workshops.
- e. Yes (please comment below if possible) All listed in 2a, b, and c above.
- f. No
- g. Unknown at this time
- h. No
- i. No
- j. Unknown at this time
- k. No
- l. Unknown at this time
- m. Yes (please comment below if possible) Our rules review commission will without a doubt have input or "suggestions" on how we should word things differently. These revisions will be unrelated to the rule requirements and will result from the overall rules review that is required in order to implement these regulation changes.
- n. Unknown at this time
- o. Unknown at this time
- p. Unknown at this time
- q. Yes (please comment below if possible) Minor amendments to timeframes.

- r. Unknown at this time
- s. Yes (please comment below if possible) content on certification cards issued to applicators updates to manuals and creation of manuals
- t. No
- u. No
- v. No
- w. No
- x. Unknown at this time We need to get administrative rule changes approved first. Once we start to implement changes I'm sure we will run into unforeseen issues given the amount of change occurring.
- y. Yes (please comment below if possible) Modification to acceptable proofs of financial responsibility
- z. No

3) List examples of common plan modifications that should be designated as a "notification".

- a. §171.303(a)(2)(i) Remove any unneeded certification categories
- b. §171.303(a)(2)(iv)-(v) Combine soil fumigation and non-soil fumigation categories
- c. §171.303(a)(9)(ii) - The specific criteria that a certifying agency uses to determine whether a category of certification in another state is comparable to its own.
- d. §171.303(a)(9)(iii) a mechanism that allows the State to terminate an applicator's certification - Modification of the administrative procedures that the certifying agency utilizes when exercising this enforcement authority.
- e. §171.303(a)(4)(i) update the RUPs, use sites, or application methods covered by a limited use category
- f. §171.303(a)(4)(iv) change competency standards for a limited use category
- g. §171.303(a)(4)(v) modify the limited use certification credential
- h. §171.303(a)(5) modify standards for certification examinations that meet or exceed the standards prescribed by the Agency under
- i. § 171.103(a)(2) A. Make exams, exam materials, and/or examination procedures/requirements available in Spanish or another language other than English. B. Change the format (digital vs. paper) of examination materials that are provided by the proctor to the test taker. C. Change to open book or closed book exams (so long as study material is provided by the proctor and collected by the proctor).
- j. §171.303(b)(6)(i) Primary point of contact for SLA
- k. §171.303(b)(6)(v) Modifications to implementation timeline dates (including the final implementation date) listed in the EPA-approved plan.
- l. Addition of core or category-specific competency standards for commercial or private applicators that are in addition to those in 40 CFR 171.
- m. In general - Changes to statute or rule that implement (or maintain) the standards of 40 CFR 171 as described in the EPA-approved certification plan, but with any of the following modifications: A. Statute/rule change also implements additional requirements that exceed the standards of 40 CFR 171 (where these additions are not described in the plan), except for the establishment of new categories or subcategories

- or mechanisms for certification/recertification. B. Statute/rule text change differs from what is found in the EPA-approved certification plan but does not impact implementation or compliance with the standards of 40 CFR 171 as described in the plan (i.e., non-substantive wordsmithing or sentence reorganization that does not impact policy).
- n. Any other changes to the plan not listed above as non-notification or below as substantial notification.
 - o. Extension of timeline when all licensed applicators in state meet the updated standards.
 - p. This should be notification if the time extension is within reason and no other aspects of the plan will change.
 - q. Changes to reciprocal license standards, provided no competency or recertification standards change.
 - r. Changes to staffing that impact state's ability to meet requirements of the state plan.
 - s. Example of plan modifications that require notification- as MDA makes progress on things that are already approved in our revised plan, for example, minimum age.
 - t. Amending target dates for plan implementation.
 - u. Dropping a category for which there is no longer a need.
 - v. Reduction in staffing that may impact performance of the lead agency.
 - w. The State has to add a few key words that the EPA determined were missing such as soil.
 - x. Adopt 40 CFR codes by reference.
 - y. competency standards for a few categories.
 - z. Rewording of law or regulation that ultimately provides the same meaning as current language.
 - aa. Reordering of law or regulation that doesn't change the meaning or language.
 - bb. Additions to plan, law, or regulation that do not affect the rule change.
 - cc. Category addition
 - dd. -Changes to Pesticide Categories or any change in State Law or Rule that would require a legal portion of the State C&T Plan to be rewritten.
 - ee. changes in the Implementation Timeline.
 - ff. Any policy changes that are referenced in the plan.
 - gg. changes to implementation timeline
 - hh. Significant deviations from proposed implementation timeline
 - ii. State restrictions that exceeded federal requirements being reduced to federal requirements.
 - jj. Significant changes that impact the intent of the rule.
 - kk. Removing any of the minimum requirements or competencies would result in the plan not meeting the new standards.
 - ll. changing the regulation to no longer represent the intent of the rule, then EPA would need to be notified.
 - mm. Only those by EPA per 40 CFR 171.309(a)(3).
 - nn. Category changes (i: adding, splitting; merging; revising);
 - oo. change to certification/recertification cycle (ie: 2 years to 3 years);
 - pp. Addition of any limited use certifications and related standards for limited use category certificates.

- qq. Changes to primary contacts.
- rr. Non-40 CFR related amendments.
- ss. Longer implementation schedule delays (over 6 months).
- tt. EPA should be notified of changes to the final implementation timeline however this should not require plan resubmission and approval.
- uu. contact information for certification and training coordinator, or other Agency representation changes.
- vv. staffing summary
- ww. revised rules
- xx. amendments to laws and regulations that do not impact plan (penalty amounts, new citations to law or rules, for instance)
- yy. if the approved plan included a statement that something was forth coming in a rule or law change – prospective changes listed in approved plan (minimum age requirement, for instance)
- zz. examination procedures, moving to online exams.
- aaa. the process by which CEUs requests are submitted.
- bbb. updates to reciprocity
- ccc. updates to implementation and timeline"
- ddd. Significant (> 1 yr) changes in timeframes:
- eee. getting study materials and exams together to implement new categories.
- fff. Change in credential.
- ggg. Change in testing - paper to electronic.
- hhh. Loss of funding
- iii. Adding a category; Supervision or minor recertification requirements
- jjj. category/classification changes
- kkk. certification standard changes
- lll. changes to recertification cycles (frequency CE's required)
- mmm. Going from examination of Private Applicators to the training option
- nnn. Changing certification cycles

4) Do you anticipate any modifications to your existing plan that should be designated as a “notification”?

- a. Yes (please comment below if possible) Anticipate needing to extend implementation timeline dates for rulemaking and manual/exam development, which will possibly impact the final implementation date. Anticipate that the rulemaking process, including consideration of feedback from stakeholders and the public, will result in final rule text that is not identical the pre-proposal, draft rule text in our certification plan. Anticipate needing to amend the primary SLA contact Anticipate considering modifications to competency standards for some categories in our plan for which there are no specific competency standards identified in 40 CFR 171 (e.g., Wood Treatment, Marine Fouling), or adding additional competency standards to some categories. Anticipate increasing the availability of exams and exam materials available in Spanish; and anticipate making hard copies of exam materials (e.g., exam labels) available from the proctor.

- b. Yes (please comment below if possible) Wisconsin will likely have a number of significant changes to the existing plan as it undertakes the rulemaking process over the next 24 months.
- c. Yes (please comment below if possible) WSDA will be increasing standards for approval of reciprocal license requests, calling out methods of testing, reciprocal state competencies, and recertification standards. WSDA will also be extending our timeline on when we anticipate all licensed applicators to meet the new standards, based on progress of required materials, updates to administrative code, and the state's 5-year recertification period.
- d. Yes (please comment below if possible) "
 - Minimum age, • Definition of use (include mixer, loader, handler in the certification plan), • Add language on meeting competencies and having categories consistent with 40 CFR 171 to MN Pesticide law, • Proctoring of private applicator exam, • Add additional record keeping requirements as identified in the approved plan, • Offer General Aerial category to private applicators, • Add additional Restricted Use Pesticide requirements for Pesticide Dealers as identified in the approved plan. "
- e. Yes (please comment below if possible) a. Amending dates for rule adoption and implementation schedule.
- f. No
 1. To distinguish Agricultural Plant Option 3 Agricultural Fumigation category from the 7B Structural Fumigation category, the word "soil" will be added; "Agricultural Plant Option 3 Agricultural Soil Fumigation."
 2. The State of Maine, Board of Pesticides Control will initiate rulemaking to Chapter 31: Category Standards will be added to Maine Chapter 31:
 - Federal Category: "Agricultural Plant" Agricultural Plant 1B-Option 1: Limited Commercial Blueberry Agricultural Plant 1B-Option 2: Chemigation Agricultural Plant 1B-Option 3: Agricultural Soil Fumigation Maine will adopt 40 CFR 171.103(d)(13) Soil Fumigation. Agricultural Plant 1B-Option 4: Post Harvest Treatment State Plan Sections 3 and 6.
 3. Federal Category: "Right of Way Pest Control:
 - o Maintenance of Public Roads to Maine Vegetation Management-Rights of Way Vegetation Management and,
 - o Maine Vegetation Management-General Vegetation Management
 4. Federal Category: Non Soil Fumigation; Maine will maintain the term "Fumigation" for the category name. In addition to the stated competencies, commercial applicators obtaining certification in the category must demonstrate practical knowledge of topics indicated in 40 CFR 171.103(d)(14). State Plan Sections 3 and 6.
 5. Federal Category: Aerial; Maine will maintain the term Aerial for the category name. In addition to the stated competencies, commercial applicators obtaining certification in the category must demonstrate practical knowledge of topics indicated in 40 CFR 171.103(d)(15). State Plan Sections 3 and 6.
 6. The State of Maine Board of Pesticides Control will initiate rulemaking to Chapter 32: CERTIFICATION AND LICENSING PROVISIONS PRIVATE APPLICATORS to adopt: Competency Standards:
 - o Soil Fumigation Competency Standards at 40 CFR 171.105(d); adopted by reference in Chapter 32.
 - o Non-Soil Fumigation Competency Standards at 40 CFR 171.105(e); adopted by reference in Chapter 32.
 - o Aerial Pest Control Competency Standards at 40 CFR 171.105(f); adopted by reference in Chapter 32.
 7. The State of Maine Board of Pesticides Control will initiate rulemaking to Chapter 32: CERTIFICATION AND LICENSING PROVISIONS

PRIVATE APPLICATORS, Competency Standards for Certification, to adopt 40 CFR 171.105(a) (1 through 11) by ref 8. The State of Maine Board of Pesticides Control will initiate rulemaking to Chapter 31: CERTIFICATION AND LICENSING PROVISIONS/COMMERCIAL APPLICATORS Standards for Direct Supervision, to adopt 40 CFR 171.201 by reference 9. The State of Maine Board of Pesticides Control will initiate rulemaking to Chapter 32: CERTIFICATION AND LICENSING PROVISIONS PRIVATE APPLICATORS, Standards for Direct Supervision, to adopt 40 CFR 171.201 by reference

- g. Unknown at this time
- h. Yes (please comment below if possible) Category addition - Drone/UAV
- i. No
- j. Unknown at this time
- k. Yes (please comment below if possible) extension to approved implementation timeline for a cooperating agency under the SLA.
- l. Unknown at this time The Ga. C&T Plan requires that certified operators supervising RUPs be physically present at the application site at the time of application, while federal requirements just mandate a "means to immediately communicate" with the supervisor, unless the supervisor is required to be physically present by the label. If rodenticides become RUPs as outlined in the PID, relaxing of the supervision requirements to federal standards may be considered.
- m. No
- n. Unknown at this time
- o. Unknown at this time
- p. Unknown at this time
- q. Unknown at this time Non-40 CFR related amendments and the possibility of implementation timeframe amendments longer then 6 months.
- r. Unknown at this time
- s. Yes (please comment below if possible) A number of items have been implemented due to the revised Vermont Regulations for the Control of Pesticides, effective 2/24/23.
- t. No
- u. No
- v. Unknown at this time
- w. Yes (please comment below if possible) We anticipate that we will modify our plant to allow for supervision of non-certified individuals. Our old plan allowed for it, and with the current trajectory of the pesticide industry, we need to keep that option.
- x. Unknown at this time We need to get administrative rule changes approved first. Once we start to implement changes i'm sure we will run into unforeseen issues given the amount of change occurring.
- y. Unknown at this time
- z. No

5) List examples of common plan modifications that should be designated as a “substantial”.

- a. §171.303(a)(2)(ii) Designate new subcategories within the categories described in §§ 171.101 and 171.105(b) through (f)

- b. §171.303(a)(2)(iii) Add additional certification categories not covered by the existing Federal categories described in §§ 171.101 and 171.105(b)–(f).
- c. §171.303(a)(2) adopt a limited use category for commercial applicators
- d. §171.303(a)(4)(v) Modify the process by which applicators must demonstrate practical knowledge of the principles and practices of pest control and proper and effective use of the restricted use pesticides authorized under the limited use category.
- e. §171.303(a)(5) modify standards for certification examinations – Adopt a new method for exam proctoring (e.g., remote proctoring)
- f. (i) Addition or deletion of a mechanism for certification and/or recertification.
- g. (ii) Establishment of a new private applicator category, private applicator subcategory, commercial applicator category, or commercial applicator subcategory.
- h. (iii) Any other changes that the Agency has notified the State, Tribal or Federal agency that the Agency considers to be substantial modifications.
- i. Extensive timeline extensions or changes.
- j. Addition/removal of categories and accompanying competencies.
- k. Additional/removal of license types to meet changing needs in the state.
- l. Adding specialty credit types to meet state needs that impact recertification standards.
- m. Examples of substantial modifications to the plan- Addition or deletion of a mechanism for certification and/or recertification.
- n. (ii) Establishment of a new private applicator category, private applicator subcategory, commercial applicator category, or commercial applicator subcategory.
- o. (iii) Any other changes that the Agency has notified the State, Tribal or Federal agency that the Agency considers to be substantial modifications.
- p. New category of certification
- q. Changes to the plan, law, or regulation that impact the meaning or policies that affect the updated rule.
- r. Changes that have no impact on the requirements of the CPA Rule should not need EPA approval.
- s. Category additions/removals.
- t. Any change in the State C&T Plan that would be contrary to 40 CFR 171.
- u. Regulatory changes
- v. Changes to how agency will meet federal competency standards, recertification standards and previously approved regulatory changes that met revised federal requirements.
- w. Creation of new certification categories/licenses
- x. These seem to be the same as "notification". If a change is "significant" we would consider it "notification".
- y. Only those specifically listed by EPA per 40 CFR 171.309(a)(3).
- z. Deleting category
- aa. change to recertification model (ie: requirement to take a recertification course (one course) to requiring CEUs)
- bb. regulatory changes (or lack thereof) impacting the ability of the state to meet the requirements of the federal certification rule.
- cc. Not citing 40 CFR 171.105 category specific competencies in rule.

- dd. Any 40 CFR related amendments.
- ee. Rule changes that will significantly affect the program as set forth in the plan.
- ff. Changes to laws and regulations that are substantive to satisfying the content in the plan.
- gg. Changes in regulations that are more restrictive than federal law.
- hh. Additions of applicator categories
 - ii. Changes in categories,
 - jj. changes in testing - significant such as, in person to online.
- kk. Law and regulatory changes
- ll. Major revisions to the program for initial certifications or renewals
- mm. category/classification changes
- nn. same as above

6) Do you anticipate any modifications to your existing plan that should be designated as a “substantial”?

- a. Other (please specify) Anticipate considering adopting categories or subcategories specific to invasive species Anticipate considering expanding the regulatory category to include contractors of government agencies Anticipate considering new or amended categories that better capture awkward use sites (e.g., riparian areas) and better educate certified applicators that make applications on these sites.
- b. Yes
- c. Unknown at this time
- d. No
- e. No
- f. No
- g. Unknown at this time
- h. Unknown at this time
- i. No
- j. Yes
- k. Other (please specify) Yes, the cooperating agency under the SLA will be requesting modification to currently approved plan.
- l. Yes
- m. No
- n. Unknown at this time
- o. Yes
- p. Unknown at this time
- q. Unknown at this time
- r. No
- s. Unknown at this time
- t. No
- u. No
- v. Unknown at this time
- w. No
- x. Unknown at this time

- y. Unknown at this time
- z. No

7) List any other considerations, comments or concerns related to the notification or EPA approval process for plan modifications.

- a. We appreciate EPA's efforts to develop interpretive guidance regarding certification plan modifications. Such guidance will help ensure the consistent application of policy across all states and other certifying agencies. We encourage EPA to consider pathways for streamlined communication with certifying agencies and between EPA regions and headquarters about certification plan modifications, particularly for changes that may require pre-approval by EPA or where timely input is essential (such as when legislative action or rulemaking is involved). Identification and communication of approximate timelines for EPA review/approval, the steps/programs involved in EPA review/approval, and appropriate contacts at EPA that can provide timely assistance if roadblocks are encountered, would help states better plan for and navigate this process.
- b. EPA's planned "modifications to approved plans" guidance will be helpful in clarifying what changes to the Wisconsin Pesticide Applicator Certification Plan require which level of EPA review.
- c. MDA would like to ask EPA that why the competencies (certification/recertification requirements) of applicators and mixer/loader/handler are same when their work is quite different. Current study materials (manuals/exams) on different categories other than core mainly cover content related to applicator's job and there is not much information for mixer/loader/handler.
- d. All changes to the written plan must be made after discussion with the EPA regional office, after which it can be determined to seek EPA Headquarters approval for certain subjects.
- e. When providing modifications to approved plan guidance, please provide examples to be sure states are fully aware of the meaning. Getting laws and regulations through the entire process is a huge lift. Adding too much EPA involvement will slow down the process and hold states up. Keep that in mind when deciding what is a substantial mod.
- f. If a change is needed, the lack of timely response from EPA.
- g. We are interested in the process and timeline for EPA approval and how it impacts agencies moving forward with regulatory changes.
- h. EPA review of C&T Plans did take significant time, initially and following resubmission of the plans after requested edits were made. It is a concern that if many modifications are considered "substantial" it could delay implementation waiting for prior approval.
- i. It would be great if the reapproval or notification of changes process was simple, intuitive, easy to initiate and complete.
- j. The EPA needs to maintain the flexibility as described prior to plan submission. It may be of value moving forward to track what items - specifically, require each type of notification.
- k. We need examples on the types of modifications and how those examples fall into the different categories of non-notification, notification, and substantial modifications. We need clarity on what certifying authorities will be required to do in each instance.

- I. Any change or modification that is well within 40 CFR should not require notification. For example our law is changing, but references 40 CFR 171.201. That change should not be cause for some formal notification process. It's a change from our submitted plan, but does not deviate from the CFR. Forcing a notification process on states is creating hardship on an already unfunded mandate. If states are forced through some sort of notification process for everything that is outside their submitted plan (but not outside the CFR) we will be doing nothing but those submissions.