



Pesticide Applicator Certification Rule Update

October 12, 2018

AAPCO Certification Rule Work Group

The AAPCO work group is focused on working with EPA and State Lead Agencies (SLAs) in order to implement the Pesticide Applicator Certification Rule as smoothly and effectively as possible. The new federal rule was delayed over much of 2017, however, it has set the date of March 4, 2020 as the deadline for SLAs to submit their proposed or revised state certification plans. Many states have determined this effort will require that they also revise their state law and/or regulations. The AAPCO Certification Rule Work Group has been meeting by conference call and involved EPA in the discussion as well.

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 became 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 (also printed in first edition)

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. 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 person 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 major 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 begun meeting with state and tribal certification program to review their response to an earlier survey that was circulated to states and tribes by the regional lead person for each region. These discussions are intended to provide the SLA, Tribe or Territory a solid idea of what EPA believes should be addressed in the revised certification plan. The meetings are also intended to provide some measure of consistency between states and EPA regions.

EPA has developed a checklist and question-and-answer (Q&A) document 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. The Q&A is intended to provide consistency among SLAs and regions, since many of the topics apply to many different state programs. 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 serving as a conduit for additional questions, or questions that need further detailed answers. Future newsletter editions should provide those questions with the answers EPA provides, however, EPA has indicated all formal written responses to questions about the certification rule must be first reviewed and authorized by senior administrators in the agency. There are currently about 65 questions that EPA is working on for inclusion in the Q&A.

A's for two Q's:

Q: Our state has multiple applicator certification programs; one for agricultural applicators, one for mosquito control applicators, and one for institutional applicators. Each of these programs is administered by a different state agency. For purposes of our state certification plan, does EPA expect a separate plan from each agency, or a single plan for all state programs?

A: The final rule indicates that the state agency identified by the governor of the state as the lead agency for pesticide applicator certification must submit a plan that includes the information for all state pesticide applicator certification programs in that state (except for tribal programs). The SLA certification plan will need to provide all of the information required by the final rule for each separate applicator certification program in the state, whether or not the SLA actually runs the program.

Q: Will states still be required to submit final certification plans to EPA using the CPARD website?

A: No, it has been determined that the CPARD site will not accommodate lengthy state certification plans, therefore, all SLAs should submit their revised plans directly to their regional applicator certification contact person.