

(2) *Continuing education programs.* A certified applicator may be found eligible for recertification upon successfully completing a continuing education program pursuant to the certifying authority's EPA-approved certification plan.

(i) The quantity, content, and quality of a continuing education program to maintain applicator certification must be sufficient to ensure the applicator continues to demonstrate the level of competency required by §171.103 for commercial applicators or §171.105 for private applicators.

(ii) Any continuing education course or event relied upon for applicator recertification must be approved by the certifying authority as being suitable for its purpose in the certifying authority's recertification process.

(iii) A certifying authority must ensure that any continuing education course or event, including an online or other distance education course or event, relied upon for applicator recertification includes a process to verify the applicator's successful completion of the course or event.

### Subpart C—Supervision of Noncertified Applicators

#### 171.201 Requirements for direct supervision of noncertified applicators by certified applicators.

(a) *Applicability.* This section applies to any certified applicator who allows or relies on a noncertified applicator to use a restricted use pesticide under the certified applicator's direct supervision.

(b) *General requirements.* (1) Requirements for the certified applicator.

(i) The certified applicator must have a practical knowledge of applicable Federal, State and Tribal supervisory requirements, including any requirements on the product label and labeling, regarding the use of restricted use pesticides by noncertified applicators.

(ii) The certified applicator must be certified in each category as set forth in §§171.101 and 171.105(a) through (f) applicable to the supervised pesticide use.

(2) Requirements for the noncertified applicator. The certified applicator must ensure that each noncertified ap-

plicator using a restricted use pesticide under his or her direct supervision meets all of the following requirements before using a restricted use pesticide:

(i) The noncertified applicator has satisfied the qualification requirements under paragraph (c) of this section.

(ii) The noncertified applicator has been instructed within the last 12 months in the safe operation of any equipment he or she will use for mixing, loading, transferring, or applying pesticides.

(iii) The noncertified applicator has met the minimum age required to use restricted use pesticides under the supervision of a certified applicator. A noncertified applicator must be at least 18 years old, except that a noncertified applicator must be at least 16 years old if all of the following requirements are met:

(A) The noncertified applicator is using the restricted use pesticide under the direct supervision of a private applicator who is an immediate family member.

(B) The restricted use pesticide is not a fumigant, sodium cyanide, or sodium fluoroacetate.

(C) The noncertified applicator is not applying the restricted use pesticide aerially.

(3) Use-specific conditions that must be met in order for a noncertified applicator to use a restricted use pesticide. The certified applicator must ensure that all of the following requirements are met before allowing a noncertified applicator to use a restricted use pesticide under his or her direct supervision:

(i) The certified applicator must ensure that the noncertified applicator has access to the applicable product labeling at all times during its use.

(ii) Where the labeling of a pesticide product requires that personal protective equipment be worn for mixing, loading, application, or any other use activities, the certified applicator must ensure that any noncertified applicator has clean, labeling-required personal protective equipment in proper operating condition and that the personal protective equipment is worn and used correctly for its intended purpose.

(iii) The certified applicator must provide to each noncertified applicator before use of a restricted use pesticide instructions specific to the site and pesticide used. These instructions must include labeling directions, precautions, and requirements applicable to the specific use and site, and how the characteristics of the use site (e.g., surface and ground water, endangered species, local population) and the conditions of application (e.g., equipment, method of application, formulation) might increase or decrease the risk of adverse effects. The certified applicator must provide this information in a manner that the noncertified applicator can understand.

(iv) The certified applicator must ensure that before each day of use equipment used for mixing, loading, transferring, or applying pesticides is in proper operating condition as intended by the manufacturer, and can be used without risk of reasonably foreseeable adverse effects to the noncertified applicator, other persons, or the environment.

(v) The certified applicator must ensure that a means to immediately communicate with the certified applicator is available to each noncertified applicator using restricted use pesticides under his or her direct supervision.

(vi) The certified applicator must be physically present at the site of the use being supervised when required by the product labeling.

(vii) If the certified applicator is a commercial applicator, the certified applicator must create or verify the existence of the records required by paragraph (e) of this section.

(c) *Noncertified applicator qualifications.* Before any noncertified applicator uses a restricted use pesticide under the direct supervision of the certified applicator, the supervising certified applicator must ensure that the noncertified applicator has met at least one of the following qualifications:

(1) The noncertified applicator has been trained in accordance with paragraph (d) of this section within the last 12 months.

(2) The noncertified applicator has met the training requirements for an agricultural handler under 40 CFR

170.501 of this title within the last 12 months.

(3) The noncertified applicator has met the requirements established by a certifying authority that meet or exceed the standards in §171.201(c)(1).

(4) The noncertified applicator is currently a certified applicator but is not certified to perform the type of application being conducted or is not certified in the jurisdiction where the use will take place.

(d) *Noncertified applicator training program.* (1) General noncertified applicator training must be presented to noncertified applicators either orally from written materials or audiovisually. The information must be presented in a manner that the noncertified applicators can understand, such as through a translator. The person conducting the training must be present during the entire training program and must respond to the noncertified applicators' questions.

(2) The person who conducts the training must meet one of the following criteria:

(i) Be currently certified as an applicator of restricted use pesticides under this part.

(ii) Be currently designated as a trainer of certified applicators or pesticide handlers by EPA, the certifying authority, or a State, Tribal, or Federal agency having jurisdiction.

(iii) Have completed an EPA-approved pesticide safety train-the-trainer program for trainers of handlers under 40 CFR part 170.

(3) The noncertified applicator training materials must include the information that noncertified applicators need in order to protect themselves, other people, and the environment before, during, and after making a restricted use pesticide application. The noncertified applicator training materials must include, at a minimum, the following:

(i) Potential hazards from toxicity and exposure that pesticides present to noncertified applicators and their families, including acute and chronic effects, delayed effects, and sensitization.

(ii) Routes through which pesticides can enter the body.

(iii) Signs and symptoms of common types of pesticide poisoning.

(iv) Emergency first aid for pesticide injuries or poisonings.

(v) Routine and emergency decontamination procedures, including emergency eye flushing techniques. Noncertified applicators must be instructed that if pesticides are spilled or sprayed on the body, to immediately wash or to rinse off in the nearest clean water. Noncertified applicators must also be instructed to wash or shower with soap and water, shampoo hair, and change into clean clothes as soon as possible.

(vi) How and when to obtain emergency medical care.

(vii) After working with pesticides, wash hands before eating, drinking, using chewing gum or tobacco, or using the toilet.

(viii) Wash or shower with soap and water, shampoo hair and change into clean clothes as soon as possible after working with pesticides.

(ix) Potential hazards from pesticide residues on clothing.

(x) Wash work clothes before wearing them again and wash them separately from other clothes.

(xi) Do not take pesticides or pesticide containers used at work to your home.

(xii) Potential hazards to children and pregnant women from pesticide exposure.

(xiii) After working with pesticides, remove work boots or shoes before entering your home, and remove work clothes and wash or shower before physical contact with children or family members.

(xiv) How to report suspected pesticide use violations to the appropriate State or Tribal agency responsible for pesticide enforcement.

(xv) Format and meaning of information contained on pesticide labels and in labeling applicable to the safe use of the pesticide, including the location and meaning of the restricted use product statement, how to identify when the labeling requires the certified applicator to be physically present during the use of the pesticide, and information on personal protective equipment.

(xvi) Need for, and appropriate use and removal of, personal protective equipment.

(xvii) How to recognize, prevent, and provide first aid treatment for heat-related illness.

(xviii) Safety requirements for handling, transporting, storing, and disposing of pesticides, including general procedures for spill cleanup.

(xix) Environmental concerns such as drift, runoff, and wildlife hazards.

(xx) Restricted use pesticides may be used only by a certified applicator or by a noncertified applicator working under the direct supervision of a certified applicator.

(xxi) The certified applicator's responsibility to provide to each noncertified applicator instructions specific to the site and pesticide used. These instructions must include labeling directions, precautions, and requirements applicable to the specific use and site, and how the characteristics of the use site (e.g., surface and ground water, endangered species, local population, and risks) and the conditions of application (e.g., equipment, method of application, formulation, and risks) might increase or decrease the risk of adverse effects. The certified applicator must provide these instructions in a manner the noncertified applicator can understand.

(xxii) The certified applicator's responsibility to ensure that each noncertified applicator has access to the applicable product labeling at all times during its use.

(xxiii) The certified applicator's responsibility to ensure that where the labeling of a pesticide product requires that personal protective equipment be worn for mixing, loading, application, or any other use activities, each noncertified applicator has clean, labeling-required personal protective equipment in proper operating condition and that the personal protective equipment is worn and used correctly for its intended purpose.

(xxiv) The certified applicator's responsibility to ensure that before each day of use equipment used for mixing, loading, transferring, or applying pesticides is in proper operating condition as intended by the manufacturer, and can be used without risk of reasonably

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foreseeable adverse effects to the non-certified applicator, other persons, or the environment.

(xxv) The certified applicator's responsibility to ensure that a means to immediately communicate with the certified applicator is available to each noncertified applicator using restricted use pesticides under his or her direct supervision.

(e) *Recordkeeping.* (1) Commercial applicators must create or verify the existence of records documenting that each noncertified applicator has the qualifications required in paragraph (c) of this section. For each noncertified applicator, the records must contain the information appropriate to the method of qualification as provided in paragraphs (e)(1)(i) through (e)(1)(iv).

(i) If the noncertified applicator was trained in accordance with paragraph (c)(1) of this section, the record must contain all of the following information:

(A) The noncertified applicator's printed name and signature.

(B) The date the training requirement in paragraph (c) of this section was met.

(C) The name of the person who provided the training.

(D) The title or a description of the training provided.

(ii) If the noncertified applicator was trained as an agricultural handler under 40 CFR 170.501 in accordance with paragraph (c)(2) of this section, the record must contain all of the information required at 40 CFR 170.501(d)(1).

(iii) If the noncertified applicator qualified by satisfying the requirements established by the certifying authority, as described in paragraph (c)(3) of this section, the record must contain the information required by the certifying authority.

(iv) If the noncertified applicator is a certified applicator who is not certified to perform the type of application being conducted or not certified in the jurisdiction where the use will take place, as described in paragraph (c)(4) of this section, the record must include all of the following information:

(A) The noncertified applicator's name.

(B) The noncertified applicator's certification number.

(C) The expiration date of the noncertified applicator's certification.

(D) The certifying authority that issued the certification.

(2) The commercial applicator must create or verify the existence of the record containing the information in paragraph (e)(1) of this section before allowing the noncertified applicator to use restricted use pesticides under his or her direct supervision.

(3) The commercial applicator supervising any noncertified applicator must have access to records documenting the information required in paragraph (e)(1) of this section at the commercial applicator's principal place of business for two years from the date the noncertified applicator used the restricted use pesticide.

(f) *Exceptions.* The requirements in § 171.201(a) through (e) of this part do not apply to the following persons:

(1) Persons conducting laboratory research involving restricted use pesticides.

(2) Doctors of Medicine and Doctors of Veterinary Medicine applying restricted use pesticides to patients during the course of the ordinary practice of those professions.

[82 FR 1040, Jan. 4, 2017]

EFFECTIVE DATE NOTE: At 82 FR 1040, Jan. 4, 2017, subpart C, consisting of § 171.201, was added, effective Mar. 6, 2017. At 82 FR 8499, Jan. 26, 2017, this amendment was delayed until Mar. 21, 2017. At 82 FR 14324, Mar. 20, 2017, this amendment was further delayed until May 22, 2017. At 82 FR 23148, May 22, 2017, this amendment was further delayed until June 5, 2017. At 82 FR 25529, June 2, 2017, this amendment was further delayed until May 22, 2018.

### Subpart D—Certification Plans

EFFECTIVE DATE NOTE: At 82 FR 1042, Jan. 4, 2017, subpart D, consisting of §§ 171.301 through 171.311 was added to part 171, effective Mar. 6, 2017. At 82 FR 8499, Jan. 26, 2017, this amendment was delayed until Mar. 21, 2017. At 82 FR 14324, Mar. 20, 2017, this amendment was further delayed until May 22, 2017. At 82 FR 23148, May 22, 2017, this amendment was further delayed until June 5, 2017. At 82 FR 25529, June 2, 2017, this amendment was further delayed until May 22, 2018.

#### § 171.301 General.

(a) *Jurisdiction.* A certification issued under a particular certifying