

## Environmental Protection Agency

## § 171.5

*Noncertified applicator* means any person who is not certified in accordance with this part to use or supervise the use of restricted use pesticides in the category appropriate to the type of application being conducted in the pertinent jurisdiction, but who is using restricted use pesticides under the direct supervision of a person certified as a commercial or private applicator in accordance with this part.

*Ornamental* means trees, shrubs, flowers, and other plantings intended primarily for aesthetic purposes in and around habitations, buildings and surrounding grounds, including residences, parks, streets, and commercial, industrial, and institutional buildings.

*Personal protective equipment* means devices and apparel that are worn to protect the body from contact with pesticides or pesticide residues, including, but not limited to, coveralls, chemical-resistant suits, chemical-resistant gloves, chemical-resistant footwear, respirators, chemical-resistant aprons, chemical-resistant headgear, and protective eyewear.

*Practical knowledge* means the possession of pertinent facts and comprehension sufficient to properly perform functions associated with use of restricted use pesticides, including properly responding to reasonably foreseeable problems and situations.

*Principal place of business* means the principal location, either residence or office, where a person conducts a business that involves the use of restricted use pesticides. A person who applies restricted use pesticides in more than one State or area of Indian country may designate a location within a State or area of Indian country as its principal place of business for that State or area of Indian country.

*Regulated pest* means a particular species of pest specifically subject to Tribal, State or Federal regulatory restrictions, regulations, or control procedures intended to protect the hosts, man and/or the environment.

*Restricted use pesticide* means a pesticide that is classified for restricted use under the provisions of section 3(d) of FIFRA and 40 CFR part 152, subpart I.

*Restricted use pesticide retail dealer* means any person who distributes or

sells restricted use pesticides to any person, excluding transactions solely between persons who are pesticide producers, registrants, wholesalers, or retail sellers, acting only in those capacities.

*Toxicity* means the property of a pesticide that refers to the degree to which the pesticide, and its degradates and metabolites, are able to cause an adverse physiological effect on an organism.

*Use, as in "to use a pesticide"* means any of the following:

(1) Pre-application activities involving mixing and loading the pesticide.

(2) Applying the pesticide, including, but not limited to, supervising the use of a pesticide by a noncertified applicator.

(3) Other pesticide-related activities, including, but not limited to, transporting or storing pesticide containers that have been opened, cleaning equipment, and disposing of excess pesticides, spray mix, equipment wash waters, pesticide containers, and other pesticide-containing materials.

*Use-specific instructions* means the information and requirements specific to a particular pesticide product or work site that an applicator needs in order to use the pesticide in accordance with applicable requirements and without causing unreasonable adverse effects.

[82 FR 1028, Jan. 4, 2017]

### § 171.5 Effective date.

(a) This part is effective March 6, 2017. Certification plans approved by EPA before the effective date remain approved except as provided in §§ 171.5(b)–(d) and 171.309.

(b) *Status of certification plans approved before effective date.* A certification plan approved by EPA before March 6, 2017 remains approved until March 4, 2020, except as provided in paragraph (c) of this section and § 171.309.

(c) *Extension of an existing plan during EPA review of proposed revisions.* If by March 4, 2020, a certifying authority has submitted to EPA a proposed modification of its certification plan pursuant to subpart D of this part, its certification plan approved by EPA before March 6, 2017 will remain in effect until EPA has approved or rejected the

modified plan pursuant to § 171.309(a)(4) or November 4, 2023, whichever is earlier, except as provided in paragraph (d) of this section and § 171.309(b).

(d) *Extension of an existing plan after EPA has approved a revised plan.* Where EPA has approved a certifying authority's modified certification plan pursuant to § 171.309(a)(4), the certification plan approved by EPA before March 6, 2017 shall remain in effect as specified in EPA's approval of the modified certification plan.

(e) States, Tribes, or Federal agencies that do not have an EPA-approved certification plan in effect may submit to EPA for review and approval a certification plan that meets or exceeds all of the applicable requirements of this part any time.

[82 FR 1029, Jan. 4, 2017, as amended at 86 FR 71838, Dec. 20, 2021; 87 FR 50965, Aug. 19, 2022]

## Subpart B—Certification Requirements for Applicators of Restricted Use Pesticides

SOURCE: 82 FR 1029, Jan. 4, 2017, unless otherwise noted.

### § 171.101 Commercial applicator certification categories.

*Certification categories.* Categories of commercial applicators using or supervising the use of restricted use pesticides are identified below.

(a) *Agricultural pest control*—(1) *Crop pest control.* This category applies to commercial applicators who use or supervise the use of restricted use pesticides in production of agricultural commodities, including but not limited to grains, vegetables, small fruits, tree fruits, peanuts, tree nuts, tobacco, cotton, feed and forage crops including grasslands, and non-crop agricultural lands.

(2) *Livestock pest control.* This category applies to commercial applicators who use or supervise the use of restricted use pesticides on animals or to places on or in which animals are confined. Certification in this category alone is not sufficient to authorize the purchase, use, or supervision of use of products for predator control listed in paragraphs (k) and (l) of this section.

(b) *Forest pest control.* This category applies to commercial applicators who use or supervise the use of restricted use pesticides in forests, forest nurseries and forest seed production.

(c) *Ornamental and turf pest control.* This category applies to commercial applicators who use or supervise the use of restricted use pesticides to control pests in the maintenance and production of ornamental plants and turf.

(d) *Seed treatment.* This category applies to commercial applicators using or supervising the use of restricted use pesticides on seeds in seed treatment facilities.

(e) *Aquatic pest control.* This category applies to commercial applicators who use or supervise the use of any restricted use pesticide purposefully applied to standing or running water, excluding applicators engaged in public health related activities included in as specified in paragraph (h) of this section.

(f) *Right-of-way pest control.* This category applies to commercial applicators who use or supervise the use of restricted use pesticides in the maintenance of roadsides, powerlines, pipelines, and railway rights-of-way, and similar areas.

(g) *Industrial, institutional, and structural pest control.* This category applies to commercial applicators who use or supervise the use of restricted use pesticides in, on, or around the following: Food handling establishments, packing houses, and food-processing facilities; human dwellings; institutions, such as schools, hospitals and prisons; and industrial establishments, including manufacturing facilities, warehouses, grain elevators, and any other structures and adjacent areas, public or private, for the protection of stored, processed, or manufactured products.

(h) *Public health pest control.* This category applies to State, Tribal, Federal or other governmental employees and contractors who use or supervise the use of restricted use pesticides in government-sponsored public health programs for the management and control of pests having medical and public health importance.

(i) *Regulatory pest control.* This category applies to State, Tribal, Federal, or other local governmental employees