

Washington State Comparison and Impacts for US EPA's PROPOSED Certification of Pesticide Applicator Rule (40 CFR Part 171)

Updated 11.16.2015

In August, the U.S. EPA released a proposal to revise the **pesticide applicator certification and training rule**, which has remained unchanged since 1974. EPA's **pesticide applicator certification and training rule** focuses on those who use federally Restricted Use Pesticides (RUPs), but for Washington it impacts all licensed applicators (private applicators, rancher private applicators, limited private applicators, commercial applicators, commercial operators, public operators, and private-commercial applicators) as well as dealer recordkeeping. The **proposed** changes impact Washington pesticide applicators in a variety of ways, for example new exam categories for private applicators, requiring identification at recertification meetings, and a total revamping of WSDA's recertification requirements including the number and types of recertification credits (laws/safety and exam category) and the recertification cycle term. Some of EPA's proposed changes are already requirements in Washington. This document highlights only some of EPA's proposed changes; the ones that would have the greatest impact on Washington licensed (certified) applicators.

EPA's **pesticide applicator certification and training rule** aims to reduce the likelihood of harm from the misapplication of toxic, federally restricted use pesticides and ensure a consistent level of protection among states. EPA is accepting comments on their proposal through **December 23, 2015**. Comments on the proposed changes can be made at www.regulations.gov in docket number [EPA-HQ-OPP-2011-0183](#). Consider providing comments, particularly addressing the specific questions asked by EPA in the docket. A simple one-liner is not helpful. EPA needs to understand the reasons for your suggestions, comments, and concerns. EPA will review the comments and submit a final rule to USDA and the Office of Management and Budget for final review. The decision to go to final is anticipated for 2016. [EPA's comparison chart](#) and the [EPA's pesticide-worker-safety](#) have additional detailed information.

Private Applicators (PA), Rancher Private Applicators (RPA), and Limited Private Applicators (LPA)			
Proposed Rules	Current Washington State Rules	Impacts for PAs, RPAs and LPAs	WSDA Position and Comments
<ul style="list-style-type: none"> • Add a Soil Fumigation exam category for soil fumigants 	<ul style="list-style-type: none"> • Soil Fumigation exam category is available to meet the "training" requirement on the label, but not required for private applicators. 	<ul style="list-style-type: none"> • Soil Fumigant exam category will be mandatory for any licensed private applicator doing soil fumigations. 	<ul style="list-style-type: none"> • This would not require development of a new exam, but WSDA would be required to facilitate additional exam sessions. Many Private Applicators currently attend registrant-sponsored training to meet soil fumigant label requirements. The training that is currently provided is excellent in quality. If the proposed rule is adopted, all of those who currently attend this training would be required to pass a WSDA exam. WSDA believes that applicator competency is better achieved through the current training programs rather than passing an exam. This proposal will likely have the net effect of fewer applicators attending the training, thus lowering the competency level of Private Applicators who apply soil fumigants.

Private Applicators (PA), Rancher Private Applicators (RPA), and Limited Private Applicators (LPA)

Proposed Rules	Current Washington State Rules	Impacts for PAs, RPAs and LPAs	WSDA Position and Comments
<ul style="list-style-type: none"> • Add Non-Soil Fumigation exam category for private applicators 	<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • Private applicators using any fumigant (e.g., aluminum phosphide, sulfur dioxide, methyl bromide) would need to take and pass non-soil fumigation exam category. 	<ul style="list-style-type: none"> • This would require a WSDA rule change. It would require Private Applicators who apply non-soil fumigants to take an exam and add this new category to their license. Since the new rule would also require category specific recertification, Private Applicators would need to attend specific recertification courses on non-soil fumigation (or retake the exam every three years). • Full impact to WSDA is unknown, but currently have many Private Applicators that use non-soil fumigants (Tree fruit and nursery industries are just a couple examples). • WSDA agrees that use of fumigants is inherently dangerous, but believes label required training is a more effective approach (WA has achieved excellent results from current soil fumigant training), especially for Private Applicators.
<ul style="list-style-type: none"> • Add Aerial exam category 	<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • Require aerial exam category along with pest management categories. 	<ul style="list-style-type: none"> • There currently is a national study manual and exam, which could be adapted to WA. WSDA is not aware of any current Private Applicators that apply by air, and therefore WSDA is neutral on this proposal.
<ul style="list-style-type: none"> • Consider a chemigation category 	<ul style="list-style-type: none"> • WA has Chemigation Rules, but does not have a chemigation exam category. 	<ul style="list-style-type: none"> • Could require private applicators to pass a chemigation exam. 	<ul style="list-style-type: none"> • WSDA has a well-developed chemigation program with specific rules. Currently one staff person is devoted to technical assistance for chemigation and fertigation. As with the non-soil fumigation category, we believe a more effective approach for Private Applicators would be label mandated training. The proposal would also add additional costs if it becomes a category since exams and study materials would need to be developed, and licensees would be required to attend chemigation-specific recertification courses.
<ul style="list-style-type: none"> • Minimum 18 years old for PA, RPA, LPA certification or under the direct supervision when using Restricted Use Pesticides (RUPs) 	<ul style="list-style-type: none"> • WA Dept. of Labor & Industries has 18-year age restriction for employees handling hazardous chemicals. 	<ul style="list-style-type: none"> • Low impact. If use restricted use pesticide (RUP) must be 18 years old. For use of non RUPs, no age limit. 	<ul style="list-style-type: none"> • WSDA supports this proposed change, which will bring other states up to WA standards. There is an exemption currently under WA law, but we have only one licensee who is under 18 years of age.

Private Applicators, Rancher Private Applicators (RPA), and Limited Private Applicators (LPA)

Proposed Rules	Current Washington State Rules	Impacts for PAs, RPAs and LPAs	WSDA Position and Comments
<ul style="list-style-type: none"> • Mandatory 3 year certification cycle 	<ul style="list-style-type: none"> • WSDA rule is a 5-year cycle. • RPA and LPA license is renewed on a 5-year cycle. 	<ul style="list-style-type: none"> • Expensive changes to WSDA database. • Eliminates ability to have a 5-year license for RPAs and LPAs. • Requires lengthy implementation timeline to convert 5-year cycle to 3-years. 	<ul style="list-style-type: none"> • WSDA already has a very effective certification program based on a five-year cycle. WSDA is unconvinced by EPA’s assertion that most applicators forget their skill knowledge in less than three years. This proposal does nothing to increase the competency of certified applicators, but will come at a great expense. There is no reason that states and industry should be burdened with exorbitant cost increases with little or no value added. WSDA will suggest that EPA allow “equivalency” programs, such as WSDA’s five-year program, to meet the certification cycle requirements.
<ul style="list-style-type: none"> • Obtain 6 core Continuing Education Units (CEU is 50 minutes training) and 3 CEUs per EACH exam category during the 3-year recertification cycle 	<ul style="list-style-type: none"> • Private applicators require 20 credits in 5-year cycle with no more than 10 credits per year. • Private applicators can attend any training with any approved content for CEUs (recertification credits). • RPA and LPA require CEUs in weed-specific topics and core CEUs are not approved for them – WSDA reviews/assigns these credits. 	<ul style="list-style-type: none"> • Very expensive changes to WSDA database and will require hiring several additional full-time employee (FTEs). • Obtain 6 CEUs in core (laws/safety) topics in 3 years, and • Obtain 3 CEUs per EACH exam category in 3 years. <ul style="list-style-type: none"> ○ Those with Aquatic or Soil Fumigation categories have to get 3 CEUs per category. • WSDA is required to assign recertification course topics as “Core” or “category specific” training. Applicators will need to monitor they are getting what they need. Pest management topics will not be considered “Core.” 	<ul style="list-style-type: none"> • WSDA currently has a very effective recertification program that requires 20 credits over 5 years, which has been in place for over 25 years. WSDA believes we have well trained Private Applicators. WSDA doesn’t believe it will enhance the recertification program, but very well could drive applicators to retest due to amount of time required to attend courses and the limited number of years to recertify. • This requirement above all others (excluding the 18 month requirement, below) will require tremendous costs to WSDA and Industry. A new database would need to be built and several new staff would be required. • Will require change of recertification date/cycle for all licensees, and WSDA will need to approve and track core vs category specific recertification courses. • Availability of courses will be a big problem due to large number of licensees (15,000 Private Applicators in WA will have to take core). • If equipment specific category requirement is implemented there would be additional course time required • Will need to eliminate Rancher PA/Limited PA licenses.

Private Applicators, Rancher Private Applicators (RPA), and Limited Private Applicators (LPA)

Proposed Rules	Current Washington State Rules	Impacts for PAs, RPAs and LPAs	WSDA Position and Comments
<ul style="list-style-type: none"> Obtain at least ½ of CEUs in last 18 months of licensing cycle 	<ul style="list-style-type: none"> WSDA has maximum credits of 10 per year. 	<ul style="list-style-type: none"> Half-year tracking of credits is not practical. 	<ul style="list-style-type: none"> This is a virtually impossible requirement. WSDA currently struggles to complete renewals and track all credits on an annual basis. This would increase those difficulties many fold. This proposal, alone, would increase costs exponentially. Tracking and calculation of credits on a six-month basis is not a real-world proposal. WSDA currently has a sort of equivalency, albeit over the five-year cycle, since we don't allow more than 10 hours of credits within a year. This will require a tremendous amount of work by WSDA and unacceptable costs, all without substantially increasing the competency of licensees or adding any benefit to WSDA's program.
<ul style="list-style-type: none"> Present ID for recertification training sessions 	<ul style="list-style-type: none"> WSDA allows self-verification by signature. 	<ul style="list-style-type: none"> Very time consuming for course sponsors, WSDA and applicators. 	<ul style="list-style-type: none"> Many courses have 100 – 1000 attendees. If requirement for core + specific goes through, meetings may consolidate and get bigger yet, which will be more of a problem. Attendees are already impatient with the time it takes to verify attendance, and this is with the use of bar code readers. This will be very difficult to do logistically. Many courses provided by Extension and Industry are attended by people the sponsors already know. WSDA doesn't feel that the efforts and costs to implement such a system are worth catching the very few who might try to cheat the system.

Commercial Applicators/Operators/Consultants (CA/O/C), Public Operators (PO), Private-Commercial Applicators (PCA)

Proposed Rules	Current Washington State Rules	Impacts for CA/O/C, PO, & PCA	WSDA position and comments
<ul style="list-style-type: none"> Add a Soil Fumigation exam category 	<ul style="list-style-type: none"> WSDA has a Soil Fumigation exam category. 	<ul style="list-style-type: none"> Already have to take this exam. 	<ul style="list-style-type: none"> No impact to industry or WSDA
<ul style="list-style-type: none"> Add Non-Soil Fumigation exam categories 	<ul style="list-style-type: none"> Anyone using a restricted use pesticide fumigant requires certification per category, such as PCO General, Stored Grain, methyl bromide [Fumigant], Sewer Root, Vertebrate Pest, Sulfur Dioxide. 	<ul style="list-style-type: none"> Anyone using a fumigant (e.g., aluminum phosphide, sulfur dioxide, methyl bromide) would need to take and pass non-soil fumigation exam category. 	<ul style="list-style-type: none"> Already have exams for most. Not a large impact to WSDA or Industry. May need to adjust exams to meet category requirements beyond what we currently have.

Commercial Applicators/Operators/Consultants (CA/O/C), Public Operators (PO), Private-Commercial Applicators (PCA)

Proposed Rules	Current Washington State Rules	Impacts for CA/O/C, PO, & PCA	WSDA position and comments
<ul style="list-style-type: none"> • Add Aerial exam category 	<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • Require aerial exam category along with pest management categories. 	<ul style="list-style-type: none"> • Impacts to industry are unknown. Some in industry support this as it may facilitate reciprocity. Reciprocity may not be enhanced, though, due to some states requiring additional categories and some not. WSDA is not opposed to this proposal so long as industry feels it is necessary. WSDA does not anticipate a major impact to the Agency.
<ul style="list-style-type: none"> • Consider a chemigation category 	<ul style="list-style-type: none"> • WA has Chemigation Rules, but does not have a chemigation exam category. 	<ul style="list-style-type: none"> • Could require licensed CA/O, PO, PCA to pass a chemigation exam. 	<ul style="list-style-type: none"> • WSDA supports this if EPA supplies the manual and exam. Commercial Applicators & Operators who apply pesticides via chemigation should be competent and knowledgeable about the associated environmental risks. They should be required to demonstrate that competency by passing an exam.
<ul style="list-style-type: none"> • Mandatory 3 year certification cycle 	<ul style="list-style-type: none"> • WSDA rule is a 5-year cycle. 	<ul style="list-style-type: none"> • Expensive changes to WSDA database. • Requires lengthy implementation timeline to convert 5-year cycles to 3-years. 	<ul style="list-style-type: none"> • WSDA already has a very effective certification program based on a five-year cycle. WSDA is unconvinced by EPA’s assertion that most applicators forget their skill knowledge in less than three years. This does nothing to increase the competency of certified applicators, but will come at a great expense. There is no reason that states and industry should be burdened with exorbitant cost increases with little or no value added. WSDA will suggest that EPA allow “equivalency” programs, such as WSDA’s five-year program, to meet the certification cycle requirements.
<ul style="list-style-type: none"> • Obtain 6 core Continuing Education Units (CEU is 50-minute training) AND 6 CEUs per EACH exam category during the 3-year recertification cycle 	<ul style="list-style-type: none"> • 40 credits required and a maximum of 15 credits per year; however, with no requirements for “core” (laws and safety) or “category” (exam categories). • WSDA does not review and assign credits as per Core or Category. 	<ul style="list-style-type: none"> • Very expensive changes to WSDA database and will require hiring several additional full-time employee (FTEs). • Obtain 6 CEUs in core topics in 3 years AND 6 CEUs per EACH exam category in 3 years. • If someone had 3 exam categories they need 6 core + 18 category CEUs for 24 credits per 3 years. 	<ul style="list-style-type: none"> • This requirement will present extreme difficulties for WSDA, WSU and Licensees. • WSDA currently has a very effective recertification program that requires 40 credits over 5 years. This program has been in place for over 25 years. WSDA believes we have well trained Commercial Applicators and Operators. We don’t believe it will enhance our recertification program, but very well may drive applicators to retest, rather than attend courses. The time and money required to attend many additional courses and the limited number of years to recertify will cause big problems.

Commercial Applicators/Operators/Consultants (CA/O/C), Public Operators (PO), Private-Commercial Applicators (PCA)

Proposed Rules	Current Washington State Rules	Impacts for CA/O/C, PO, & PCA	WSDA position and comments
		<ul style="list-style-type: none"> • If someone had 5 exam categories they need 6 core + 30 category CEUs for 36 credits per 3 years. • WSDA is required to assign recertification course topics as “Core” or “category specific” training. Applicators will need to monitor they are getting what they need. • WSU will face significant demands to provide training in both core and category; additional FTEs will be needed. • Challenge to provide category credits in small-sector exam categories, such as seed treatment and wood preservation. 	<ul style="list-style-type: none"> • This requirement above all others (excluding the 18-month proposal, below) will require tremendous costs to WSDA and Industry. A new database would need to be built and several new staff would be required. • It will require a change of every licensee’s recertification date/cycle, and WSDA will need to approve and track core vs category specific recertification courses. • Availability of courses will be a big problem due to large number of licensees. • If equipment specific category requirement is implemented, additional course time required. • Over half Commercial Applicators have four or more categories. These applicators would be required to attend category specific courses for each of their categories. • Each type of category would require a tremendous number of new training sessions. Consider those licensees with the weed category: (e.g., 2000+6000+3000) x 6 credits = 66,000 contact hours for weed talks. 22,000 per year. Say 50 people attend a class that would mean 440 weed lectures per year unless the lecture could double count. Training season is 4 months. So 110 lectures a month or more than one weed lecture a day during the entire training season. Who will fill this need? Extension? Private Industry? Noxious Weed Board? This will likely drive people to online training, which will reduce the overall competency level.
<p>Obtain 6 core Continuing Education Units (CEU is 50 minute training) AND 6 CEUs per EACH exam category during the 3-year recertification cycle</p>	<ul style="list-style-type: none"> • 40 credits required and a maximum of 15 credits per year; however, with no requirements for “core” (laws and safety) or “category” (exam categories). <p>WSDA does not review and assign credits as per Core or Category.</p>	<ul style="list-style-type: none"> • Very expensive changes to WSDA database and will require hiring several additional full-time employee (FTEs). • Obtain 6 CEUs in core topics in 3 years, AND 6 CEUs per EACH exam category in 3 years. • A person with 3 exam categories would need 6 core + 18 category CEUs for 24 credits per 3 years. 	<ul style="list-style-type: none"> • This requirement will present extreme difficulties for WSDA, WSU and Licensees. • WSDA currently has a very effective recertification program that requires 40 credits over 5 years. This program has been in place for over 25 years. WSDA believes we have well trained Commercial Applicators and Operators. We don’t believe it will enhance our recertification program, but very well may drive applicators to retest, rather than attend courses. The time and money required to attend many additional courses and the limited number of years to recertify will cause big problems.

Commercial Applicators/Operators/Consultants (CA/O/C), Public Operators (PO), Private-Commercial Applicators (PCA)

Proposed Rules	Current Washington State Rules	Impacts for CA/O/C, PO, & PCA	WSDA position and comments
<ul style="list-style-type: none"> Obtain at least ½ of CEUs in last 18 months of licensing cycle 	<ul style="list-style-type: none"> WSDA has maximum credits of 10 per year. 	<p>If someone had 5 exam categories they need 6 core + 30 category CEUs for 36 credits per 3 years.</p> <ul style="list-style-type: none"> WSDA is required to assign recertification course topics as “Core” or “category specific” training. Applicators will need to monitor they are getting what they need. WSU will face significant demands to provide training in both core and category; additional FTEs will be needed. <p>Challenge to provide category credits in small-sector exam categories, such as seed treatment and wood preservation.</p> <ul style="list-style-type: none"> Half-year tracking of credits is not practical. 	<p>This requirement above all others (excluding the 18-month proposal, below) will require tremendous costs to WSDA and Industry. A new database would need to be built and several new staff would be required.</p> <ul style="list-style-type: none"> It will require a change of every licensee’s recertification date/cycle, and WSDA will need to approve and track core vs category specific recertification courses. Availability of courses will be a big problem due to large number of licensees. If equipment specific category requirement is implemented, additional course time required. Over half Commercial Applicators have four or more categories. These applicators would be required to attend category specific courses for each of their categories. <p>Each type of category would require a tremendous number of new training sessions. Consider those licensees with the weed category: (e.g., 2000+6000+3000) x 6 credits = 66,000 contact hours for weed talks. 22,000 per year. Say 50 people attend a class that would mean 440 weed lectures per year unless the lecture could double count. Training season is 4 months. So 110 lectures a month or more than one weed lecture a day during the entire training season. Who will fill this need? Extension? Private Industry? Noxious Weed Board? This will likely drive people to online training, which will reduce the overall competency level.</p> <ul style="list-style-type: none"> This is a virtually impossible requirement. WSDA currently struggles to complete renewals and track all credits on an annual basis. This would increase those difficulties many fold. This proposal, alone, would increase costs exponentially. Tracking and calculation of credits on a six-month basis is not a real-world proposal. WSDA currently has a sort of equivalency, albeit over the five-year cycle, since we don’t allow more than 15 credit hours within a year. This will require a tremendous amount of work by WSDA and unacceptable costs, all without substantially increasing the competency of licensees or adding any benefit to WSDA’s program.

Commercial Applicators/Operators/Consultants (CA/O/C), Public Operators (PO), Private Commercial Applicators (PCA)			
Proposed Rules	Current Washington State Rules	Impacts for CA/O/C, PO, & PCA	WSDA position and comments
<ul style="list-style-type: none"> Present ID for recertification training sessions 	<ul style="list-style-type: none"> WSDA allows self-verification by signature. 	<ul style="list-style-type: none"> Very time consuming for course sponsors, WSDA and applicators. 	<ul style="list-style-type: none"> Many courses have 100 – 1000 attendees. If the requirement for core + specific goes through, meetings may consolidate and get bigger yet, which will be more of a problem. Attendees are already impatient with the time it takes to verify attendance, and this is with the use of bar code readers. This will be very difficult to do logistically. Many courses provided by Extension and Industry are attended by people the sponsors already know. WSDA doesn't feel that the efforts and costs to implement such a system are worth catching the very few who might try to cheat the system.

Dealers			
Proposed Rules	Current Washington State Rules	Impacts for Dealers	WSDA position and comments
<ul style="list-style-type: none"> RUP dealers must record applicator's certification number, issuing authority, certification expiration date, and categories of certification -- these are in addition to other items. 	<ul style="list-style-type: none"> Dealers must record certified applicator's pesticide license number (WAC 16-228-1300) -- these are in addition to other items. 	<ul style="list-style-type: none"> Significant burden --already require dealers to record certified applicator's pesticide license number and are responsible to know the sale is to a current license holder with the correct exam category endorsements. 	<ul style="list-style-type: none"> This will be an added burden to Dealers that is unnecessary and accomplishes nothing. Dealers are already required to look up license information on WSDA's database. More recordkeeping by Dealers will not enhance the competency of certified applicators and will not increase compliance by Dealers, which is already at a high level.

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