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January 22, 2016

Environmental Protection Agency
Office of Pesticide Programs (OPP)
OPP Docket
EPA Docket Center (28221T)
1200 Pennsylvania, Avenue, NW
Washington, D.C. 20460-001

**RE: Proposed Revisions to Regulations on Restricted Use Pesticide Applicator Certification (RIN 2070-AJ20), published in the Federal Register on August 24, 2015.
Docket ID # EPA-HQ-OPP-2001-0183**

The Agricultural Retailers Association (ARA) respectfully submits the following comments on the Environmental Protection Agency's (EPA) proposed revisions to regulations at 40 CFR Part 171 for certification of applicators of restricted use pesticides (RUPs).

Statement of Interest

ARA is a not-for-profit trade association that represents America's agricultural retailers and distributors. ARA members provide goods and services to farmers and ranchers which include: fertilizer, crop protection chemicals, seed, crop scouting, soil testing, custom application of pesticides and fertilizers, and development of comprehensive nutrient management plans. Retail and distribution facilities are scattered throughout all 50 states and range in size from small family-held businesses or farmer cooperatives to large companies with multiple outlets. ARA member companies own and operate over 6,500 retail facilities located throughout all 50 states and account for about 70-75 percent of US crop pesticide sales. ARA members account for more than half of all domestic crop pesticide ground and aerial applications.

Important Role of Commercial Applicators in U.S. Agricultural Industry

Agricultural retailers employ commercial pesticide applicators that receive extensive education and training to apply pesticide products in accordance with FIFRA laws and regulations. EPA has financially supported training for certified commercial applicators through state grants. The programs generally cover Best Management Practices (BMPs) for safe pesticide use as well as environmental issues such as endangered species and water quality protection. Thousands of retailers and their commercial applicators have raised their professional status by also participating in voluntary programs such as the Certified Crop Advisor (CCA) program administered by the American Society of Agronomy. In addition, the Asmark Institute sponsored Professional Applicator Training Course that in its first year (2012) trained 700+ commercial applicators on the subject of application technology including a large focus on drift reducing technologies. Since that time hundreds of applicators have received extensive training

through this industry program. The training has occurred in various locations throughout the country from New York to California and Montana to Texas.

Comments

Continuing Education Units

The proposed rule requires both commercial and private applicators to demonstrate continued competency to use restricted use pesticides (RUPs) every three years by either passing written exams for each certification or completing specific training in a continuing education program. For commercial applicators, EPA is proposing a minimum requirement of six continuing education units (CEUs) for the core certification and six CEUs for each specific category. In addition, EPA is proposing to set fifty minutes of active training time as the standard for all CEUs. For experienced commercial applicators, EPA should leave the recertification requirements for CEUs at the present level. Obtaining the proposed number of CEUs will impose excessive costs in operating our business as a result of increased time away from the job, travel expenses to attend recertification trainings, and the class fee for attending the CEUs. EPA also should eliminate the fifty minutes basis for each CEU, and instead base the time on the subject matter of the CEU. EPA could consider accepting current state' requirements for recertification of the RUP applicators. EPA should also allow applicators to obtain the required CEUs at any time within the recertification period. The current proposal is requiring at least half of the required CEUs be obtained during the eighteen month preceding the expiration of the applicator's certification, which is unreasonable and unnecessary. EPA's proposal to increase the private applicator competency requirements has merit as they should be required to have a higher level of training that is equivalent to commercial applicators if they are handling and applying RUPs.

Private Applicator Competency Requirements

The EPA proposal would require private applicators to demonstrate "core" competency, "categorical-use" competency, soil and non-soil fumigation, and additional "high-risk" application method competency if recertification is sought for private aerial application. These requirements would be similar to what is required of commercial applicators. We agree with EPA on improving the basic, minimum requirements for private applicators, which should be held to standards similar to commercial applicators if they intend to store, handle, and apply RUPs.

Minimum Age Requirement

The proposed rule would establish a minimum age of 18 for all RUP applicators, with no exception for private applicators. This proposal seems reasonable since RUPs are not available for purchase or use by the general public. However, EPA may want to include a grandfather clause to allow currently certified commercial and private applicators to retain their certifications after any minimum age requirement becomes effective. State pesticide regulatory agencies issue certifications to pesticide applicators who demonstrate, under an EPA-approved program, that they can handle these products safely.

Definition of "Use"

The proposal includes the definition of pesticide "use" to 40 CFR 171. ARA is concerned the proposed definition could be interpreted to include a significant large number of employees engaged in a host of roles (e.g. secretarial work, pesticide sales, equipment maintenance, etc.) within a commercial application business that are not directly engaged in activities taken to implement RUP product label directions for use. ARA recommends the definition be revised so it clearly states that "use" only refers to activities identified in existing label language under directions for use. In addition, EPA should remove the provision "arranging for the application of pesticides" as part of this further clarification.

Definition of "Mishap"

The proposed rule includes a definition of "mishap" as "an event that may adversely affect man or the environment and that is related to the use or presence of a pesticide, whether the event was unexpected or intentional." This definition differs from the definition for "accident" in the current version of 40 CFR 171 as "an unexpected, undesirable event, caused by the use or presence of a pesticide that adversely affects man or the environment." ARA recommends the definition of "mishap" be eliminated from the proposal and replaced with the existing definition of "accident" as defined in 40 CFR 171.

EPA Should Revise "High Risk" Application Method to "Specialty"

The proposal incorrectly designates aerial application as a "high risk" application method, which should be renamed as "specialty" or another term that would be indicative of the experience and training required of pilots. Aerial application is a mature industry that also focuses on precision application and safety. The average aerial applicator is 50 years old, with nearly 25 years and 10,000 hours of application experience. We support improving the education and training of RUP applicators. We also support proposed revisions enhancing reciprocity among states and other certifying agencies to aid commercial applicators working in multiple jurisdictions.

Conclusion

ARA supports efforts by EPA to promote more uniform and rigorous requirements for certification for those applicators using RUPs. We hope these additional applicator requirements can alleviate the necessity for burdensome and unnecessary buffer zones that may be placed on FIFRA approved labels. We hope EPA will consider these suggested improvements before it finalizes the proposed rule. Thank you for your review and consideration of our comments.

Sincerely,



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