

Certification of Applicators in Indian Country – The National Federal Plan



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R9 RTOC

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Background



Restricted Use Pesticides (RUPs) can only be used by someone who is certified through an EPA approved plan.

RUPs are used for agricultural, structural, rangeland, and other uses.

Tribes have 3 regulatory options for certifying applicators of RUPs.

- An EPA approved tribal plan.
- An EPA approved agreement with a state government.
- A federal plan.



Seven Tribes have EPA approved certification plans

- Navajo Nation is currently the only tribe in R9 with a certification plan.

Purpose of this plan

- Currently, EPA can not take action against an applicator for being uncertified in IC where there is no plan in place.
- The National Plan improves EPA's ability to take action against an applicator for not being certified.
- The National Plan does not impact EPA's long standing authority to take action against applicators for misuse of pesticides in Indian country.

Timetable

2009 – Tribal Pesticide Program Council (TPPC) requested EPA legalize use of RUPs in Indian country.

2010 – OPP held two formal consultation calls with tribes on developing a National Federal Plan.

2011 – OPP published draft national federal plan in Federal Register with 45 day comment period.

Key tribal concerns included:

- The Plan doesn't include an opt-out provision.
- The Plan doesn't require applicators to notify tribes of RUP applications.
- The Plan does not include a method to notify tribes of Federally Certified applicators.

2011 - RTOC formally requested R9 develop a Regional plan.

- R9 response – wait for the National Plan to be implemented and for tribes and R9 staff to begin a “monitoring period”.

2014 – National Federal Plan expected to be finalized in February.

The National Federal Certification Plan

1. Regional offices are responsible for implementing the Plan.
2. The Plan covers all of Indian country, except where an EPA approved plan exists.
3. Federal certification will be based on a valid state certification.
4. No new training is required for applicators.
5. Includes a no-test/on-line training option for private applicators.
6. Allows applicator to use RUPs in Indian country, contiguous with the underlying state certificate.
7. Tribes may still develop a plan through an agreement with a state or a tribal plan.
8. Encourages applicators to talk with the tribe to see if there are additional requirements or restrictions.
9. All Federally certified applicators will be posted on an EPA website.
10. EPA is responsible for inspections and enforcement.



What this means for you

Any use of Restricted Use Pesticides (RUPs) on Tribal land must be done by an applicator Federally certified by Region 9. Includes but is not limited to:

- Ag, structural, weed control, rangeland, and right-of-way applications.
- Tribal employees, contractors, lease holders, businesses, federal agency personnel.

Inspections/compliance monitoring

- Applying RUPs without a federal certification will be a federal violation enforced by EPA Regions.
- The Plan does not approve or authorize states to assure compliance with the Plan.

IF RUPs are used on your tribal land

- Attend national and regional webinars .
- Learn about the Plan at <http://epa.gov/oppfead1/tribes/2013/cert-plan.html>
- Help ensure all applicators of RUPs, including tribal employees, are federally certified.

How to determine if RUPS are used

Read pesticide labels, ask tribal employees, lease holders, federal agency contractors and others who might apply pesticides.



**RESTRICTED USE PESTICIDE
DUE TO ACUTE TOXICITY**
For retail sale to and use by Certified Applicators or persons under their direct supervision, and only for those uses covered by the Certified Applicator's certification.

TERR-O-GAS[®] 98

PREPLANT SOIL FUMIGANT

ACTIVE INGREDIENT	By Wt.
Methyl bromide.....	98%
Chloropicrin	2%
TOTAL	100%

This product weighs 14.4 pounds per gallon.



DANGER • PELIGRO • POISON

KEEP OUT OF REACH OF CHILDREN



Getting the word out

EPA HQ and R9 will inform tribes, pesticide dealers, pesticide applicators and pest control companies, and state agencies as follows:

- Send formal letters to all tribal governments, tribal environmental program managers and staff, pesticide dealers.
- Notify and update NTOC, TPPC and Regional Tribal Operations Committee (RTOC).
- Post information and application to dedicated EPA website.
- Distribute newsletter articles to tribal and industry publications.
- Distribute fliers to pesticide applicators and RUP dealers.

R9 would like to work with tribes to determine how to inform pesticide applicators who use RUPs about this new program.

Contacts and information

- Call Katy Wilcoxon, EPA Region 9 Pesticide Program 415/947-4205 or email wilcoxon.katy@epa.gov
- <http://epa.gov/oppfead1/tribes/2013/cert-plan.html>

