



# CTAG

**Certification & Training Assessment Group** — National Partnerships for Safe and Effective Pesticide Management through Education, Training and Competency Assessment

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# **Conventional Reciprocity for Issuing Cross-jurisdictional Pesticide Certifications: Definitions, Concerns and Strategies**

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Reciprocity means very different things to different people.

Therefore, any discussion of reciprocity, as it pertains to pesticide certification, has to begin with definitions. CTAG (Certification and Training Assessment Group) presents the definitions and a discussion of the various strategies used by governmental agencies, states and tribes to achieve cross-jurisdictional reciprocity for issuing new credentials.

This paper does not extend into the issue of reciprocity for continuing education (recertification) approvals. CTAG then outlines “Twelve Recommended Practices for Effectively and Efficiently Issuing Conventional Reciprocity Pesticide Certificates.”

## Reciprocity, What It Is Not

In most situations, reciprocity does not mean that an applicator who is certified in one country, province, state, territory or tribe and holds a valid certificate from that entity simply may go into another locale and apply pesticides. Pesticide applicator licensing (certification) rights, with few exceptions, are not at all like a drivers license. A single state-issued drivers license allows one to drive a vehicle in North Dakota, the U.S. and Manitoba, Canada; a certified applicator credential does not provide for out-of-issuing-state purchase, use or supervision of restricted-use pesticides. This legal principle was affirmed in a 1998 administrative ruling regarding Bonanza Valley Aviation vs. Iowa Department of Agriculture in which, in part, the judge ruled that:

*“Respondent (Bonanza Valley Aviation) stated that, because it had been licensed in Iowa for several years and that Minnesota, the Respondent’s home state, has reciprocity with Iowa, it was Respondent’s understanding that it could begin applications of pesticide as soon as it arrived in Minnesota. Without any evidence to support its ‘understanding,’ however, Respondent’s defense must be rejected.”*  
*(Appendix 1 for the complete text of the case [http://pep.wsu.edu/ctag/pdf/ recip/ BackgroundAppendix\\_1.pdf](http://pep.wsu.edu/ctag/pdf/ recip/ BackgroundAppendix_1.pdf))*

## Reciprocity, What It Is

Now that we know what reciprocity is not, what does it really mean? Simply, reciprocity is when a governing entity (e.g., Idaho) recognizes an applicator’s credentials from another governing entity (e.g., Washington), and after satisfying the appropriate local rules and customs, Idaho issues an Idaho credential to that applicator without having him or her satisfy the local training or examination process.

The problem is how governing entities actually implement reciprocity with all the countries, provinces, states, territories and tribes that

have differing competency standards, as well as procedures for issuing certificates. The solution originally was conceived with the implementation of Title 40 Code of Federal Register 171.7.6. In part, it indicates that:

*“A description of any arrangements that a State has made or plans to make relating to reciprocity with other States or jurisdictions for the acceptance of certified applicators from those States or jurisdictions.”* (See Appendix 2 for the entire passage [http://pep.wsu.edu/ctag/pdf/ recip/ BackgroundAppendix\\_2.pdf](http://pep.wsu.edu/ctag/pdf/ recip/ BackgroundAppendix_2.pdf))

An example of enabling legislation from Delaware allows its state lead agency (SLA) to engage in reciprocity as follows:

*When a commercial applicator is certified under the state plan of another state and desires to operate as a commercial applicator in Delaware he shall make application to the Secretary and shall include, along with the proper fee and other details required by the Law, a true copy of his credentials certifying him as an applicator of restricted use pesticides in another state. The Secretary then may, if he approves the credentials, issue a Delaware certification to the applicator in the appropriate classification or category(ies) for which he is certified in another state without a written examination. The original certification must be made in the state where the commercial applicator resides or where he has his principle place of business.*

On an international level, the eventual recognition of a common pesticide certification system is envisioned in the North American Free Trade Agreement. The implication of this would suggest that Canada, Mexico and the U.S. eventually would recognize some form of reciprocity for pesticide certification. Indeed, the Office of the United States Trade Representative, in a Federal Register notice, commits, in part, to: “Work toward a harmonized approach to pesticide certification and training;” (See Appendix 3 - Reciprocity Definitions [http://pep.wsu.edu/ctag/pdf/ recip/ BackgroundAppendix\\_3.pdf](http://pep.wsu.edu/ctag/pdf/ recip/ BackgroundAppendix_3.pdf))

Clearly, nationally and even internationally, the intent of our pesticide certification laws are to allow for a process in which a pesticide certificate holder from a particular jurisdiction (primary or originating state, tribe, territory or province) obtains a certificate in another without engaging in either the testing or training process.

## How Governing Entities View Reciprocity

There are several ways that governing entities handle reciprocity: formal, informal, partial and adoptive. In addition, some choose not to issue any reciprocity credentials. Except for those entities using adoptive reciprocity, all others require that residents get certified in their state of residence.

### Formal Reciprocity

Two or more states (e.g., Minnesota and North Dakota) have a formal agreement (an understanding that both programs are good and the categories are similar).

#### *Scenario*

- Sally lives, trained and tested in North Dakota and carries a valid pesticide certificate.
- Sally wants to expand business into Minnesota, but does not want to train and test again.
- Sally requests from Minnesota a reciprocity certificate based on her North Dakota certificate.
- After Minnesota receives the appropriate documentation and fees from Sally, it issues her a Minnesota certificate.

### Informal Reciprocity

Two or more states (e.g., Arizona and North Dakota) do not have a formal agreement between them, but contact each other to discuss competency and category equivalency. If there is sufficient compatibility, reciprocity is granted on a case-by-case basis.

#### *Scenario*

- Sally lives, trained and tested in North Dakota and carries a valid pesticide certificate.
- Sally wants to expand business in Arizona, but does not want to train and test again.
- Sally requests from Arizona a reciprocity certificate based on her North Dakota certificate.
- Arizona contacts North Dakota to compare equivalency; it accepts North Dakota's standards.
- Sally pays fees to Arizona and is issued an Arizona certificate.

In this scenario, if Arizona did not accept North Dakota's certification standards, Sally then would need to get certified under Arizona's program.

### Partial Reciprocity

Two or more states (e.g., Montana and North Dakota) work together using an informal framework for categories, but need to have additional jurisdictional measures completed prior to issuing a credential.

#### *Scenario*

- Sally lives, trained and tested in North Dakota and carries a valid pesticide certificate.
- Sally wants to expand business in Montana, but does not want to train and test again.
- Sally requests from Montana a reciprocity certificate based on her North Dakota certificate.
- Montana has differing categories and rules from North Dakota, so it makes a decision as to what core or categories can be issued (again with the basic assumption that programs for certification are acceptable in North Dakota); however, it requires further competency gauges.
- Montana requires Sally to pass a laws and rules test; when successfully completed and appropriate documentation and fees are submitted, Montana issues a reciprocity certificate.

## Adoptive Reciprocity

Two or more states (e.g., Virginia and South Carolina) accept each other's certification credentials even when an applicator moves from one state to the other. However, the new certificate becomes primary and is not dependent on the original credential. Essentially, the state being asked to grant reciprocity reviews the credential from the primary state and then, finding that the credential is acceptable, issues a credential that simply requires the holder to meet all the certification or licensing requirements of the new state. What happens in the primary or originating state (that credential) is no longer a concern.

### Scenario

- Sally holds a certificate in Virginia but moves to South Carolina.
- Sally requests from South Carolina a certificate based on her Virginia certificate.
- Under its adoptive reciprocity agreement, South Carolina issues Sally a South Carolina certificate.
- Sally now must keep up on her trainings or credits, just as if she originally were certified in South Carolina. The Virginia credential has no further or future bearing.

## No Reciprocity

Some jurisdictions simply do not issue reciprocity. Reciprocity is not provided to cross-jurisdictional applicators by policy, rule or statute. Individuals who work in these states must meet the competency standards in that state.

*Massachusetts example – “Due to significant changes in Massachusetts pesticide regulations and additional regulatory requirements in areas of special concern to the citizens of the Commonwealth on September 3, 2003, the Massachusetts Pesticide Board voted to terminate the issuance of all reciprocal certifications to persons possessing a certification issued by the pesticide control agency of other states.” This included previously held reciprocal pesticide certificates.*

## Impediments to Adopting Reciprocal Certification

- Wide variances among state pesticide programs (e.g., categories: “clumpers” versus “splitters”), geographical differences and culture create almost intolerable incompatibilities.
- This is especially the case when you try to make comparisons between entities that have hierarchy credentials that require apprenticeship-like experience versus jurisdictions that only require successfully completing an exam to get a valid credential. An example is New York, where it has a technician-level certificate (an apprentice) and a full commercial certificate that can be obtained only after an experience period has been verified. Many states do not consider experience – you pass the exam, you get your credential.
- This also is illustrated when you make comparisons between “splitter” states that have 40 to 50 categories versus states that have kept their number of categories closer to the U.S. federal standard of 14.
- Differing renewal intervals (two, three, five and even six years) among states introduce a new layer of complexity with regard to granting reciprocity. For example: Would it be reasonable for North Dakota to accept a credential from a Wisconsin applicator in the fourth year of his certificate (Wisconsin has a five-year cycle) when the renewal interval in North Dakota is three years?
- A view among some governing entities that their standards of competence are higher than others. Hence, they selectively will issue (or deny) reciprocity even if a state has an Environmental Protection Agency (EPA)-approved plan.
- EPA-approved plans in theory should give regulators confidence to accept credentials from other states or entities, but if the plan is out of date, not used or does not come close to satisfying the concerns of the reciprocity-granting entity, why should they consider the credential? Example: A U.S. federal government agency in Oregon (which has an EPA-approved

plan) was seeking reciprocity for its employees from the Oregon Department of Agriculture (ODA). Upon review, ODA discovered that the agency had an approved plan, but that plan was so outdated and atrophied that in today's regulatory environment, its credential did not come close to meeting Oregon's standards.

- Trying to understand what the rules and equivalences are among governing entities is a time-consuming and costly exercise.
- In the aftermath of the Sept. 11 terrorist strike, governing entities are reluctant to trust credentials and documents from other locales.
- Verification of credentials is a time-consuming and costly enterprise.
- Background checks on suspensions, revocations and other violations for the purpose of issuing reciprocity are a time-consuming exercise. The converse, responding to a background check, also uses significant resources.
- Some countries, provinces, states, territories or tribes (e.g., Massachusetts) have laws, regulations, rules or policies that prohibit reciprocal certifications.
- Confusing language. As we have attempted to demonstrate in this paper, people who are in positions to grant reciprocity often do not have a grasp of the jargon, the definitions or the lingo necessary to ask the right questions and to properly interpret the answers they receive.

## Why Care?

- Ignoring this issue introduces the possibility that someone whose certificate is no longer valid may become credentialed inappropriately by another jurisdiction or agency.
- Agencies are increasingly facing accountability pressure from stakeholders and decision makers.
- Requests for reciprocity are proliferating as people become more mobile. (North Dakota alone issued 300+ certificates in 2006.)
- This is a national and even international issue; people are not just crossing neighboring borders. (e.g., in 2006, North Dakota received requests for reciprocity from applicators in 17 different states.)
- Since Sept. 11, security measures on issuing certification and reciprocity credentials need to be strengthened.

# Twelve Recommended Practices for Effectively and Efficiently Issuing Conventional Reciprocity Pesticide Certificates

The following practices outline ideas and regulatory changes that should facilitate the issuing of reciprocity pesticide certificates.

All appendices are posted to the CTAG Web site.

1. Develop a formal reciprocity agreement with your top four or five reciprocity-requesting jurisdictions. A reciprocity agreement is no more than a memorandum of understanding between governing entities. Some jurisdictions require reciprocity agreements as a matter of law, regulation or policy before they will issue reciprocity, but many do not. For those that do not, it is still a good idea to have a formal agreement so that the parties become familiar with each other's operations.  
*(See Appendix 1 for a sample agreement at [http://pep.wsu.edu/ctag/pdf/ recip/ Practices\\_Apendix\\_01.pdf](http://pep.wsu.edu/ctag/pdf/ recip/ Practices_Apendix_01.pdf))*
2. The National Association of State Departments of Agriculture's certification plan and reporting database (CPARD) is a marvelous tool to informally evaluate EPA-approved certification plans. CPARD allows the user to compare certification programs (testing style and competency standards) so an informed decision about granting a reciprocity request can be made.  
*Visit [http://pep.wsu.edu/ctag/pdf/ recip/ Practices\\_Apendix\\_02.pdf](http://pep.wsu.edu/ctag/pdf/ recip/ Practices_Apendix_02.pdf).*
3. Indicate a reciprocity credential clearly on certificates, internal databases and public-access Web databases. Any documentation must indicate that such a certificate is based upon reciprocity. This single action would be most helpful and should not be difficult to accomplish. Clearly identified reciprocity credentials would prevent applicants from using a reciprocity certificate to jump from state to state. It also would dramatically aide in the verification process.  
*(See Appendix 3 for examples at [http://pep.wsu.edu/ctag/pdf/ recip/ Practices\\_Apendix\\_03.pdf](http://pep.wsu.edu/ctag/pdf/ recip/ Practices_Apendix_03.pdf))*
4. Indicate originating (primary) jurisdiction on any certificate, internal database or public-access Web databases. This would significantly speed up the credential verification process for the jurisdiction that is evaluating whether or not to issue a reciprocity certificate.
5. Reciprocity information – Develop a comprehensive guide or reciprocity Web site outlining what your institution will or will not do in regard to issuing reciprocity. This should include a table or matrix with surrounding jurisdictions that enumerates the categories and equivalencies with other states, tribes, territories or provinces for which reciprocity can be easily granted.  
*(See Appendix 4 for an example at [http://pep.wsu.edu/ctag/pdf/ recip/ Practices\\_Apendix\\_04.pdf](http://pep.wsu.edu/ctag/pdf/ recip/ Practices_Apendix_04.pdf)).*
6. Reciprocity certificate application forms must indicate that credentials will be verified and violations will be reviewed as part of the reciprocity process. Consider having applicants sign a release authorization to indicate their approval for the reciprocating jurisdiction to obtain originating or primary credentialing information; for example, this would allow a state, such as Texas, to quickly respond to a request for information and, perhaps more importantly, put the applicator on notice

that his or her records will be scrutinized. Finally, consider a special reciprocity application fee in addition to your standard credential fee. This fee can assist with recouping costs for additional processing time.

*(See Appendix 5 for an example at [http://pep.wsu.edu/ctag/pdf/ recip/ Practices\\_Apendix\\_05.pdf](http://pep.wsu.edu/ctag/pdf/ recip/ Practices_Apendix_05.pdf))*

7. Develop an internal checklist for evaluating a request for reciprocity. Determining reciprocity eligibility can be time-consuming and one where issues easily may be overlooked. A checklist may seem redundant, but it prevents errors, and it allows agencies to easily cross-train multiple people to evaluate requests without having them fully versed on the reciprocity process.

*(See Appendix 6 for an example at [http://pep.wsu.edu/ctag/pdf/ recip/ Practices\\_Apendix\\_06.pdf](http://pep.wsu.edu/ctag/pdf/ recip/ Practices_Apendix_06.pdf))*

8. Develop a verification of credential form that can be sent to the primary or originating jurisdiction that will allow it to quickly respond. Experiences from North Dakota and Nebraska have found that agencies are more likely to respond to information requests if they do not have to write individual letters, return telephone calls or even author e-mail responses.

*(See the North Dakota verification request form in Appendix 7.)*

*(See Appendix 7 for an example at [http://pep.wsu.edu/ctag/pdf/ recip/ Practices\\_Apendix\\_07.pdf](http://pep.wsu.edu/ctag/pdf/ recip/ Practices_Apendix_07.pdf))*

9. Expiration date – Never issue reciprocity for a period that exceeds the expiration date on the primary or originating jurisdiction’s credential. Doing so introduces the possibility that the jurisdiction that is issuing reciprocity may do so when the applicant no longer carries a valid credential from his or her home state, tribe, territory or province. This effectively invalidates the reciprocity certificate.

10. Issue reciprocity credentials only on a year-by-year basis, if possible. This enables or forces the reciprocity-issuing jurisdiction to monitor the credentials of the applicants on a regular basis. It also is another opportunity to check up on an applicator’s violation history.

11. Develop a law, rule or policy that allows you to turn down applicators who have a history of violations in their home jurisdiction.

*(See Appendix 8 for an example at [http://pep.wsu.edu/ctag/pdf/ recip/ Practices\\_Apendix\\_08.pdf](http://pep.wsu.edu/ctag/pdf/ recip/ Practices_Apendix_08.pdf))*

12. Compliance with laws of reciprocating jurisdiction – Require applicators who receive reciprocity to indicate in writing that they still are bound by all the laws of the new state, tribe, territory or province. If this requires rule or law changes to accomplish, in the interim have enforcement staff send them:

- a. a cover letter reminding them of the their obligation to abide by federal and state laws
- b. a copy of appropriate state laws and rules

*(See Appendix 9 for an example at [http://pep.wsu.edu/ctag/pdf/ recip/ Practices\\_Apendix\\_09.pdf](http://pep.wsu.edu/ctag/pdf/ recip/ Practices_Apendix_09.pdf))*