

## LAWS, REGULATIONS, AND RECORD KEEPING

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### Important Terms

certification	FIFRA	state lead agency
commercial applicator	licensing	use inconsistent with the
EPA	private applicator	label
federal registration	Restricted Use Pesticide	
FEPCA	Special Local Needs	

### INTRODUCTION

Pesticide applicator certification is required for persons using or supervising the use of restricted use pesticides, and may be required for those applying general use products as commercial applicators. The purpose of certification is to insure that a certain level of training is completed by an applicator to protect public health and welfare as well as the environment.

### FIFRA, AS AMENDED

While pesticide regulations have existed since the early 1900's, regulations in 1947 required that pesticides moving in interstate commerce be registered with the U.S. Department of Agriculture (USDA) under the Federal Insecticide, Fungicide and Rodenticide Act (**FIFRA**). Public concern for the state of the environment in the 1960s resulted in the establishment of the U.S. Environmental Protection Agency (**EPA**) in 1971. This agency assumed various responsibilities including the pesticide division of USDA. In 1972 Congress passed the Federal Environmental Pesticide Control Act (**FEPCA**), properly referenced as FIFRA Amended 1972. At this time federal agencies became involved with all aspects of pesticides; manufacturing, shipment, application, storage, and disposal. This law was also substantially amended in 1975 and 1978. The state lead agency is responsible for implementing and enforcing federal regulations concerning pesticide use at the state level and may impose other local regulations.

Parts of the law which concern applicators the most include:

- The label on a pesticide container is a legal document and using the product inconsistent with the label and labeling are violations of federal law.
- All pesticide uses must be classified as either general or restricted. Restricted use pesticides can only be applied by or used under the direct supervision of a certified applicator.

-Persons that do not obey the law will be subjected to penalties (fines and jail terms.)

### **Use Inconsistent with the Label**

The label is a legal document; use inconsistent with the label is a state and federal offense. An applicator may not use any pesticide in a manner not permitted by the label and labeling. You must use the pesticide on the plants, animals, or sites specified in the directions for use. You may not use a higher dosage (rate) or make more frequent applications. You must follow the directions for use, safety, mixing, diluting, storage, and disposal, as well as any restrictions on reentry, harvesting, and grazing.

The law does allow you to:

- Apply a pesticide at an application rate or frequency less than that listed on the label
- Apply a pesticide to any target pest not listed on the label as long as the site of the application is listed
- Use any equipment or method of application that is not prohibited by the label
- Mix two or more pesticides, if the rates do not exceed the recommended rate on each product, and the combination is not prohibited by the labels of the pesticides

### **Classification of Pesticide Uses**

The Restricted Use Pesticide (RUP) classification is applied to products that, when used in accordance with label directions, **may** cause adverse effects to man or the environment. Products classified as RUP are clearly identified on the label. Applicators who purchase, use, or supervise the use of these pesticides must be certified to do so.

FIFRA considers a pesticide a general use material when the product, used in accordance with label directions, is not expected to cause adverse effect to man or the environment. General use products may be purchased and used by the general public. The labels on general use pesticides will not bear any descriptive statement regarding use classification. The EPA refers to general use products as “unclassified.”

## Certification of Applicators

Persons who are not certified pesticide applicators may not purchase or use restricted pesticides unless they are directly supervised by a certified applicator. **Certification** demonstrates competency in the safe and effective handling and use of these pesticides. **Licensing** is the state's permission to apply pesticides in that state. There are two types of applicators: commercial and private. **Commercial applicators** are persons who apply restricted use and general use pesticides for hire on property other than their own. Private applicators are persons who use restricted use pesticides on their own property. Commercial applicators are trained and tested in the general areas of safe use and handling of pesticides and they receive further training in one or more specific categories of application, including:

- Agricultural pest control (plant or animal)
- Forest pest control
- Ornamental and turf pest control
- Seed treatment
- Aquatic pest control
- Right-of-way pest control
- Industrial, institutional, structural, and health related pest control
- Public health pest control
- Regulatory pest control
- Demonstration and research pest control

Rights-of-way include highways and roads, public airports, railroads, electric utilities (including transformer stations and substations), and pipe lines. Plant growth along rights-of-way must be controlled to make sure that rights-of-way are safe, usable, and not harmful to the environment of the surrounding areas. It is illegal to apply pesticides in categories for which you are not certified.

## Certification Standards

Persons who apply pesticides to rights-of-way must be certified in the Right-of-Way Pest Control category. The standards for issuing certification to commercial applicators are specific. Competency must be determined on the basis of a written examination. This examination includes the general standards applicable to all categories (Core) and the additional standards specifically identified for the Right-of-Way Pest Control category. State standards must be at least equal to federal standards. Each state will then issue a license, which is a permit to use

certain pesticides in that state. Commercial applicators are licensed only for the category or categories for which they have proven to be competent to use and apply herbicides.

The general standards for testing competency include:

### **Label and Labeling Comprehension**

- The general format and terminology of pesticide labels and labeling
- The understanding of instructions, warnings, terms, symbols, and other information commonly appearing on pesticide labels
- Classification of the product, general or restricted

### **Safety**

- Pesticide toxicity and hazard to man and common exposure routes
- Common types and causes of pesticide accidents
- Precautions necessary to guard against injury to applicators and other individuals in or near treated areas
- Need for and use of protective clothing and equipment
- Symptoms of pesticide poisoning
- First aid and other procedures to be followed in case of a pesticide accident
- Proper identification, storage, transport, handling, mixing procedures, and disposal methods for pesticides and used pesticide containers

### **Environment**

- Environmental consequences of the use and misuse of pesticides
- Weather and other climatic conditions
- Types of terrain, soil or other substrate
- Presence of fish, wildlife and other nontarget organisms
- Drainage patterns

### **Pests**

- Recognition of relevant pests
- Pest development and biology as it may be relevant to problem identification and control

## **Pesticides**

- Types of pesticides
- Types of formulations
- Compatibility, synergism, persistence, and animal and plant toxicity of the formulations
- Hazards and residues associated with use
- Factors which influence effectiveness or lead to problems such as pesticide resistance
- Mixing procedures

## **Equipment**

- Types of equipment, and advantages and limitations of each type
- Uses, maintenance and calibration

## **Application Techniques**

- Methods and procedures used to apply various formulations of pesticides, solutions, and gases, together with knowledge of application techniques
- Prevention of drift and pesticide loss into the environment

## **Laws and Regulations**

- Applicable state and federal laws and regulations

In addition to the general standards, commercial applicators must meet certain specific standards designated appropriate for their category of certification. Persons seeking certification in the Right-of-Way Pest Control category shall demonstrate practical knowledge of a wide variety of environments since rights-of-way can transverse many different terrains, including waterways. They shall demonstrate practical knowledge of problems of runoff, drift, excessive foliage destruction, and ability to recognize target organisms. They shall also demonstrate practical knowledge of the nature of herbicides and the need for containment of these pesticides within the right-of-way area, and the impact of their application activities on the adjacent areas and communities.

## **Penalties**

If you violate FIFRA, you are subject to civil penalties or fines. They can be as much as \$5,000 for each offense. Violations of the law may also subject you to criminal penalties. They can be as much as \$25,000 or up to one year in prison, or both, for commercial applicators.

## **PESTICIDE REGISTRATIONS**

Every pesticide that is bought, sold, or used in the United States must, by law, have a federal registration granted by EPA. EPA approves not only the product itself, but also each separate use for which it is intended, and the product label. States also require each product sold and used in that state to be registered with the state lead agency. Not all of the herbicides used in railroad vegetation management are registered in all of the states. In addition to federal registration there is a registration (known as SLN or 24 (c) registration) that allows a state, under special circumstances, to register additional uses for a federally registered pesticide. These registrations often involve adding application sites, pests, or alternate control techniques to those listed on the federally registered label. The applicator must have a copy of an SLN label in their possession in order to apply the pesticide for that purpose. These registrations are legal only in the state or local area specified in the SLN registration and could result in fines and penalties if used in other states. The manufacturers representatives will help keep you informed of SLN registrations that pertain to your work. These registrations are rare in rights-of-way use.

## **Record keeping**

Keeping records of herbicide use is required by law. By federal regulations (FIFRA), records for each application of Restricted Use Pesticides (RUP) must be kept on file for a period of two years. Some states require records to be kept on ALL commercial pesticide applications, and may require records to be retained for a longer period of time. They may also require filing herbicide use records with the appropriate state agency. Applicators should check with the individual states.

Records are used to document proper herbicide usage. They can also provide information about the products used or the site conditions if a problem arises regarding the application. Records allow you to compare the results obtained from different herbicides from year to year. The more information that is on record, the more useful the records will be to you. All the information will be right there in front of you. Records are best kept on a standard form to be sure all the necessary data is logged every time.

Important information includes:

- Time of day and date of application
- Target (weeds treated)
- Equipment used
- Herbicides used - common name and brand name
- Formulation and percent active ingredient
- EPA registration number
- Establishment and lot numbers (in case of cross contamination or failure to control)
- Total formulation added to tank or hopper
- Amount of mixture used
- Acres treated
- Location
- Weather - include wind direction, speed, and temperature (updated throughout the day)
- Additional comments
- Applicator (name and signature; some states require state applicator license number)

On every report, there should be a space for the applicator to make comments regarding the application that may include severity of infestation, weeds present, skipped areas, or any unusual occurrences that could have an impact on the results. Figures \_\_\_ and \_\_\_ are examples of reporting forms. The job is never finished until complete and accurate paper work is done.

### **SUMMARY**

Federal and state laws require you to be certified and licensed to make commercial pesticide applications. The training and subsequent licenses and certifications that you receive make you a professional in your industry. Misusing or violating the laws and regulations can result in having those licenses revoked and paying fines.