

Summary of the Vermont Regulations for Control of Pesticides

This is a brief summary of the Vermont Regulations for Control of Pesticides, in accordance with Title 6 Vermont Statutes Annotated, Chapter 87. As a pesticide applicator, you are required to comply with Federal laws and State regulations. While this summary is intended to assist you in reading and understanding the Regulations — it is not a substitute for reading the Regulations. Applicators are responsible for fully reading and understanding the Regulations. Information contained in the Regulations supercede any conflicting information in the CORE and Subcategory study manuals.

I. PESTICIDE CLASSIFICATION - Refer to Section X, pages 31-34 of the Regulations for detailed descriptions of pesticide classifications.

The Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) requires the classification of all registered pesticides as either “**general use**” pesticides, which can be purchased and used by anyone, or “**restricted use**” pesticides, that can only be purchased and used by certified pesticide applicators or individuals working under the direct supervision of a certified applicator.

In Vermont, pesticides are classified into three groups:

A. Class “A” Pesticides - Restricted Use and “By Permit Only”

• **Restricted use pesticides** can be purchased and used only by a certified applicator, or by an individual working under the direct supervision of a certified applicator. A pesticide can be classified as restricted use by either the Environmental Protection Agency (EPA) or the state. A state can classify a product as restricted use even if it has not been classified as restricted use by the EPA. However, the state cannot classify a product for general use that has been classified as restricted use by the EPA.

Products classified as restricted use by the EPA will have the “Restricted Use” statement on the product label. Products classified as restricted use by the State will not bear the Restricted Use statement on the label. You must refer to Appendix “A(2)” of the *Vermont Regulations for Control of Pesticides* to see if the product is a state-restricted pesticide. The acute and chronic effects, environmental and aquatic effects, the potential for fire and explosion, water contamination, necessary training, and application methods are some things taken into consideration by the state when classifying a product as “restricted use”.

• **“By Permit Only” Pesticides** are “restricted use” pesticides that may be purchased and used only by certified applicators who have been issued a special permit from the Commissioner of Agriculture. Examples of products requiring a permit include chlordane, heptachlor and mercury

compounds. Again, there will be no indication on the product label that a permit is needed for its use in Vermont. You must refer to Appendix "A(2)".

B. Class "B" Pesticides - Controlled Sale - are general use products that can be purchased and used by anyone. Class "B" products are outdoor use products with **greater than three percent (3%) active ingredient**. Turf products are also classified as class "B", except those containing Bacillus thuringiensis and potassium fatty acids, which are classified as Class "C" products.

C. Class "C" Pesticides - Homeowner/Specialty - are general use products that can be purchased and used by anyone. Class "C" products are for use in and around the home. The **percentage of active ingredient is usually less than three percent (3%)**. There are a few exceptions, as in the case of pet supplies, where the active ingredient may be up to seven percent, or pool treatments, insect repellents, and antimicrobials which may have an unlimited percentage of active ingredients.

II. REGULATION - In order to regulate the sale, purchase and use of pesticides, the Vermont Department of Agriculture issues certificates, licenses and permits. These documents allow the Department to control and closely monitor pesticide sale, use and disposal.

A. Applicator Certification - Refer to Section VII, pages 24 - 25, and Section IX, page 31 of the Regulations for details on the requirements for certified private and commercial pesticide applicators. Many people use pesticides every day, from the homeowner spraying for lawn weed control on his or her own property, to the commercial applicator hired to control a pest infestation. Regulating pesticide use includes grouping applicators into different categories, depending upon the intended use of a pesticide. An applicator becomes certified when he or she has proven competence in the legal and effective use of pesticides by passing written examinations.

i) Private Applicators - are persons who use, or supervise the use of, pesticides other than "restricted use" pesticides on land that they own or rent. The land is either residential in use, or in the production of an agricultural commodity. In order to apply a "restricted use" pesticide (Class "A") to an agricultural commodity, the private applicator must become certified, or work under the direct supervision of a certified applicator.

ii) Commercial Applicators - are persons that apply ANY pesticide (Class "A", "B", or "C") to the lands or homes of another for remuneration or gratis. All commercial applicators must be certified, or must be working under the direct supervision of a certified commercial applicator.

iii) Non-commercial Applicators - are persons who occasionally use pesticides in the course of their employment. If they use any pesticide products other than a Class "C" product, they must become certified or work under the direct supervision of a certified applicator. For example, a person cleaning a hotel room and using a disinfectant does not

need to become certified. A golf course employee applying herbicides to a golf green would need to become a certified, non-commercial applicator, or work under the direct supervision of a certified, non-commercial applicator.

Direct supervision is defined as “on-site supervision of a pesticide application by a certified applicator who is capable of calibration of equipment, prescribing pesticides, calculating volumes of pesticides to be applied, and dealing with emergency situations which might occur.” In practical terms, this means that certified and non-certified applicators must be working closely enough so that they can communicate verbally, or through hand signals, that assistance is needed. It is the certified applicator’s responsibility to thoroughly train the uncertified applicator about proper application techniques, safety, protective equipment, avoiding pesticide drift, etc. The certified applicator is ultimately responsible for supervising the activities of the uncertified applicator.

B. Dealer and Company Licenses - Refer to Section XI, pages 34-35 of the Regulations for dealer license requirements and Section VI, page 24 for company license requirements.

i) **Dealer Licenses** - are issued to people that sell pesticides. The type of license needed depends on the class(es) of pesticides that will be sold by the dealer. A dealer’s license is issued to individuals who must be a full-time employee of the store or retail sales outlet. There are three categories of dealer licenses that correspond to the pesticide classification system. To obtain a Class “A” or Class “B” dealer’s license, you must take and pass an examination and submit the required fee. A Class “C” license does not require an examination, but still requires a fee.

a) **Class “A” Dealer’s License** - allows a person to sell restricted use pesticides as well as Class “B” and Class “C” pesticides.

b) **Class “B” Dealer’s License** - allows a person to sell Class “B” and Class “C” pesticides.

c) **Class “C” Dealer’s License** - allows a person to sell Class “C” pesticides only.

ii) **Company Licenses** - are issued to any business entity which applies pesticides to the lands or homes of others for remuneration or gratis. **All companies in the business of applying pesticides must be licensed.** All certified commercial applicators must work for licensed companies. Company licenses do not require an examination. You must fill out a form and submit the required fee.

C. Permits - Refer to Section IV, pages 12-22 of the Regulations for permit requirements. The Department of Agriculture issues permits for certain uses of pesticides. If the activity you are about to perform requires a permit, do not apply a pesticide without the proper permit. The following activities require a permit:

i) **Rights-of-Way Clearing and Maintenance** - A permit must be obtained from the Commissioner for each application of herbicide for the purpose of clearing or maintaining rights-of-way.

ii) **Aerial Applications** - A seasonal permit must be obtained for the aerial application of pesticides to agricultural commodities. Applicators must obtain a permit for each contract to aerially apply pesticides to non-agricultural commodities.

iii) **Experimental Use** - Any person who wants to use an unregistered pesticide, or who wants to use a registered pesticide for an unregistered use, must first obtain an experimental use permit.

iv) **Bird or Animal Control** (other than voles, moles, mice and rats) - Area-wide and limited-area application of pesticides for the control of pest birds and animals requires a permit. Bird and animal pests are those that may be declared a pest by the Commissioner. Permits are not required for the use of bird or animal repellants.

v) **Golf Course** - A golf course must have a permit for pesticide application before any person can apply pesticides on any land on that golf course. Each golf course must have a pesticide management plan detailing how pests such as insects, weeds, diseases and rodents are managed on the golf course.

vi) **Water Quality** - Prior to using pesticides in waters of the State, a person must obtain a water quality permit from the Vermont Department of Environmental Conservation.

III. STANDARDS OF OPERATION - Refer to Section IV, page 12 of the Regulations, for details.

All pesticide applicators and licensed companies are required to adhere to certain standards of operation when applying pesticides in Vermont. These standards of operation are designed to ensure proper application of pesticides and to reduce unnecessary risk to human health and the environment. By following these standards of operation, pesticide applicators can protect themselves, others, and the environment.

A) All pesticides must be applied consistent with their labeling. In Vermont, you may apply a pesticide at less than the labeled rate.

B) Pesticide applicators must minimize the drift of pesticides off target.

C) Methods and materials which insure safe and efficient application must be used.

D) When drawing or pumping water, an anti-siphoning device must be used to prevent the back flow of materials into water sources.

E) Pesticides shall only be applied when climatic, pest and other conditions are proper for the control of the pest.

F) No false or fraudulent claims may be made concerning safety or control efficacy of a pesticide product.

G) Weekly spray reports must be filled out accurately and completely.

H) If applying pesticides that provide control within the soil profile, a fifty (50) foot buffer must be left around all private wells, unless written permission is given by the owner.

I) Commercial applicators must supply their customers with a written bill or invoice which contains:

- i) the product's common name or trade name
- ii) the product's EPA registration number
- iii) the amount of product used
- iv) the pests treated for
- v) the name and signature of the applicator

J) Commercial applicators making applications to turfgrass or landscape plants must also inform the customer of:

- i) the pesticide application rate used
- ii) the availability of the product label and Material Data Safety Sheets (MSDS)

Points of access to treated areas must be posted with signs, as prescribed by the regulations.

IV. RECORDS - Refer to Section V, pages 23-24 of the Regulations for details.

As a certified applicator, you must keep accurate and thorough records of your pesticide applications. Records enable you to compare the efficacy of different pesticides and rates. They also allow you to make wise purchasing decisions, by showing how much material you actually used the previous year. Ultimately, good records are your best defense if you are accused of an improper pesticide application that causes drift or personal injury.

A. Private Applicators

i) Private applicators must record the following information for all **restricted use pesticides** used:

- a) Product name
- b) EPA registration number
- c) Amount of product used
- d) Date applied
- e) Location (farm name or town)
- f) Pests treated for

Private applicator records must be kept for two years and submitted to the Department of Agriculture **upon request**.

B. Commercial and Non-commercial Applicators - Commercial and non-commercial applicators are responsible for two types of records - routine operational records and annual use reports. Records must be maintained for all classes of pesticides used.

i) Routine Operation Records must include the following information: (Records must be kept for two years and submitted to the Department of Agriculture **upon request**.)

- a) Product name
- b) EPA registration number
- c) Amount used
- d) Date applied
- e) Location
- f) Pests treated for

ii) Annual Use Reports - To be submitted to the Commissioner annually. Each year, an annual use report form will be mailed to commercial and non-commercial applicators with a certification renewal form. This report is basically a summary of the applications recorded on your routine operational records. Applicator certificates and company licenses will not be renewed without the submission of an annual use report. Annual use reports shall be submitted regardless of whether pesticides were applied during a given year or not. On this report, applicators must include:

- a) Product name
- b) EPA registration number
- c) Amount use
- d) Purpose for use
- e) The county where it was used

C. Licensed Companies - shall be responsible for maintaining the routine operational records and submitting the annual use pesticide reports compiled by their certified commercial applicators. Certified non-commercial applicators who do not work for licensed companies are responsible for the maintenance and submission of these records.

D. Licensed Class "A" Dealers

i) Annual Sales Reports - Each year, an annual sales and storage report of "restricted use" and "by permit only" pesticides shall be submitted to the Commissioner. Annual sales and storage reports shall be submitted regardless of whether or not "restricted use" or "by permit only" pesticides were sold or stored. These reports shall include:

- a) Product name
- b) EPA registration number
- c) Size and number of containers
- d) County of intended use (may use applicator's county of residence)

V. PENALTIES - Refer to Section III, page 11 of the Regulations, for penalty information, and Section XII, pages 35-36 for details on emergency notification and reporting of spills.

A. Accident Reporting - If you have a pesticide accident (such as a spill), you must report it immediately to either the Vermont Department of Agriculture, Plant Industry (802-828-2431), or the Vermont Department of Public Safety (800-641-5005). Failure to do so may result in a fine. **All pesticide accidents must be reported.** If you have any question as to what constitutes an accident, call the Department at (802) 828-2431.

B. Violations - The Department has many ways to deal with violations of the Regulations.

- i) **Cease and desist order** - requires that you immediately stop the violating action.
- ii) **Suspension, revocation, or amendment** - of licenses, certificates or permits.
- iii) **Fines** - The Department may fine private applicators up to \$1,000 per violation, and commercial applicators up to \$5,000 per violation.

VI. SUMMARY

This is only a brief summary of the *Vermont Regulations for Control of Pesticides*. Applicators are responsible for complying with the Regulations in their entirety. You should fully read and understand the Regulations before becoming certified to apply pesticides in Vermont. If you have any questions regarding the interpretation of the regulations, call the Department at (802) 828-2431 for assistance.