

CHAPTER 1

LAWS CONCERNING CONTROL OF WOOD-DESTROYING PESTS

LEARNING OBJECTIVES

After completely studying this chapter, you should:

- Understand why protecting the public and the environment from exposure to pesticides is the applicator's responsibility.
- Know the role of a technician working in the pest control industry.
- Understand the various state and federal laws that govern pesticide use, handling, and storage.
- Be able to explain the legal responsibilities of a pesticide applicator according to the rules of Regulation 637.
- Describe the elements that should be included in the basic training of a pest control technician.

Pest management can be complex. It is a matter of using the right technologies and requires special equipment and safety measures. To be successful, it must be effective and not adversely affect people or the environment. The number and variety of pesticides have increased and pest management professionals need to know more about safety and proper use than ever before. For these reasons, among others, many state and federal laws and regulations have been adopted to help protect the public, the environment, and pesticide handlers from the possible adverse effects caused by pesticide use. In this chapter, you will learn about the state and federal laws that regulate pesticide applicators, particularly commercial pesticide applicators certified in Category 7B, Wood-destroying Pests. Applicators certified in this category are responsible for pest management in and around structures, including homes, schools, hospitals, businesses, warehouses, etc. It is important that Category 7B pest

management professionals understand and keep up-to-date with the laws that affect pesticide application inside or around buildings. Ignorance of the law is never an accepted excuse for a violation.

PROTECTION: THE APPLICATOR'S RESPONSIBILITY

Ultimately, responsibility for protecting the environment from the possible adverse effects of pesticide use rests on the pesticide applicator. Preserving the biological diversity of our planet by protecting the environment contributes to the overall quality of life. Each plant and animal is part of a complex food chain; break one of the links and others are adversely affected. One disappearing plant can take with it up to 30 other species that depend on it, including insects, higher animals and even other plants. Pest management technicians may see their normal work as unlikely to affect the environment, but spills and leaks during mixing, loading, and transporting, or incorrect disposal can lead to pesticides in groundwater or surface water or in the habitat of non-target organisms.

Pest management professionals often service national parks, schools, and other sensitive areas. Category 7B professionals have an even greater responsibility toward the public because they often work in or around buildings, where there is increased risk of exposing people to pesticides. All efforts should be made to achieve pest management goals through minimal use of pesticides in and around buildings. When pesticides are used, they should be applied in a manner that will prevent human contact.

MORE THAN JUST PESTICIDE APPLICATION

To control pests, pest management professionals use many other activities besides pesticide application. These other practices increase the effectiveness of the control

program and often reduce pesticide use or make such use a secondary operation of the program.

An important area addressed throughout the manual is communication. Pest management is a service. Pest management professionals must not only know their job but also be able to communicate effectively with their clients. The pest management professional should be able to explain the basic procedures to the client's satisfaction. The client should feel confident that the pest management professional is able to meet his/her pest control needs safely and effectively. Also, the state of Michigan requires that certain information must be communicated to the customer (see Rule 12, Regulation 637).

STATE AND FEDERAL LAWS

The *Pesticide Applicator Core Training Manual* (E-2195) discusses federal and state laws that govern the handling and use of pesticides. Review the core manual and understand how laws and regulations affect pesticide practices and use. These laws include federal laws such as the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), the Occupational Safety and Health Act (OSHA), and the Endangered Species Act. State laws include the Natural Resources and Environmental Protection Act, Regulation 636, Regulation 637, and the Michigan Occupational Safety and Health Act (MIOSHA). These are just some of the laws that affect commercial pesticide applicators. They are briefly described below. Only Regulation 637 is discussed in further detail because of its particular relevance to Category 7B. Refer to the core manual to learn more about other laws affecting pesticide use and for further details on laws discussed in this chapter. Pest management professionals should keep up-to-date copies of the laws and review their contents periodically. Copies of these laws can be obtained from MDA regional offices.



FEDERAL LAWS

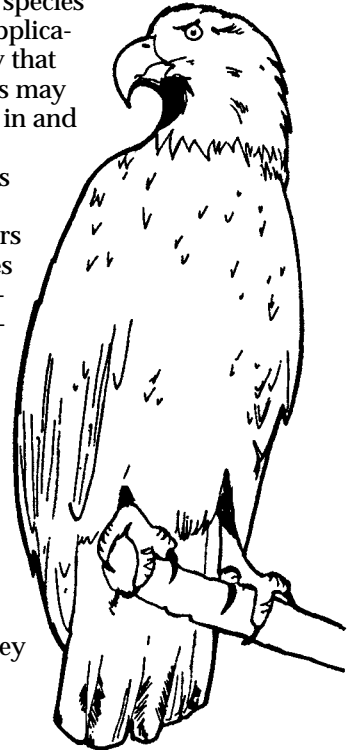
FIFRA

This is the basic federal law administered by the Environmental Protection Agency (EPA) that regulates pesticides—their use, handling, storage, transportation, sale, disposal, etc. FIFRA defines a pesticide as a substance or mixture of substances intended to kill, repel, or mitigate a pest. The Michigan Department of Agriculture (MDA) has a cooperative agreement with the EPA to enforce some provisions of FIFRA in Michigan. Some of the provisions of FIFRA are that the EPA must register all pesticides before they can be sold or used. The pesticides must be classified as either “*general-use*” or “*restricted-use*.”

General-use pesticides are those that anyone can purchase without restriction. Restricted-use pesticides can be used only by or under the direct supervision of a certified applicator. FIFRA also stipulates that persons who misuse pesticides (in a manner that is “inconsistent with the pesticide labeling”) are subject to penalties.

Endangered Species Act

This act requires the U.S. EPA to ensure that endangered or threatened plant and animal species are protected from pesticides. This act requires *each pesticide label* to limit its use in areas where these species could be harmed. Category 7B applicators must consider the possibility that endangered or threatened species may be affected by pesticides applied in and around buildings. The Michigan Department of Natural Resources (MDNR) Land and Water Management Division administers the Michigan Endangered Species Act (Act 451, Part 365) and maintains the federal and state endangered or threatened species lists. Michigan applicators who want to be sure they are complying with the act must take the initiative and consult with the MDNR to be sure that there are no endangered or threatened species in their area. One of the goals of pest management is to protect off-target plants and animals from pesticides, whether they are endangered or not.



OSHA

OSHA is administered by the U.S. Department of Labor (DOL). OSHA governs the record-keeping and reporting requirements of all work-related deaths, injuries, and illnesses of businesses with 10 or more workers.

STATE LAWS

Michigan Occupational Safety and Health Act (MIOSHA)

The MIOSHA Right-to-Know act requires employers to:

- Obtain and retain material safety data sheets (MSDS) on all hazardous chemicals (including pesticides) for employee review.
- Develop and implement a written employee training program.
- Ensure that all containers of hazardous materials are properly labeled.

Natural Resources and Environmental Protection Act, Act No. 451, Part 83, Pesticide Control

This legislation gives the director of the MDA authority to register or certify private and commercial applicators and to prescribe standards for certification and registration. Category 7B applicators are considered **commercial applicators**. Commercial applicators can be divided into two subclasses:

Subclass A—Any person (including homeowners) who uses or supervises the use of restricted-use pesticides (RUPs) for a non-agricultural purpose.

Subclass B—Any person who either (1) applies pesticides other than **ready-to-use** pesticides in the course of his or her employment, or (2) applies a pesticide for a commercial purpose (for hire).

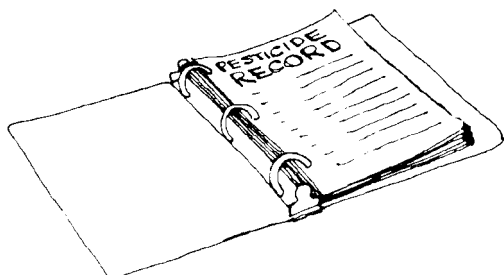
Ready-to-use pesticides are those used from the manufacturer's original container (aerosols, pump sprays, strips, baits) with no need to mix or load into application equipment.

Regulation 636 (Pesticide Applicators)

This establishes the types of certified applicators and expands the pesticide record-keeping requirements. All commercial applicators shall maintain records of pesticide use for a time period not less than the following:

General-use pesticides: One year following application.

Restricted-use pesticides: Three years following application.



All records shall contain the following:

- The name and concentration of the pesticide applied.
- The amount of pesticide applied.
- The target pest or purpose.
- The date the pesticide was applied.
- The address or location of pesticide application.
- Where applicable, the method and rate of application.

The records must be made available to the MDA upon request.

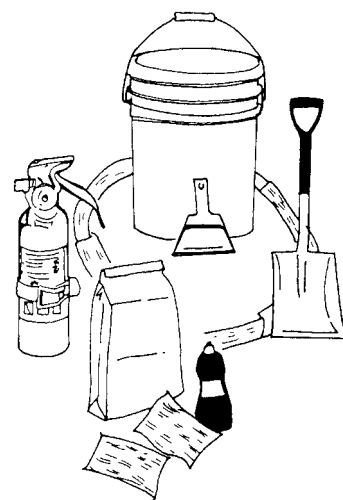
Regulation 637 (Pesticide Use) Requirements

One of the pertinent state laws that Category 7B commercial applicators must be familiar with and understand is Regulation 637, titled Pesticide Use. Regulation

637 establishes several legal standards for pesticide use. It requires that pesticides be used in a manner consistent with their labels, that applications be made in a manner that prevents off-target discharges of pesticides, and that pesticide application equipment be properly calibrated and in sound mechanical condition. The following discussion highlights some of the primary responsibilities of Category 7B pesticide applicators, according to Regulation 637. Obtain a copy of the entire regulation to understand the components of each rule and how your pest management business and practices must comply.

Rules 1-3 of Regulation 637 establish the definitions and terms used throughout the regulation. Rule 4 outlines several activities surrounding the safe and legal use of pesticides. It states that a pesticide application must be made in compliance with the following provisions:

- A pesticide must be used in a manner consistent with its label.
- Applications must be made so that off-target direct discharges are prevented.
- Pesticide application equipment will be in sound mechanical condition and be free of leaks and other defects that might cause a pesticide to be deposited off-target or in a way inconsistent with its label.
- Application equipment must be properly calibrated.
- Pesticide application or loading equipment that is designed to draw water must have an antisiphoning device.
- Applications shall not occur when conditions favor off-target drift of pesticides or prevent the proper deposition of pesticide to the target area.
- Before applying a pesticide, the applicator will identify any sensitive areas that are located adjacent to the target area and will use appropriate precautionary measures to prevent the direct discharge of pesticides to those areas.
- Each vehicle that is used to transport pesticides must have the following information printed on its exterior:
 - Name of the pesticide applicator firm.
 - Business telephone number, address, or U.S. Department of Transportation census number of the applicator firm.
- Any person who mixes, loads, or otherwise uses pesticides must have immediate access to a spill kit. The spill kit requirement does not apply to a person using single containers of use-dilution pesticides in a quantity less than 16 ounces.



Rule 5 of Regulation 637 establishes a registry of persons who must be notified before turfgrass or ornamental pesticide applications occur on adjacent and/or additional distance properties. At this time, Category 7B commercial applicators are not responsible for notifying persons on this list prior to a pesticide application.

Rule 6 of Regulation 637 requires that pesticide mixing and loading operations occur on a pad that complies with the following:

- The pad must be constructed with impervious materials.
- To prevent release of pesticides to the environment, the pad must be bermed, curbed, sloped, or designed to contain spills, leaks, releases, or other discharges generated during the mixing and loading of pesticides.
- Pesticides or pesticide-containing materials that are collected by the pad must be contained either by the pad itself or drained, pumped, or transferred to an additional impermeable, aboveground holding tank or reservoir until utilized or disposed of in compliance with applicable laws.
- The pad or holding tank/reservoir must be able to contain the amount of pesticide that could be discharged from mixing, loading, or application equipment during one minute of the mixing or loading operation.
- The mixing or loading of pesticides cannot occur unless a primary shutoff valve or switch is within immediate reach of the person who is engaged in the mixing or loading operation. (See the complete regulation for more details.)



The above specifications do not apply to pesticide applicators using only hand-held equipment.

Rule 7 of Regulation 637 requires that washing and rinsing of pesticide equipment be performed on a pad designed similarly to the mixing and loading pads. The requirements do not apply to applicators that use just hand-held equipment. (See the complete regulation for details.)

Regulation 637, Rule 8, discusses the most acceptable manner in which to handle excess pesticides and pesticide-containing material. Pesticide-containing materials are any materials that contain a mixture of active (pest-controlling) and inactive (non-pest-controlling) ingredients. These materials should be used in accordance with the label instructions. Both of the following uses of pesticides or pesticide-containing material are considered to be in accordance with label directions:

- Apply the pesticide or pesticide-containing materials to a site that is specified on the label in a manner so that the total rate of application of the active ingredient is not more than the rate allowed on the label.

- Pesticide-containing materials may be used as diluents in subsequent mixtures of pesticides and diluents if the next application of such mixtures is in compliance with the above.

Refer to a complete copy of Regulation 637 for further details.

Regulation 637, Rule 9, Personal Protective Equipment (PPE), requires the applicator to follow label directions regarding PPE. This rule also sets minimum PPE requirements for commercial applicators. Unless otherwise directed by the pesticide product label,

while performing pesticide tasks, applicators must wear:

- Long pants.
- Protective footwear.
- Long-sleeved clothing (short-sleeved clothing may be worn if wash water or waterless soap is immediately available).
- Gloves impervious to the pesticide being used when the applicator's hands are likely to come in contact with the pesticide, unless a program is in place that offers comparable applicator protection.

Regulation 637, Rule 10, discusses pesticide drift considerations when making applications outdoors. When making applications indoors, Category 7B commercial applicators need to keep in mind the air circulation patterns and ventilation systems inside buildings and how these may influence the movement of their pesticide application. The rule also specifies that if pesticide off-target drift is anticipated because of the nature of the application, the applicator must use a drift management plan that includes specifications to secure the informed consent of residents in the affected area before making the application. For further specifications of the drift management plan, consult the regulation.

Regulation 637, Rule 11, Notification and Posting Requirements Part 4, pertains to persons who make insecticide applications to commercial buildings, health care facilities, licensed day-care centers, or schools. This part of the rule requires that upon completing insecticide applications, the applicator must provide a sign to be displayed in a readily observable place at the primary point of entry by the agent or representative of the building. The applicator must tell the building representative to keep the sign posted for not less than 48 hours after the most recent insecticide application. The signs must



comply with certain size minimums and dating procedures, and contain certain illustrations. An illustration of a cloud symbol encompassing a house serves to inform the public that insecticides have been applied on the premises; this sign is available from the Michigan Pest Control Association (MPCA). Note the illustration on this page. See a complete copy of the regulation for additional posting details.

Regulation 637, Rule 12, Applicator Service Agreements, requires commercial pesticide applicators to enter into an oral or written service agreement with the customer or authorized agent. The agreement must specify:



1. The customer's consent to services.
2. The name, address, and telephone number of the company that provides the pesticide application services.
3. The approximate schedule and frequency of anticipated services.

Further, according to Rule 12, not later than at the time of each pesticide application, the commercial pesticide applicator must provide all of the following *written information* to the customer:

1. The name, address, and telephone number of the company providing the pesticide application service.
2. The full name of the applicator who is making the pesticide application.
3. A general description of the target pest or pests to be controlled.
4. A list of pesticides applied, including the common name of the active ingredient.
5. The time and date of the application.
6. Precautionary warnings that are pertinent to the protection of humans, animals, or the environment at the application site and that appear on the label of the pesticide(s) applied.

More information must be provided to the customer according to Regulation 637, Rule 12. Not later than at the time of the initial pesticide application, a commercial applicator must provide *risk and benefit information* to the customer. Risk and benefit information contains but is not limited to:

1. Definition of a pesticide.
2. A general description of how a pesticide works.
3. Why pesticides are used.
4. General toxicity information related to the following:
 - The type of compound used.
 - The environment where the pesticide is applied.
 - General exposure information.

- The amount or rate of pesticide applied.
 - Proper pesticide applications in compliance with the label.
5. Common-sense precautionary measures to the customer regarding pesticides.
 6. General information on the environmental fate of pesticides.
 7. Instructions to the customer to discuss site preparation and precautionary measures with the pesticide applicator.
 8. Instructions to the customer to consult with a physician if an unusual reaction occurs.

Rule 12 also specifies that the duration of a service contract cannot exceed 12 months unless either written notification of continuation of service is provided annually or the service agreement is a signed contract that specifies a definite period of time during which the contract is valid. The written notification of continuation of service must provide information to the customer on how to discontinue service.

Further, Rule 12 of Regulation 637 requires a commercial applicator to provide all of the following documents to the customer, if requested:

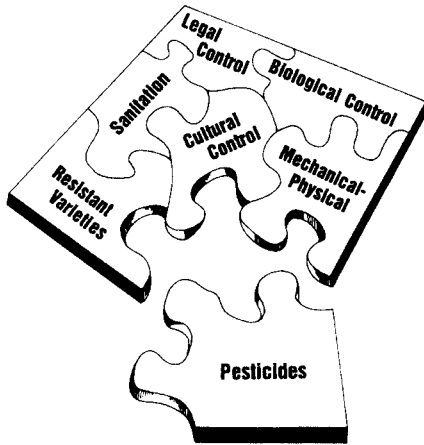
- Pesticide product labels.
- Material safety data sheets (MSDS).
- Environmental Protection Agency fact sheets, if available.
- A document that specifies the rate of application of the active ingredients of the products applied.

Rule 13 prohibits misrepresentation of pesticide safety. Such claims or statements that would imply that the pesticide is recommended or endorsed by a federal or state agency, that the pesticide is "absolutely safe," or comparative statements of pesticide safety such as "contains all natural ingredients," "among the least toxic chemicals known," and "pollution approved" are strictly prohibited.

Rule 14 requires commercial applicator training in integrated pest management (IPM). To make certain types of pesticide applications in schools, health care facilities, and public buildings, Category 7B commercial applicators must participate in a training program that includes the following IPM elements:

- Site evaluation, description, inspection, and monitoring.
- The concept of threshold levels.
- The relationship between pest biology and pest management methods.
- Pest population reduction (including mechanical, biological, and chemical techniques) and pest prevention (including habitat modification).
- The development and implementation of an IPM program with consideration for reducing the possible impact of pesticide use on human health and the environment.
- The evaluation of an IPM program to determine its effectiveness.
- The record-keeping requirements of the IPM program.

Rule 14 also specifies the elements that should be included in IPM programs applied to schools, public buildings, and health care facilities, and lists further details on evaluation and record-keeping requirements.



Rule 15 specifies the provisions regarding pesticide applications made in and around schools, including a provision that insecticide applications can not be made in school rooms unless the room(s) will be unoccupied for at least four hours (a longer time period may be required if specified by the product label). It is the

pesticide applicator's responsibility to notify the school's building manager of the time period for reentry. ***The school district administrator or designee must provide notification to parents before any pesticides are applied except in the case of emergencies, in which case notification is provided after the pesticide is applied.***

Finally, Rule 16 establishes a registry of certified organic farms, and Rule 17 details the penalties for violation of local pesticide ordinances.

SUMMARY

A number of state and federal laws are designed to protect the public and the environment from the improper use of pesticides. It is the pest control technician's responsibility to understand and to comply with these laws. Category 7B pest management professionals often apply pesticides in public areas. Therefore, they must be particularly sensitive about preventing contact between people and pesticides. Category 7B pest management professionals should be trained in IPM and other methods that limit the use of pesticides while still achieving pest management goals. Regulation 637 outlines the details of this training and other details pertaining to the safe and legal use of pesticides. Proper communication, notification, representation, and record keeping are essential whenever pesticides are used.

CHAPTER
1

Review Questions

Chapter 1: Laws Concerning Control of Wood-destroying Pests

Write the answers to the following questions and then check your answers with those in the back of the manual.

1. To control pests of structures, pesticide application is the only means for suppressing pests.
 - A. True
 - B. False

2. When technicians use other practices in addition to pesticide use for controlling pests:
 - A. It may decrease the effectiveness of the control program.
 - B. These practices often reduce pesticide use or make such use a secondary operation of the program.
 - C. It is not a legal procedure.
 - D. They must describe these tactics in writing for the customer.
3. Which Michigan regulation requires that pesticide applications be made in a manner that prevents off-target discharges of pesticides, and that pesticide application equipment be properly calibrated and in sound mechanical condition?
 - A. Regulation 636
 - B. Regulation 637
 - C. FIFRA
 - D. Natural Resources and Environmental Protection Act
 - E. OSHA

4. Which Michigan legislation gives the MDA authority to certify commercial applicators and to prescribe standards for certification?
 - A. Regulation 636
 - B. Regulation 637
 - C. FIFRA
 - D. Natural Resources and Environmental Protection Act
 - E. OSHA

5. Which federal legislation specifies that all pesticides be classified as either general-use or restricted-use?
 - A. Regulation 636
 - B. Regulation 637
 - C. FIFRA
 - D. Natural Resources and Environmental Protection Act
 - E. OSHA

6. Which Michigan legislation establishes the types of certified applicators and expands the pesticide record-keeping requirements?
 - A. Regulation 636
 - B. Regulation 637
 - C. FIFRA
 - D. Natural Resources and Environmental Protection Act
 - E. OSHA

7. Category 7B technicians do not have to concern themselves with the possibility of harming endangered species.
 - A. True
 - B. False

8. In Michigan, a vehicle used to transport pesticides for a pesticide application business must:
 - A. Be yellow or red.
 - B. Have the name of the pesticide(s) being carried posted in an appropriate location in the vehicle.
 - C. Have the name of the pesticide applicator firm, business phone number, address, or U.S. Dept. of Transportation census number printed on the exterior.
 - D. Be registered with the MDA and the MDEQ.

9. In Michigan, commercial pesticide applicators must provide their customer written information in the Applicator Service Agreement, including:
 - A. The time and date of application.
 - B. A general description of the target pest or pests to be controlled.
 - C. A list of pesticides applied.
 - D. All of the above.

10. Describe what type of pesticide information should be a part of the risk and benefit information provided to customers.
 - A. True
 - B. False

11. If requested, a commercial pesticide applicator must provide the customer with pesticide product labels and MSDS sheets.
 - A. True
 - B. False

12. Pesticide drift is not a concern to Category 7B applicators.
 - A. True
 - B. False

13. Notification and posting requirements for schools, public buildings, and health care facilities include:
 - A. Posting a sign for at least 48 hours after insecticide application.
 - B. Posting a sign for at least 24 hours after insecticide application.
 - C. The sign must comply with certain size minimums and dating procedures, and contain certain illustrations.
 - D. A & C
 - E. B & C

14. List the minimum PPE requirements for commercial applicators.

16. List the elements that should be included in IPM training of commercial applicators.

15. Commercial pesticide applicators may represent pesticides as being endorsed by federal or state agencies.

- A. True
- B. False

17. What is the time interval for reentry after insecticides have been applied in a school room?

- A. A minimum of 4 hours
- B. A minimum of 6 hours
- C. It depends on the product label.
- D. A & C
- E. B & C