
CHAPTER 1

PESTICIDE LAWS AND REGULATIONS

LEARNING OBJECTIVES:

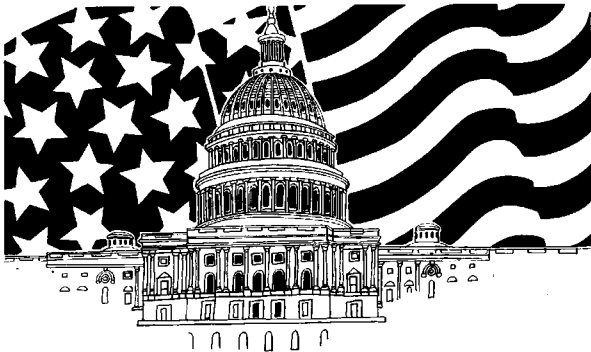
After you complete your study of this chapter, you should be able to:

- Have a general understanding of the types of laws and regulations that may affect commercial pesticide applicators.
- Explain the difference between restricted use pesticides and general use pesticides and who can purchase and use them.
- Know what agencies administer and enforce the laws and regulations that affect commercial pesticide applicators.
- Determine who needs to be either a certified pesticide applicator or registered technician.
- Be aware of the importance of having up-to-date knowledge about how to comply with all laws and regulations.

Pesticide use increased from approximately 300 million pounds of active ingredient in 1964 to approximately 1 billion pounds of active ingredient in 1991. Approximately 275 million pounds of active pesticide ingredients were used for **non-agricultural** purposes in 1991. New highly sensitive measuring devices are detecting pesticides in groundwater and other parts of our environment. To protect the environment and human health, federal and state laws regulate the proper, safe use of pesticides. In this chapter, you will learn about the state and federal laws that regulate pesticide applicators.

FEDERAL LAWS

Several federal laws regulate pesticide use. Both state and federal agencies enforce these laws. The following sections describe requirements of pesticide laws and which agency enforces each.



FIFRA

The basic federal law regulating pesticides is the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), enacted in 1947. This law was amended in 1972, 1978 and 1988.

FIFRA is administered by the U.S. Environmental Protection Agency (EPA). The Michigan Department of Agriculture (MDA) has a cooperative agreement with the EPA to enforce the provisions of FIFRA in Michigan. The major provisions of FIFRA are:

- All pesticides must be registered with the EPA before they can be used or sold.
- States have the authority to certify applicators, register selected pesticides for use in those states, and initiate programs designed to meet local needs.
- The EPA has authority to develop rules establishing national standards for safe use, storage, transportation and disposal of pesticides.
- Pesticides must be classified as either “general use” or “restricted use.”
- Applicators who violate the provisions of FIFRA can be served a civil or criminal penalty:

Civil penalties – A private applicator who violates FIFRA after a written warning or other citation for a prior violation may be fined up to \$1,000 for each offense. A commercial applicator may be fined up to \$5,000 for each such offense.

Criminal penalties – An applicator who knowingly violates FIFRA is guilty of a misdemeanor. A commercial applicator may be fined up to \$25,000 and may be imprisoned for up to one year. A private applicator may be fined up to \$1,000 and imprisoned up to 30 days.

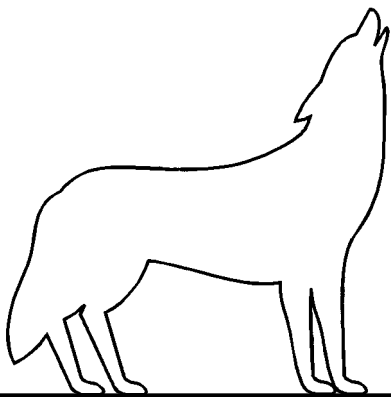
FIFRA defines the term “misuse” as “to use any pesticide in a manner inconsistent with its labeling.” It specifies that the following activities do not constitute misuse:

- Using a pesticide for a pest not noted on the label if the application is made to the plant, animal or site specified on the label.
- Any manner of application unless expressly forbidden by the label.
- Using a pesticide at dosages less (but not more) than the labeled dosage or frequency.

These exemptions apply only if the pesticide is otherwise used according to the label. Do not use these exemptions unless you are certain of their results. The exempted uses may not be covered by the pesticide manufacturer’s warranty.

ENDANGERED SPECIES ACT

The Endangered Species Act became effective in the early 1990s. The MDA will enforce the pesticide-related provisions of the Endangered Species Act. The Act protects endangered species of plants and animals from pesticides by prohibiting application of specific pesticides within endangered species habitat ranges. For each pesticide product that has an effect on an endangered species, the Act requires that the labeling include a list of states and counties where the product may affect the endangered species and then restricts its application. County maps will be available where pesticides are sold or from your local county Extension office to further define habitat areas. For further information on endangered species, call the U.S. Fish and Wildlife Service, Department of the Interior, at (517) 337-6650.



SARA TITLE III

Title III of the federal Superfund Amendments and Reauthorization Act of 1986 (SARA) is also called Emergency Planning and Community Right-to-Know. This legislation provides a means to protect people from chemical emergencies by requiring state and local agencies to gather information about the quantity and location of hazardous chemicals in their community. Dealers, pesticide application businesses, farmers and industrial facilities requiring pesticide applications are some of the groups that must comply with this law. The law is divided into numerous sections.

Section 302 (facility notification) requires anyone who stores a specified quantity of an EPA-designated “extremely hazardous substance” to notify proper authorities and provide the name of the person responsible for the storage facility. Examples of chemicals on this list include chlorine, bromine, formaldehyde and lindane.

Section 304 (emergency notification) requires that applicators or businesses report any release (spills, leaks, etc.) of an “extremely hazardous substance” above specific reportable quantities.

For more information on SARA Title III and the EPA-designated “extremely hazardous substance” list, call the DNR SARA Title III office (517-373-8481). Two MSU Extension bulletins also explain SARA Title III and how to comply with its requirements: Extension bulletin E-2173 is for pesticide users and Bulletin E-2174 is for pesticide dealers.

FEDERAL FOOD, DRUG AND COSMETIC ACT

The EPA sets residue tolerances which are enforced by the federal Food and Drug Administration (FDA) under the Federal Food, Drug, and Cosmetic Act. The pesticide that stays in or on raw farm products or processed foods is called a **residue**. A **tolerance** is the concentration of a pesticide that can legally remain on the produce at harvest. The same pesticide may have a different tolerance on different products. Residues in processed foods are considered to be food additives and are regulated as such.

TRANSPORTATION REGULATIONS

Shipping of pesticides and other dangerous substances across state lines is regulated by the federal Department of Transportation (DOT). The DOT issues rules for hauling these materials. DOT standards tell you which pesticides are dangerous to people and may create a health hazard during transportation.

OCCUPATIONAL SAFETY AND HEALTH ACT (OSHA)

The federal Occupational Safety and Health Administration (OSHA) is in the Department of Labor (DOL). OSHA recordkeeping and reporting requirements apply to employers with 10 or more workers. The records must include all work-related deaths, injuries and illnesses. Minor injuries needing only first aid treatment need not be recorded. A record must be made if the injury involves any of the following:

- Medical treatment
- Loss of consciousness
- Restriction of work or motion
- Transfer to another job.

Regardless of the number of employees you have, if a work-related death occurs or if five or more employees are hospitalized, OSHA must be notified within 48 hours. (Also, see Michigan Occupational Safety and Health Act in this chapter.)

WORKER PROTECTION STANDARDS (WPS)

In October 1992, federal worker protection standards for agricultural employees were enacted. Requirements include but are not limited to:

- Establishment of restricted entry intervals
- Posting and notification of treated areas
- Use of protective clothing, safety devices, hand washing, and other methods of protection and decontamination
- Notification of poison treatment facilities and access to them.

These rules apply to persons involved with the production of agricultural plants. **The WPS rule does not apply to pest management for small animals.**

MICHIGAN LAWS

The Michigan Pesticide Control Act primarily regulates pesticides and their use in Michigan. Pesticide applicators must be familiar with this Act, as well as the other state regulations below.

MICHIGAN PESTICIDE CONTROL ACT

To assure that pesticides are properly registered and applied, the Michigan Legislature passed the Pesticide Control Act of 1976. The Act was amended in 1988. 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. The MDA

also registers, suspends and cancels pesticide registrations; investigates the use and misuse of pesticides; enacts rules; licenses restricted use pesticide dealers and firms performing pesticide applications for hire; and issues oral and written orders.



Certification/registration requirements. The Michigan Pesticide Control Act, P.A. 171 as Amended, requires any person who applies a pesticide product for a commercial purpose, or applies any pesticide in the course of his or her employment or other business activity for any purpose other than a private agricultural purpose, to be either a commercially certified applicator or a registered technician.

Pesticide applicators not required to be licensed by the Act, and who use only general use, ready-to-use pesticide products, are exempt from the certification and registered technician requirements. For example, a person who works at a hospital, school, factory, golf course or an apartment complex who uses only a general use, ready-to-use product for controlling a pest would not be required to be a certified applicator or a registered technician. (See page 10 for definitions of general use and ready-to-use pesticides.)

Two classes of applicators are defined under the law: private and commercial. Within each class, applicators may be certified applicators or registered technicians.

1) **Private applicators.** Persons using or supervising the use of restricted use pesticides to produce an agricultural commodity on their own or their employer's land, or on lands rented by them, are private applicators. "Production of an agricultural commodity" means production for sale into commerce and includes crops, livestock, ornamentals, forest products and other products regarded as agricultural commodities.

2) **Commercial applicators.** A commercial applicator is any person other than private applicators applying pesticides. There are two subclasses of commercial applicators:

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 applies pesticides that are not ready-to-use in the course of his or her employment.

Applicators included in subclass A must be certified as commercial applicators. Those in subclass B have the option of becoming certified commercial applicators or registered technicians. Because pesticides are used in a wide variety of operations, commercial applicators are certified or registered in special commodity or site-specific categories (a list is provided in the introduction of this manual), such as small animal pest management.

To become a commercial applicator in category 7G, pest management for small animals, an individual must complete an application form, pay the \$50 fee and pass a written multiple-choice examination relating to the information found in this manual. Application forms can be obtained from the MDA or from MSU Extension offices. Persons should obtain the training manual(s) from the Extension bulletin system. When you feel you understand the contents of the manual, call the regional MDA office and schedule a time to take the examination on this material. Take your completed application form and certification fee to the exam site.

Commercial applicators who purchase or apply pesticides must keep records. (See State Law: Regulation 636 in this chapter.)

Registered technicians. The 1988 amendments to the Michigan Pesticide Control Act established a new classification of applicators: registered technicians. This classification includes people who are authorized to apply general use pesticides for a commercial purpose or apply general-use pesticides as a scheduled and required work assignment. A registered technician working for a licensed pesticide applicator firm may apply general use pesticides under supervision of a certified applicator and restricted use pesticide (RUPs) while under direct supervision. The intent of this portion of the Act is to establish minimum competency standards for all commercial applicators.

To become a registered technician in category 7G, you must pass an examination that tests your knowledge on the general “core” pesticide information found in this manual, chapters 1-7. Next, you must undergo category-specific training. This training must deliver specific information to properly prepare you for your job tasks. The training must be approved by the MDA and administered by an MDA-approved trainer.

All employees of kennels, dog grooming facilities, veterinary clinics, golf courses, hospitals, schools, municipalities, etc., **who apply pesticides other than general use, ready-to-use pesticides**, must either be certified applicators or registered technicians.

Reciprocity. Each state has its own certification regulations. An agreement between states to allow certified applicators in one state to use pesticides in the other state is called reciprocity. Currently, Michigan has reciprocal agreements with Indiana, Ohio and Wisconsin.

Commercial pesticide application business license. Any business established to apply pesticides for hire, including pesticides applied to animals, must obtain an **annual commercial pesticide applicator license** by sending an application and fee to MDA. Such businesses must employ at least one certified commercial applicator before the license can be issued. The certified applicator supervises the use of any general use or restricted use pesticides by registered technicians. (Note that the business is licensed, not the applicator.) The business must also provide proof of insurance as required by Regulation 636.

An applicator may not obtain a **commercial pesticide applicator license** without first meeting the necessary hands-on experience requirements. Individuals applying for a new business license must have at least two years of pesticide application experience or the equivalent — one year of application experience and a four-year college degree in a related discipline.

Restricted use pesticide dealer’s license. Any person or business wishing to sell or distribute RUPs first must obtain an **RUP dealers license** from the MDA. The licensed dealer must keep records on the sale of any RUP and submit those records each month to the MDA. It is illegal to sell or distribute RUPs to anyone who is not a certified applicator.

Penalties. Significant criminal **penalties exist for violators** of the Pesticide Control Act:

- Private applicators can be fined up to \$1,000.
- Commercial applicators who knowingly violate this act can be fined up to \$5,000. If the violation is with malicious intent, the applicator can be fined up to \$25,000.

The MDA is responsible for investigating pesticide misuse and failures of pesticides to perform when used in accordance with label instructions. **If you have a complaint involving a pesticide**, notify the nearest MDA office. Delays in making a complaint greatly reduce the chances of a satisfactory investigation. The MDA needs to receive the

complaint within 60 days of the action. Make the complaint as soon as possible if you have reason to suspect pesticide misuse or failure.

State Law: House Bill 4344

House Bill 4344, Public Act 131, amends the Pesticide Control Act 171. Among other things, this bill defines general use pesticide and ready-to-use pesticides as follows:

General use pesticide means a pesticide that is not classified as a restricted use pesticide.

Ready-to-use pesticide means a pesticide that is applied directly from its original container consistent with label directions, such as an aerosol insecticide or rodent bait box, which does not require mixing or loading prior to application.

Persons who use pesticides for a non-licensed, commercial purpose and who apply general use pesticide directly from the manufacturer's container (i.e. "ready-to-use") are exempt from certification or registration requirements. Aerosols, pump sprays, strips, ready-to-use baits, etc. are included in the "ready-to-use" group.

This bill amends Section 21A of Michigan Pesticide Control Act, making it illegal for a local unit of government to enact, maintain, or enforce an ordinance, regulation or resolution that is different from the Pesticide Control Act unless an unreasonable adverse effect is present or the local unit will be in violation of another Act. In both cases, the Agriculture Commission must approve the local ordinance.

State Law: Regulation 636 – Pesticide Applicators

Regulation 636 was issued and implemented in 1991 as part of the Michigan Pesticide Control Act amendments of 1988. This regulation directly affects persons and businesses that apply pesticides for hire, such as performing flea shampoos, or dips on animals for pay. The following are some of the primary components of Regulation 636 of the Michigan Pesticide Control Act and are not intended to represent the regulation in its entirety. Check the actual regulation for details.

Regulation 636 expanded 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 the application.

All records shall contain the following:

- A) The name and concentration of the pesticide applied
- B) The amount of pesticide applied
- C) The target pest or purpose
- D) The date the pesticide was applied
- E) The address or location of pesticide application
- F) Where applicable, the method of application.

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

Regulation 636 also enacted the **registered technician** classification for pesticide applicators as a minimum competency standard. Part of Regulation 636 and the registered technician program involves **approved trainers**.

Approved trainers are certified applicators who have two years' experience in the category they intend to train in and who have participated in a designated seminar to earn credentials making them eligible for training registered technicians.

Regulation 636 also provides an exemption from some provisions of the Act for **incidental uses**. An individual or firm may make a written request to the MDA for an exemption to the registered technician or certified applicator requirement if they meet the following conditions:

- A general use pesticide is used
- The person is not regularly engaged in the application of pesticides for hire
- The pesticide application is an integral part of another operation.

State Law: Regulation 637

Regulation 637 of the Michigan Pesticide Control Act primarily affects commercial pesticide applicators and their pest management operations in several ways.

RULE -

- 1-3) Establishes definitions and terms
- 4) Requires specific conduct of pesticide applicators to protect people and the environment
- 5) Establishes a registry of persons who must be notified before pesticides are applied on adjacent properties
- 6-7) Requires the use of containment structures for certain mixing/loading and washing/rinsing operations
- 8) Defines acceptable means for disposing of pesticides and pesticide-containing materials

- 9) Requires the use of protective equipment
- 10) Addresses avoidance of off-target drift and use of drift management plans
- 11) Calls for the posting of certain areas treated with pesticides and notification of the public prior to right-of-way and community pesticide applications
- 12) Requires the use of service agreements
- 13) Prohibits false claims regarding pesticide safety
- 14) Requires applicator training in integrated pest management and use of IPM programs in certain areas
- 15) Describes manners of pesticide use in and around schools
- 16) Establishes a registry of certified organic farms.

Obtain a copy of Regulation 637 to understand the components of each rule and how your pest management practices must comply. Regulation 637 became effective in 1992.

FEDERAL LAW: ANIMAL WELFARE ACT OF 1976 (9 CFR PARTS 1, 2 AND 3)

The federal Animal Welfare Act of 1976 is administered and enforced under the authority of the United States Department of Agriculture, APHIS, Veterinary Services, Regulatory Enforcement and Animal Care (REAC). This regulation outlines specifications for the humane handling, care, treatment and transportation of dogs, cats and other small animals being used for certain types of activities such as research and exhibition (zoos, circuses, etc.). Large-scale breeders involved with sales to pet shops are also covered under this law. Persons working in the small animal industry should obtain a copy of this regulation and become familiar with and comply with its contents. This Act establishes practices that aim to accomplish complementary goals to the Michigan Pesticide Control Act: proper management of the environment and control of pests of small animals in a way that protects humans, animals and the environment.

Requirements of the Animal Welfare Act support the activities of an integrated pest management program by requiring sanitary and husbandry practices for animal well-being. For instance, specifications for maintaining acceptable housing to prevent pest or disease problems are outlined. Cleaning, sanitization and pest control information are in Part 3 – Standards, Subpart

A of the Animal Welfare Act. As stated in this Act, Part 3, Subpart A Sec 3.11:

(a) **Cleaning of primary enclosures.** Excreta and food waste must be removed from primary enclosures daily, and from under primary enclosures as often as necessary to prevent an excessive accumulation of feces and food waste, to prevent soiling of the dogs or cats contained in the primary enclosures, and to reduce disease hazards, insect pests and odors.

(b) **Sanitation of primary enclosures and food and water receptacles.** ((4)) Pens, runs, and outdoor housing areas using material... such as gravel, sand, grass, earth, or absorbent bedding, must be sanitized by removing the contaminated material as necessary to prevent odors, diseases, pests, insects, and vermin infestation.

(c) **Pest control.** An effective program for the control of mammals that are pests, insects and external parasites affecting dogs, cats and birds must be established and maintained so as to promote the health and well-being of the animals and reduce contamination by pests in animal areas.

STATE LAW: ACT 224 OF 1969, USE OF DOGS AND CATS FOR RESEARCH

Act 224 of 1969 is administered and enforced by the Michigan Department of Agriculture Animal Industry Division. This Act regulates activities associated with dealers and facilities using animals in research. For more information, obtain a copy of the regulation or contact the MDA Animal Industry Division at (517) 373-1077.

STATE LAW: ACT 287 OF 1969, PET SHOPS, DOG POUNDS, AND ANIMAL SHELTERS

Act 287 of 1969 is administered and enforced by the MDA Animal Industry Division. This Act regulates activities associated with pet shops and animal shelters, including the licensing and registration of those facilities. Certain activities associated with the sale of dogs and cats are also outlined.

The humane treatment of animals is a priority of the MDA Animal Industry Division. The MDA Animal Industry Division realizes this priority by authorizing and administering Act 224 (see above) and Act 287 of 1969, Pet Shops, Dog Pounds, and Animal Shelters. Both Act 224 and Act 287 stress the importance of sanitation and appropriate housing and care in the prevention of pests.

The above mentioned establishments are inspected to assure that animal facilities are clean and not overcrowded, and that wholesome food is properly provided to the animals. If problems are found, inspectors work with the company personnel to bring conditions up to high standards for the welfare of the animals. For more information, obtain a copy of the regulation or contact the MDA Animal Industry Division at (517) 373-1077.

HAZARDOUS WASTE REGULATIONS

The Michigan Department of Natural Resources (MDNR) Waste Management Division administers both the federal Resource Conservation Recovery Act (RCRA) and state hazardous waste regulations (Act 64). Pesticide applicators must be aware of these regulations because many of the waste materials generated by an applicator may be hazardous. When waste is classified as hazardous, strict disposal and handling requirements must be followed. Questions about hazardous waste requirements should be directed to the MDNR Waste Management Division at (517) 373-2730.

Containers that have held certain products or wastes can be hazardous if they are not empty and triple-rinsed or power-rinsed. To ensure that a container is non-hazardous, triple-rinse or power-rinse (with a high-pressure nozzle) the

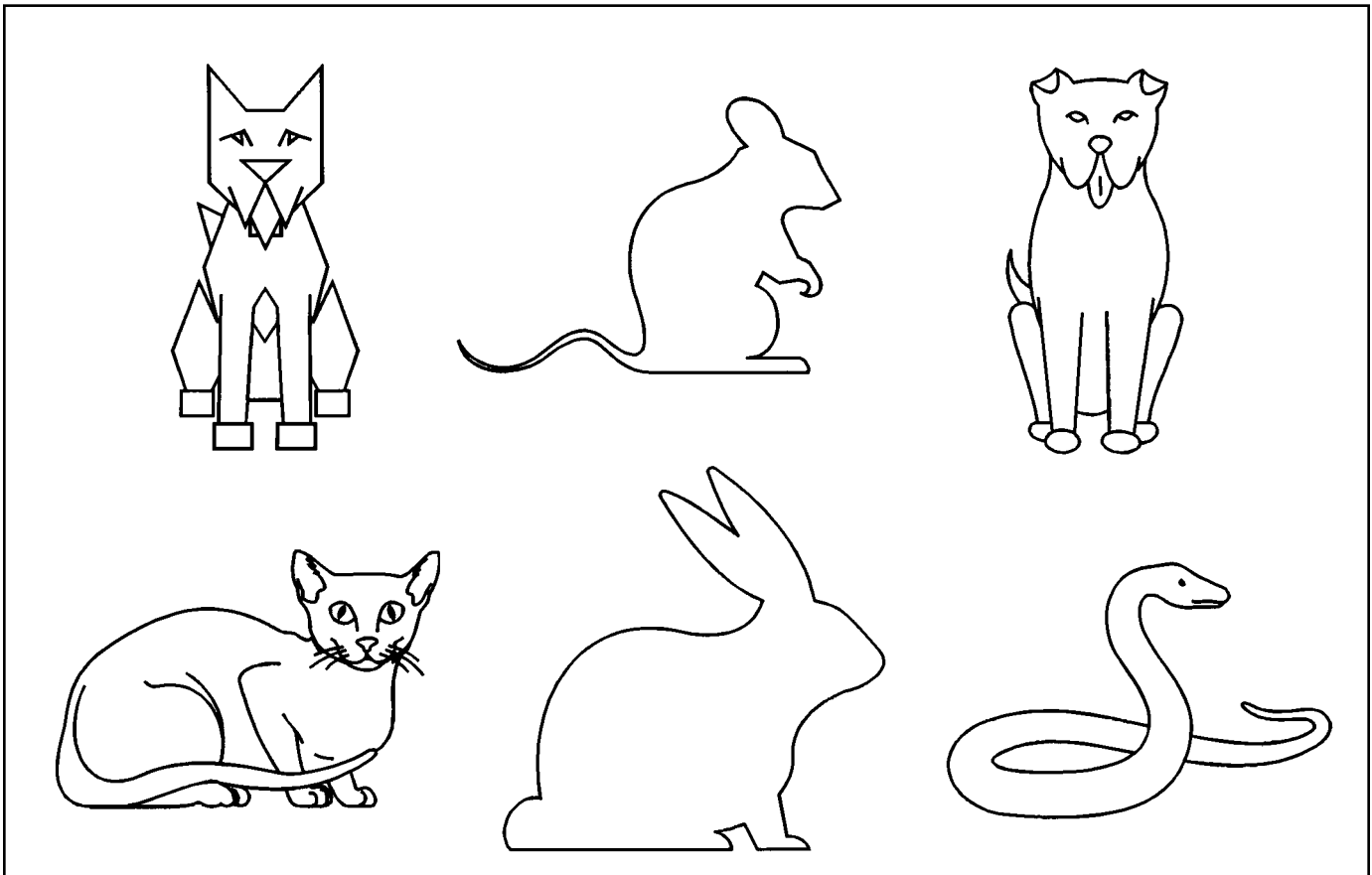
empty container before disposal. Such containers may be placed in a licensed Type II sanitary landfill. Remember that no free liquid chemicals can be placed in any landfill in the state.

MICHIGAN OCCUPATIONAL SAFETY AND HEALTH ACT

The Michigan Department of Public Health (MDPH) and the Michigan Department of Labor (MDOL) jointly enforce the **Michigan Occupational Safety and Health Act (MIOSHA)**, Act 154, which was amended in 1986 to include what is commonly known as the Michigan Right-to-Know Act. This act incorporated the Federal Hazard Communication Standard into the MIOSHA Right-to-Know Act.

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. These can be obtained from pesticide distributors at the time of purchase or later upon request.
- Develop and implement a written employee training program.



- Ensure that all containers of hazardous materials are properly labeled.

If you have concerns or complaints related to MIOSHA Right-to-Know Act, notify either the

MDPH Division of Occupational Health at (517) 335-8250 or the MDL Division of Safety Standards at (517) 322-1809. Pesticides are not exempt from the provisions of the MIOSHA Right-to-Know Act.

Chapter 1 – Review Questions

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

1. The basic federal law regulating pesticides is referred to as _____.
2. Restricted use pesticides can be sold only to _____.
3. Restricted use pesticides can be used by any person at any time, as long as they are purchased by a certified applicator. True or False?
4. For each pesticide product that may have an effect on an endangered species, the Endangered Species Act requires that the pesticide labeling include a list of states and counties where the product affects the endangered species and pesticide application is restricted. True or False?
5. SARA Title III requires that _____ who store(s) a specified quantity of an EPA designated “extremely hazardous substance” must notify proper authorities.
 - a. commercial applicators
 - b. veterinarians
 - c. farmers
 - d. anyone
6. The pesticide that stays in or on raw farm products or processed foods is called a - _____. A _____ is the concentration of a pesticide that can legally remain on produce at harvest.
 - a. residue, tolerance
 - b. tolerance, residue
 - c. reciprocity, toxicity
 - d. toxicity, reciprocity
7. Shipment of pesticides and other dangerous substances across state lines is regulated by the _____.
8. Who administers the pesticide applicator certification program in Michigan?
9. Any person (including homeowners) who uses or supervises the use of RUPs for a non-agricultural purpose must be a:
 - a. private applicator
 - b. commercial applicator
10. Employees who apply pesticides for hire (license required) as part of their work assignment must be either certified or registered. True or False?
11. Commercial applicators are not required to keep records of RUP applications. True or False?
12. What is reciprocity?
13. Any business established to apply pesticides for hire must obtain a commercial pesticide applicator license and employ:
 - a. three or more people.
 - b. at least one certified commercial applicator.
 - c. at least one registered technician.
 - d. none of the above. There are no hiring requirements.
14. Commercial and private applicators may be fined for unlawful conduct under the Michigan Pesticide Control Act. True or False?
15. Who investigates complaints about pesticide misuse and pesticide failures in Michigan?
 - a. Cooperative Extension Service
 - b. Farm Bureau
 - c. Michigan Department of Agriculture
 - d. Department of Natural Resources

16. The _____ administers both the federal (RCRA) and state (Act 64) hazardous waste regulations in Michigan.
17. Pesticide containers may be placed in a licensed Type II sanitary landfill only if they have been triple-rinsed or power rinsed. True or False?
18. SARA Title III requires that you notify authorities if you are responsible for storing a specified quantity of an EPA-designated "extremely hazardous substance." True or False?
19. What three Acts does the MDA Animal Industry Division administer and enforce?