

Laws and Regulations for Turf and Ornamentals

Federal Laws and Regulations

Pesticides provide important benefits when used correctly. However, they can cause serious harm if used improperly. The **Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)** is the most important law regulating the registration, distribution, sale, and use of pesticides in the US. It gives the Environmental Protection Agency (EPA) the authority to oversee the sale and use of pesticides. Commercial applicators can be fined as much as \$5,000 for FIFRA violations. Criminal penalties can be as much as \$25,000 and/or 1 year in prison. In addition, Kentucky can enact legal requirements that may be more restrictive than federal law.

FIFRA also gives EPA the authority to:

- Impose civil and/or criminal penalties on anyone who misuses a pesticide or commits any other listed unlawful acts. Fines can be up to \$1,000 for each offense. However, you have the right to ask for a hearing in your own city or county.
- Stop the sale or use of any pesticide.
- Issue removal orders and seize products to keep them out of the market if it determines the products pose an unreasonable risk.
- Reevaluate older pesticides to ensure that they meet more recent safety standards.
- Protect agricultural workers and pesticide handlers from occupational pesticide exposure.

Exceptions to FIFRA

Unless the label specifically prohibits it, you can apply a pesticide

- To control a pest that is not on the label as long as the specific crop or site is listed
- By any method that is not prohibited. For example, some pesticides cannot be applied by air.
- At a lower dosage, concentration, or less frequently than specified on the label
- In a pesticide-fertilizer mixture.

All pesticides are classified according to their potential hazards under the circumstances in which they are to be used. The two main classifications are **Restricted Use (RUP)** and **unclassified or general use**. The EPA has officially classified very few pesticides as general use. Most that might be expected to fit into the general-use category currently are unclassified. Normally, general-use pesticides have a lower toxicity than RUPs so they are less likely to harm humans or the environment. The general public can buy general-use pesticides without special permits or restrictions.

Kentucky Laws and Regulations

The Division of Environmental Services of the Kentucky Department of Agriculture (KDA) regulates federal and state pesticide laws and regulations, including the Kentucky Fertilizer and Pesticides Storage, Pesticide Use and Application Act of 1996 (KRS 217b). It is responsible for regulating the registration, sale, distribution, proper use, storage, disposal, and application of pesticides in the Commonwealth. The Division strives to

educate the pest control industry and consumers about the proper use of pesticides through education and training programs.

KDA personnel give exams to certify and license qualified citizens who wish to apply or to sell pesticides. Field inspectors from the Agricultural Branch inspect facilities of the businesses which sell and/or apply pesticide and review their records. They can impose fines on businesses and/or individuals who neglect to follow federal and state laws concerning the proper storage, containment, sale, distribution, application, record keeping, or disposal of federally registered pesticides. They also investigate potential pesticide application complaints and violations.

You are responsible for learning about and complying with pesticide laws and regulations before making any applications. In addition, you are responsible for any consequences of actions that result from an application. *Ignorance of the law is never an excuse for noncompliance or violations.*

Important Definitions

- **Application** - the spreading of lawn chemicals in liquid or dry form on a lawn.
- **Applicator for hire** - any person who makes an application of lawn chemicals to a lawn for compensation, including applications made by an employee to lawns owned, occupied or managed by his/her employer.
- **Certification** - recognition by the KDA that a person has demonstrated a minimum level of competence by examination and continuing education units and is authorized to use or supervise the use of pesticides in his or her area of certification.
- **Commercial Pesticide Applicator** - any individual employed by an operator to apply pesticides. Applicators must be certified in the appropriate category and must have a valid license issued by the KDA. The annual applicator license expires on December 31, the license fee is \$10.
- **Commercial Pesticide Operator** - owns or manages a business that applies pesticides on the lands of another for hire. Operators must be certified in the appropriate category and must have a valid license issued by the KDA. A licensed commercial pesticide operator also must be registered as a pesticide dealer or must be employed by a registered dealer. The annual operator license expires on December 31, the license fee is \$25.
- **Customer** - a person who makes a contract, either written or verbal, with an applicator for hire to apply a pesticide to a lawn.
- **Dealer** - stores bulk fertilizer or a restricted use pesticide for redistribution or direct resale, OR is in the business of applying any pesticide to the lands of another.
- **Direct on-the-job supervision** - when a licensed operator or applicator is physically on site and is directly supervising or training an individual to apply a pesticide.
- **Lawn** - a land area covered with turf kept closely mown, except land areas used for agricultural production, commercial production of turf, or land situated within three (3) feet of the foundation of a structure when a pesticide is applied to this area as a preventive or control measure for structural pests.
- **Lawn chemicals** - fertilizers, pesticides, or defoliant applied or intended for application to lawns.
- **License renewal** - There is a 25% fine for license holders who do not file a renewal before March 1. The licensee must take a new certification examination if the license is not renewed before

- **Noncommercial applicator** - an employee of a golf course, municipal corporation, public utility, or other governmental agency certified and licensed to apply pesticides to lands owned, occupied, or managed by his or her employer. The annual non-commercial applicator license expires on December 31, there is no license fee.
- **Pests** - any animals (insects, snails, slugs, rodents, etc.); plant pathogens (nematodes, fungi, viruses, bacteria, or other microorganisms) or plants normally considered to be a pest, or which are declared to be a pest by the KDA.
- **Pesticide** - any substance or mixture of substances intended to:
 - prevent, destroy, control, repel, attract, or mitigate any pest;
 - be used a plant regulator, or a spray adjuvant, after being mixed with an EPA registered product;
 - be used as a plant regulator, defoliant, or desiccant.
- **Restricted Use Pesticide** -any pesticide classified as such by the EPA administrator, or by administrative regulation of the KDA. Only certified applicators can purchase and use them. Generally, the EPA classifies a pesticide as restricted use if:
 - it exceeds one or more human health toxicity criteria,
 - it meets certain criteria for hazards to non-target organisms or ecosystems,
 - the EPA determines that a product (or class of products) may cause unreasonable harm to human health and/or the environment without such restriction.
 - The restricted-use classification designation must appear prominently on the top of the front panel of the pesticide label.
- **Structural pest** - a pest which commonly invades or attacks dwellings or structures.
- **Trainee** - an individual employed by a dealer and working under the direct on-the-job supervision of a licensed operator or applicator.
- **Turf** - the upper layer of soils bound by grass and plant roots into a thick mat.

Important Definitions for Golf Courses (Category 18)

- **Application** - the spreading of plant-regulating materials in liquid or dry form on a golf course.
- **Golf course** - land on which turf and ornamental care, including application of pesticides or fertilizer and storage of pesticides or fertilizer, is done for the purpose of preparing the land for use in the game of golf.
- **Plant-regulating materials** - fertilizers, pesticides, or defoliants applied or intended for application to a golf course.

Posting and Notification Requirements

KRS 217b requires that applicator keep records of applications of general and restricted use pesticides. **Keep the records for 3 years.** USDA and/or KDA representatives have legal access to the records.

Recordkeeping, Posting, and Notification Requirements (Category 3)

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The following notification requirements shall be met:

When entering a contract

An applicator for hire shall provide the customer with written information concerning lawn chemicals, application procedures, and other general guidelines about the safe use of lawn chemicals.

At the time of application

An applicator for hire shall provide the following information to the customer, either homeowner or landlord, for each lawn chemical used, and shall record and maintain at the business address the following information relating to the application of each lawn chemical:

- Brand name or common name of the pesticide applied
- Pesticide type
- Fertilize rate and analysis
- Reason for use
- Concentration of end use product applied to the lawn, the rate of application, and the total gallons of end use product applied to the lawn.
- Any special instruction appearing on the label of the lawn chemical product applicable to the customer's use of the lawn following application and any other precautionary or hazard information appearing on the label as applicable to the end use concentration
- Name and the state applicator license or certificate number of the individual actually making the application
- Customer name, address, and date of application
- Total area of lawn treated

Pesticide applications records:

- are invaluable documentation in the event of a complaint or lawsuit.
- can help determine which pesticide treatments work, which do not work, and why
- help you to plan purchases so that you buy only the amount needed
- provide information needed by medical staff
- document the steps taken to protect farmworkers and the environment
- are used for federal and state surveys

Any customer of an applicator for hire, or a neighbor whose residence is adjoining a customer may request prior notification twenty-four (24) to forty-eight (48) hours in advance of an application by contacting the applicator for hire and providing his name, address, and telephone number. In this event, the applicator for hire shall provide notification in writing, in person, or by telephone, of the date and approximate time of application. If an applicator for hire is unable to provide prior notification to a customer or neighbor because of the absence or inaccessibility of the individual, the applicator shall leave a written notice at the residence.

Immediately following application of lawn chemicals

The applicator shall place a lawn marker at a prominent location in the lawn. The lawn marker shall consist of, at a minimum, a four (4) inch by five (5) inch white sign attached to the upper portion of a dowel or other supporting device of not less than twelve (12) inches in length. Lettering on the lawn marker shall be in a contrasting color and shall read on one side "LAWN CARE APPLICATION - PLEASE STAY OFF GRASS UNTIL DRY" in letters easily readable and not less than three-eighths (3/8) inches in height. The lawn marker may also display a symbol depicting the required message and the name, logo, and service mark of the applicator.

The lawn marker shall be removed and discarded by the property owner or resident, or other person authorized by the property owner or resident, the day following application.

For applications to residential properties of three (3) families or less, the applicator shall place one (1) lawn marker per property.

For applications to properties other than residential property of three (3) families or less, the applicator shall place lawn markers at primary points of entry to the property to provide notice that lawn chemicals have been applied to the lawn.

Immediately after Pesticide Applications to Landscape Ornamentals

Immediately following an application of pesticides to ornamentals, place a marker at a prominent location in the ornamentals that reads "PESTICIDES HAVE BEEN APPLIED - PLEASE STAY OUT OF TREATED AREA" in letters easily readable and not less than three-eighths (3/8) inches in height. The marker may also display a symbol depicting the required message and the name, logo, and service mark of the applicator.

Provide prior notification to the customer or adjoining residents in writing, in person, or by telephone if requested, of the date and approximate time of the application. If you are not able to provide prior notification to a customer or adjoining residence due to the absence or inaccessibility of the individual, leave a written notice at the residence.

Notification and Information Requirements for Golf Courses (Category 18)

Immediately following the application of plant-regulating materials on a golf course, the applicator shall place a golf course marker on the number-one (1) and number-ten (10) tees.

The **golf course marker** consists of, at a minimum, a four (4) inch by five (5) inch white sign attached to the upper portion of a dowel or other supporting device of not less than twelve (12) inches in length. Lettering on the golf course marker shall be in a contrasting color and shall read on one side "PLANT-REGULATING MATERIALS HAVE BEEN APPLIED. IF DESIRED, YOU MAY CONTACT THE GOLF COURSE SUPERINTENDENT FOR FURTHER INFORMATION" in letters easily readable and not less than three-eighths (3/8) inches in height. The golf course marker may also display a symbol depicting the required message and the name, logo, and service mark of the applicator. The golf course marker may be removed by the applicator or other personnel authorized by the golf course management the day following application.

Any person whose residence directly adjoins a golf course may request prior notification of a plant-regulating material application by contacting the golf course superintendent's office and providing his or her name, address, and telephone number. If requested, the golf course shall provide notification in writing, in person, or by telephone. In the event the golf course cannot provide advance notice, the person shall be contacted at the time of application. If the golf course is unable to provide prior notification or direct notification to a resident because of the absence or unavailability of the resident, the golf course shall leave a written notice at the residence. Material safety data sheets for each plant-regulating material shall be in an area of the superintendent's office where they can be easily read and accessible by patrons of the golf course.

At the time of application of plant-regulating materials to a golf course, an applicator shall record and maintain the following information for each plant-regulating material used:

- Brand name or common name of the pesticide applied;
- Pesticide type;
- Fertilize rate and analysis;
- Reason for use;
- Concentration of end use product applied to the golf course, the rate of application, and the total gallons of end use product applied to the golf course.
- The location of area treated.
- Any special instruction appearing on the label of the plant-regulating material applicable to the golf course use following application and any other precautionary or hazard information appearing on the label as applicable to the end use concentration.
- The name and the state applicator license or certification number of the individual actually making the application.

This record shall be maintained in the golf course superintendent's office and shall be readily available to review on request. This record shall be retained for three (3) years and be an inspectable item for the department.

Certification and Licensing

Commercial and non-commercial pesticide applicators must be both certified and licensed. Both are accomplished by passing a written test (minimum score 70%) administered by the KDA.. The test is based on information in this manual.

Evidence of Financial Liability

Pesticide dealers who apply pesticides to the lands of others must show evidence of financial responsibility. This can be a surety bond or a liability insurance policy of at least one million dollars (\$1,000,000) that would protect persons who may suffer legal damages as a result of the applicant.

How To Remain Certified

1. Return the annual license renewal form before March 1. There is a 25% fine for license holders who do not file a renewal before March 1. *You must take a new certification examination if your license is not renewed before June 1.*
2. Pay any required fees.
3. Earn Continuing Education Units (CEUs) in educational meetings approved by the KDA. Twelve (12) CEU credits (9 general units and 3 category specific units) must be earned before December 31 of the final year of your certification period. The Kentucky Cooperative Extension Service provides training materials and educational programs for certification and continuing education of commercial and non-commercial applicators through the Pesticide Safety Education Program.

Penalties

Anyone who uses a pesticide in a manner inconsistent with its labeling directions and restrictions may be subject to civil and/or criminal penalties. Generally, any applicator in violation of FIFRA may be assessed a civil penalty. However, the EPA may issue a warning instead of assessing a penalty. An intentional violation by a private applicator is a misdemeanor and will result in a fine and/or up to 30 days imprisonment. You must use all pesticides exactly according to labeling directions—the label is the law!