

Pesticide Laws and Regulations

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 pesticide potential 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.*

Recordkeeping Requirements

KRS 217b requires that applicator keep records of applications of general and restricted use pesticides.

Record the information **within 14 days** from the date of treatment and keep the records for **3 years** and give the customer a copy **within 30 days**. USDA and/or KDA representatives have legal access to the records.

Required records must include the following information:

- Name and address of person receiving services
- Brand or product name of pesticides applied
- Date of application
- Purpose of application
- Size of area treated
- Crop, commodity, or type of area treated
- Name and certification number of applicator
- EPA registration number of the product
- Location of the application
- Total amount of each pesticide applied

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

Important Definitions

- **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.
- **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 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.
- **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.
- **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.

- **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.
- **Trainee** - an individual employed by a dealer and working under the direct on-the-job supervision of a licensed operator or applicator.
- **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.
- **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 June 1.*

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.

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.

Registration and Inspection of Equipment

The Kentucky Department of Agriculture (KDA) requires an annual fee of ten dollars (\$10) for each piece of ground equipment to be registered, in the business of applying pesticides to the lands of another within the state. All registered equipment must be identified by a license plate or decal furnished by the KDA which must be put on the equipment as indicated by the department.

The KDA may inspect any equipment used for application of pesticides and may require repairs or other changes before it can be used. The registration of any equipment that fails to pass inspection may be revoked or suspended.

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!

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.