

Laws and Regulations Supplement

It is important that every applicator has an understanding of laws and regulations. The Laws and Regs Manual is B-5056 with 125 pages and is available for \$5.00 plus shipping and handling. However, much of this text can be accessed from the Texas Department of Agriculture (TDA) web site at < <http://www.agr.state.tx.us/pesticide/> > under Pesticide Laws & Regulations: topics Pesticide Regulations and Pesticide Law and also 40 CFR Part 170 - Worker Protection Standard at < <http://www.epa.gov/pesticides/safety/workers/PART170.htm> >.

Some excerpts are given here to clarify some questions Private Applicators often ask.

Each of the above start with DEFINITIONS this is always a good place to start.

from Section 76 - - - **Pesticide and Herbicide Law**

§ 76.001. Definitions (examples)

Active ingredient means:

- (A) in the case of a pesticide other than a plant regulator, defoliant, or desiccant, an ingredient that prevents, destroys, repels, or mitigates a pest;
- (B) in the case of a plant regulator, an ingredient that through physiological action accelerates or retards the rate of growth or rate of maturation or otherwise alters the behavior of an ornamental or crop plant or the product of an ornamental or crop plant;
- (C) in the case of a defoliant, an ingredient that causes leaves or foliage to drop from a plant; or
- (D) in the case of a desiccant, an ingredient that artificially accelerates the drying of plant tissue.

Department means the Department of Agriculture (for Texas that is the Texas Department of Agriculture (TDA)).

Environment includes water, air, land, plants, man, and other animals living in or on water, air, or land, and the interrelationships that exist among them.

Equipment means any type of ground, water, or aerial equipment or contrivance employing motorized, mechanical, or pressurized power and used to apply a pesticide to land or to anything that may be inhabiting or growing or stored on or in the land. The term does not include a pressurized hand-sized household apparatus used to apply a pesticide or any equipment or contrivance for which the person applying the pesticide is the source of power or energy used in making the pesticide application.

FIFRA means the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Section 136 et seq.).

Label means the written, printed, or graphic matter on or attached to a pesticide or device or any of its containers or wrappers.

Labeling means a label or any other written, printed, or graphic matter prepared by a registrant:

- (A) accompanying the pesticide or device at any time; or
- (B) to which reference is made on a label or in literature accompanying or referring to a pesticide or device, **except** accurate, nonmisleading references made to a current official publication of a federal or state institution or agency authorized by law to conduct research in the field of pesticides.

Land means any land or water area, including airspace, and any plant, animal, structure, building,

contrivance, or machinery, whether fixed or mobile, appurtenant to or situated on a land or water area or airspace, including any used for transportation.

Pesticide means **a substance or mixture of substances intended to prevent, destroy, repel, or mitigate any pest, or any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.**

and more

§ 76.003. State-Limited-Use Pesticides

(a) After notice and public hearing, the department may adopt lists of state-limited-use pesticides for the entire state or for a designated area within the state.

(b) A pesticide may be included on a list of state-limited-use pesticides if the department determines that, when used as directed or in accordance with widespread and commonly recognized practice, **the pesticide requires additional restrictions to prevent unreasonable risk to man or the environment**, taking into account the economic, social, and environmental costs and benefits of use of the pesticide. However, the department shall not place a pesticide on the state-limited-use list solely on the basis of actual damage or risk of damage to water quality without first obtaining approval from the Texas Natural Resource Conservation Commission based on the impact of the pesticide's use on water quality.

(c) The department shall formally request an opinion regarding impact on water quality from the Texas Natural Resource Conservation Commission during department consideration of any amendments to the current list of state-limited-use pesticides. (TNRCC now Texas Commission for Environmental Quality)

(d) At the direction of the Texas Natural Resource Conservation Commission in conjunction with its responsibilities pursuant to Chapter 26, Water Code, the department shall consider any formal request to add any pesticide to the state-limited-use list under Subsection (b), and the department shall issue regulations regarding the time, place, and conditions of such pesticide's use.

(e) The department may regulate the time and conditions of use of a state-limited-use pesticide and may require that it be purchased or used only:

- (1) with permission of the department;
- (2) under direct supervision of the department in certain areas under certain conditions; or
- (3) in specified quantities and concentrations.

(f) The department may require a person authorized to distribute or use a state-limited-use pesticide to maintain records of the person's distribution or use and may require that the records be kept separate from other business records.

§ 76.112. Private Applicator

(a) A person is a private applicator if the person uses or supervises the use of a restricted-use or state-limited-use pesticide or regulated herbicide for the purpose of producing an agricultural commodity:

- (1) on property owned or rented by the person or the person's employer or under the person's general control; or

(2) on the property of another person if applied without compensation other than the trading of personal services, or services related to agricultural production, including the use of equipment, between producers of agricultural commodities.

(b) A private applicator is required to be either licensed or certified to use restricted-use or state-limited-use pesticides or regulated herbicides.

(c) An employee qualifies as a private applicator under Subsection (a)(1) of this section only if he is employed to perform other duties related to agricultural production and provide labor for the pesticide application but does not provide the necessary equipment or pesticide.

(d) A private applicator who is required to be licensed by Section 76.105 of this code shall apply to the department for a private applicator license.

(e) A person shall apply for an original or renewal private applicator license on forms prescribed by the department. The application shall include information as required by department rule and must be accompanied by a fee, as fixed by the department.

(f) The department may not issue an original private applicator license before the applicant has attended a training course conducted by the Texas Agricultural Extension Service or another training course approved by the department. The department shall approve appropriate training courses developed under the coordination of the Texas Agricultural Extension Service and to be conducted by other governmental agencies or nongovernmental entities. The training course shall cover the use, effects, and risks of restricted-use and state-limited-use pesticides or regulated herbicides.

(g) The department may not issue a private applicator license if the applicant has had a license issued under this subchapter revoked within the last two years.

(h) An individual to whom a private applicator license is issued is authorized to purchase, use, and supervise the use of restricted-use and state-limited-use pesticides or regulated herbicides in all license use categories and subcategories for the purpose of producing an agricultural commodity on property described by Subsection (a)(1) or (a)(2) of this section.

(i) As a condition to issuance of a private applicator license, an applicant located outside this state shall file with the department a written instrument designating a resident agent for service of process in actions taken in administration and enforcement of this chapter. Instead of designating a resident agent, the applicant may designate in writing the secretary of state as the recipient of service of process for the applicant in this state.

(j) For purposes of this chapter, a certified private applicator is a private applicator who has been previously certified under the department's voluntary certification program and who holds a private applicator certificate dated prior to January 10, 1989. A certified private applicator is authorized to use restricted-use and state-limited-use pesticides or regulated herbicides in all license use categories and subcategories for the purpose of producing an agricultural commodity on property described by Subsection (a)(1) or (a)(2) of this section. A certified private applicator **may not supervise** the use of restricted-use and state-limited-use pesticides or regulated herbicides.

from §7 - Texas Pesticide Regulations

RULE §7.20 - - - Licensing

(g) The licensee shall notify the department within 30 days of any change in the information provided as part of the application for a license. **Failure to provide such information may be grounds for denial, suspension or revocation of the license.**

RULE §7.24 - - - Applicator Recertification

(v) Private applicators must recertify as follows:

- (1) Each licensed private applicator must obtain **15 CEUs** within a **five-year period** including at least **two** credits in **laws and regulations** and **two** credits in **integrated pest management**.
- (2) Each licensed private applicator must obtain 15 CEUs prior to their license expiration date.
- (3) Private applicators issued a certificate prior to January 10, 1989, may fulfill their recertification requirement on a one-time only basis by completing the Extension private applicator training program, attaining a passing score on the private applicator test, and obtaining a private applicator license. Certified private applicators who choose not to license but wish to maintain certification under a certificate issued prior to January 10, 1989, will be required to recertify as specified for licensed private applicators in this subsection.
- (4) Private applicators have the option of forgoing continuing education requirements for a recertification period by following these procedures:
 - (A) Take and pass a comprehensive examination administered by the department which will contain questions relevant to those topics which would be covered at various continuing education activities. A certificate of completion worth 15 CEUs will be issued by the department upon a passing score being attained by the applicator.
 - (B) If the applicator fails the examination, subsequent attempts will be allowed until a passing score is attained. If a passing score is not attained, the applicator may obtain the required CEUs pursuant to this subsection.
 - (C) Pay a required fee of \$50 for each examination.
- (5) A private applicator may not obtain more than 10 CEUs through correspondence activities in any five-year recertification cycle.

RULE §7.25 - - - Expiration and Renewal of Licenses

(a) A licensee who fails to file a complete application for renewal on or before the license expiration date must **pay a late fee** as prescribed by the Code, Chapter 12.

The renewal fee is \$50.00 due by February 28.

After February 28 to May 31, there is a \$25.00 late fee - total cost \$75.00

After May 31 the late fee is \$50.00 - total cost \$100.00

After 12 months the license is lost. **The licensee must train and retest before they can renew the license. TDA will NOT issue a new license until one full year (12 months) elapses.**

RULE §7.31 - - - Supervision (parts applicable to the Private Applicator)

(a) If there is a discrepancy between supervision requirements contained in federal laws or regulations, state laws or regulations, or the pesticide label, the supervision requirement that requires the greatest degree of direct supervision by the licensed applicator shall apply. Licensed applicators may only supervise application of pesticides for categories or subcategories in which they are certified.

(b) A person may not supervise the use of a restricted-use or state-limited-use pesticide or regulated herbicide unless the person is licensed as a commercial, non-commercial or private applicator with the

department. **A certified private applicator may not supervise** the use of restricted-use or state-limited-use pesticides or regulated herbicides. A licensed applicator may not supervise an applicator whose license or certificate is under revocation or suspension.

(c) Commercial -

(d) **A licensed applicator is not required to be physically present at the time and place of the application** of a restricted-use or state-limited-use pesticide or regulated herbicide to exercise direct supervision unless the label of the applied pesticide states that the presence of the licensed applicator is required. **The licensed applicator must always be available when and if needed and is responsible for any actions of a person working under the licensee's direct supervision.**

(e) Except as provided in subsection (f) of this section, **each licensed applicator is responsible for assuring that any person working under the licensee's direct supervision is knowledgeable of the label requirements and rules and regulations governing the use of the particular pesticide being used by the individual.** *Working* includes transporting a restricted-use or state-limited-use pesticide or regulated herbicide in any type of distributing or transporting equipment ready for application; mixing, storing and handling in packages or containers that have been opened; and applying and disposing of restricted-use or state-limited-use pesticides or regulated herbicides and cleaning equipment used to apply the pesticide. At a minimum, instructions shall include a review of appropriate sections of the Texas pesticide law and the Texas pesticide regulations, and reading of complete labeling information for the particular use of the pesticide product being applied. To ensure that appropriate instructions have been given to a nonlicensed person, the licensed applicator must verify or provide handler training to the nonlicensed applicator in accordance with the requirements of WPS. Licensed applicators supervising individuals applying products not under the scope of WPS must review the label with the individual and have the individual sign and date the label or complete a form prescribed by the department.

(f) Noncommercial - political subdivisions or cemeteries

(g) commercial or noncommercial

(h) A licensed private applicator may supervise the use of a restricted-use or state-limited-use pesticide or a regulated herbicide by a nonlicensed person on the property owned or controlled by the nonlicensed person, in accordance with the provisions of the Code, §76.112(a)(2) and subsection (e) of this section, and provided the licensed private applicator maintains a record of the application and also provides a record of the application to the nonlicensed person.

(i) veterinarian

RULE §7.34 - - - Storage and Disposal of Pesticides (in part)

(a) No person may dispose of, discard, or store any pesticide or pesticide container in a manner that may cause or result in injury to humans, vegetation, crops, livestock, wildlife, pollinating insects, or pollution of any water supply or waterway.

(e) Pesticide containers, concentrates, spray mixes, container rinsates, and/or spray system rinsates that are to be discarded shall be disposed of in accordance with pesticide label directions and in

accordance with the provisions of the Texas Solid Waste Disposal Act, Texas Health and Safety Code, Chapter 361.

(f) The applicator, the owner of the pesticide, and/or the person in control of the mixing site shall be jointly and severally liable for proper storage and disposal of pesticide containers and contents.

The LABEL is the LAW - Storage and disposal language from the label.

DO NOT reuse empty container. Triple rinse (or equivalent) and offer for recycling or reconditioning, or puncture and dispose of in a sanitary landfill, or by incineration, or if allowed by state and local authorities, by burning. If burned, stay out of the smoke. **NOTE:** Burning is NOT allowed in Texas.

RULE §7.37 - - - Prior Notification Requirements (parts from a much longer section)

(a) Except as provided in subsection (n) of this section, the farm operator shall be responsible for meeting prior notification requirements. Responsibility may be transferred by contract to a second party. However, if the effective date of the transfer is unclear, both the farm operator and the second party may be held liable for any violation of these regulations.

(b) All applications of pesticides by ground application equipment, *except airblast or mistblowing equipment*, are exempted from this section.

(c) The following persons may request prior notification of a pesticide application:

- (1) any person who **works or resides** in a building, house, or other structure located on land adjoining and **within 1/4 mile** of a field on which pesticides may be applied;
- (2) persons in charge of **licensed day-care centers, primary and secondary schools, hospitals, inpatient clinics or nursing homes within 1/4 mile** of the field on which pesticides are to be applied. The parent of a primary or secondary school student may for good cause request notification from the department if the person in charge of the school has refused to request notification. If the department determines that notification should be given, the department shall notify the farm operator to give notification to the person in charge of the school; and
- (3) any person with chemical hypersensitivities, allergies, or other medical conditions which may be aggravated by pesticide exposure and whose residence or place of employment is within 1/4 mile of the field on which pesticides are to be applied.

(g) The following methods may be used for giving notification of a scheduled pesticide application:

- (1) Except as provided by subsection (n) of this section if the request for notification is made pursuant to this section, **the notification may be made by:**

(A) raising a flag/sign.

- (i) The EPA WPS posted warning flag/sign shall be raised to a height of at least approximately five feet, with the bottom of such flag/sign always at least two feet above the top of the crop, **in or about the field to which pesticides are scheduled to be applied** so that the flag/sign is located no farther than 650 yards from the nearest property line of any person requesting notification.
- (ii) In the event of unusually tall crops, such as citrus, corn, or sugar cane, or limited access fields, the farm operator may raise a flag/sign at a distance greater than 650 yards

from the nearest property line of the party requesting notification on a permanent pole to a height visible from the property line of the requesting party.

(iii) The telephone number of the farm operator shall be on or near the flag/sign, and the flag/sign shall be raised on the border of the field at a location to which the public has access for the purpose of reading the telephone number. The farm operator shall provide the name of the pesticide and the intended date and approximate time of the scheduled application when requested by the requesting party;

(RULE §7.37 covers 5 pages so if you must give prior notification, please read it all carefully.)

RULE §7.50 - - - General Requirements for Regulated Herbicide Applicators (part only)

(a) The following requirements are applicable to persons applying regulated herbicides in regulated counties. No person shall apply **regulated herbicides** as defined in §7.30 of this title (relating to Classification of Pesticides), without first obtaining a **spray permit** for such application. A **blanket permit** may be issued to a licensed or certified applicator. The department may require a licensed or certified applicator who has obtained a blanket permit to submit a supplemental report of any regulated herbicide applied under the terms of the permit.

(1) All **permits expire** when the acreage for which the permit was granted has been sprayed, or 180 days after issuance, whichever occurs first.

(2) Applications of regulated herbicides by brush, mop, wick, basal treatment, or injection method are hereby exempt from the requirements of obtaining a permit.

(3) Applications by an applicator licensed by the Texas Structural Pest Control Board in turf and weed control and a nurseryman licensed by the department in turf weed control for structural pest control applications are exempt from the permit requirements of this section.

(4) All persons applying regulated herbicides to lawns are exempt from the permit requirements of this section.

(b) All spraying of regulated herbicides must conform to these requirements in a regulated county regardless of whether or not a permit is required.

(1) Spraying high volatile herbicides is prohibited when there are susceptible crops within a four-mile radius from any point of the land to be sprayed. Highly volatile herbicides include methyl, ethyl, butyl, isopropyl, octylamyl, and pentyl esters containing various concentrations expressed in pounds of acid equivalent per gallon.

(2) No person shall spray regulated herbicides when the **wind velocity exceeds 10 miles per hour** or as specified on the product label, if the label is more restrictive.

(3) The use of any **turbine or blower-type ground application equipment** to apply regulated herbicides **is prohibited**.

from 40 CFR §170 - - - Worker Protection Standard (WPS) divided into the following parts:
Subpart A - - General Provisions

§ 170.1 Scope and purpose.

This part contains a standard designed to reduce the risks of illness or injury resulting from workers' and handlers' occupational exposures to pesticides used **in the production of agricultural plants on farms or in nurseries, greenhouses, and forests** and also from the accidental exposure of workers and other persons to such pesticides. It requires workplace practices designed to reduce or eliminate exposure to pesticides and establishes procedures for responding to exposure-related emergencies. **(This includes crop production like corn and cotton, and includes turfgrass production for sod, but does not include use of pesticides used on pasture and rangeland)**

§ 170.3 Definitions. (Just a few examples)

Agricultural employer means any person who hires or contracts for the services of workers, for any type of compensation, to perform activities related to the production of agricultural plants, or any person who is an owner of or is responsible for the management or condition of an agricultural establishment that uses such workers. The agricultural employer is the person responsible for providing information, training, equipment, decontamination sites and other requirements included in 40 CFR Part 170. There are 58 items in this regulation that list specific responsibilities of the agricultural employer. The Agricultural employer is responsible for assuring complete compliance with the requirements of WPS.

Early entry means entry by a worker into a treated area on the agricultural establishment after a pesticide application is complete, but before any restricted-entry interval for the pesticide has expired.

Handler means any person, including a self-employed person:

(1) Who is employed for any type of compensation by an agricultural establishment or commercial pesticide handling establishment to which subpart C of this part applies and who is:

- (i) Mixing, loading, transferring, or applying pesticides.
- (ii) Disposing of pesticides or pesticide containers.
- (iii) Handling opened containers of pesticides.
- (iv) Acting as a flagger.
- (v) Cleaning, adjusting, handling, or repairing the parts of mixing, loading, or application equipment that may contain pesticide residues.
- (vi) Assisting with the application of pesticides.
- (vii) Entering a greenhouse or other enclosed area after the application and before the inhalation exposure level listed in the labeling has been reached or one of the ventilation criteria established by this part (§170.110(c)(3)) or in the labeling has been met:
 - (A) To operate ventilation equipment.
 - (B) To adjust or remove coverings used in fumigation.
 - (C) To monitor air levels.
- (viii) Entering a treated area outdoors after application of any soil fumigant to adjust or remove soil coverings such as tarpaulins.
- (ix) Performing tasks as a crop advisor:
 - (A) During any pesticide application.

- (B) Before the inhalation exposure level listed in the labeling has been reached or one of the ventilation criteria established by this part (§ 170.110(c)(3)) or in the labeling has been met.
- (C) During any restricted-entry interval.

(2) The term does not include any person who is only handling pesticide containers that have been emptied or cleaned according to pesticide product labeling instructions or, in the absence of such instructions, have been subjected to triple-rinsing or its equivalent.

Handler employer means any person who is self-employed as a handler or who employs any handler, for any type of compensation.

Restricted-entry interval (REI) means the time after the end of a pesticide application during which entry into the treated area is restricted. (While the REI is in effect certain PPE is required for entry into the area; after the REI has expired workers and handlers can enter the area without PPE.)

Treated area means any area to which a pesticide is being directed or has been directed.

Worker means any person, including a self-employed person, who is employed for any type of compensation and who is performing activities relating to the production of agricultural plants on an agricultural establishment to which subpart B of this part applies. While persons employed by a commercial pesticide handling establishment are performing tasks as crop advisors, they are not workers covered by the requirements of subpart B of this part.

§ 170.210 Restrictions during applications.

(a) *Contact with workers and other persons.* The handler employer and the handler shall assure that no pesticide is applied so as to contact, either directly or through drift, any worker or other person, other than an appropriately trained and equipped handler.

(b) *Handlers handling highly toxic pesticides.* The handler employer shall assure that any handler who is performing any handling activity with a product that has the **skull and crossbones** symbol on the front panel of the label is **monitored** visually or by voice communication at least **every 2 hours**.

(c) *Fumigant applications in greenhouses.* The handler employer shall assure:

- (1) That any handler who handles a fumigant in a greenhouse, including a handler who enters the greenhouse before the acceptable inhalation exposure level or ventilation criteria have been met to monitor air levels or to initiate ventilation, maintains continuous visual or voice contact with another handler.
- (2) That the other handler has immediate access to the personal protective equipment required by the fumigant labeling for handlers in the event entry into the fumigated greenhouse becomes necessary for rescue.

§ 170.250 Decontamination. (Note when speaking of handlers the handler employer is responsible; see a similar section at § 170.150 about agricultural employer responsibility to workers.)

(a) *Requirement.* During any handling activity, the **handler employer** shall provide for handlers, in accordance with this section, **decontamination supplies** for washing off pesticides and pesticide residues.

(b) *General conditions.*

(1) The **handler employer** shall provide handlers with **enough water for routine washing, for emergency eyeflushing, and for washing the entire body in case of an emergency.** At all times when the water is available to handlers, the **handler employer** shall assure that it is of a quality and temperature that will not cause illness or injury when it contacts the skin or eyes or if it is swallowed.

(2) When water stored in a tank is to be used for mixing pesticides, it shall not be used for decontamination or eye flushing, unless the tank is equipped with properly functioning valves or other mechanisms that prevent movement of pesticides into the tank.

(3) The **handler employer** shall provide **soap and single-use towels** in quantities sufficient to meet handlers' needs.

(4) The **handler employer** shall provide **one clean change of clothing**, such as coveralls, for use in an emergency.

(c) *Location.* The decontamination supplies shall be located together and be reasonably accessible to and not more than 1/4 mile from each handler during the handling activity.

(1) *Exception for mixing sites.* For mixing activities, decontamination supplies shall be at the mixing site.

(2) *Exception for pilots.* Decontamination supplies for a pilot who is applying pesticides aerially shall be in the airplane or at the aircraft loading site.

(3) *Exception for handling pesticides in remote areas.* When handling activities are performed more than 1/4 mile from the nearest place of vehicular access:

(i) The soap, single-use towels, clean change of clothing, and water may be at the nearest place of vehicular access.

(ii) The **handler employer** may permit handlers to use clean water from springs, streams, lakes, or other sources for decontamination at the remote work site, if such water is more accessible than the water located at the nearest place of vehicular access.

(4) *Decontamination supplies in treated areas.* The decontamination supplies shall not be in an area being treated with pesticides or in an area under a restricted-entry interval, unless:

(i) The decontamination supplies are in the area where the handler is performing handling activities;

(ii) The soap, single-use towels, and clean change of clothing are in enclosed containers; and

(iii) The water is running tap water or is enclosed in a container.

(d) *Emergency eyeflushing.* To provide for emergency eyeflushing, the **handler employer** shall assure that at least 1 pint of water is immediately available to each handler who is performing tasks for which the pesticide labeling requires protective eyewear. The eyeflush water shall be carried by the handler, or shall be on the vehicle or aircraft the handler is using, or shall be otherwise immediately accessible.

(e) *Decontamination after handling activities.* At the end of any exposure period, the **handler employer** shall provide at the site where handlers remove personal protective equipment, soap, clean towels, and a sufficient amount of water so that the handlers may wash thoroughly.

TEXAS ADMINISTRATIVE CODE

< <http://www.agr.state.tx.us/pesticide/> >

select Pesticide Regulations

RULE §7.33 --- Records of Application

(a) The following **records of pesticide use shall be maintained for a period of *two (2) years***:

- (1) A person required by the Act to be licensed as a commercial applicator or a noncommercial applicator shall maintain records of each pesticide application regardless of the use classification of the pesticide applied.
- (2) A person licensed or certified as a *private applicator* or licensed as a veterinarian shall maintain records of each application of a **restricted-use pesticide, state-limited-use pesticide, or regulated herbicide**.

(b) The record of each pesticide use required by this section shall contain:

- (1) the date of the application;
- (2) the beginning time for the application;
- (3) the name of the person for whom the application was made;
- (4) the location of the land where the application was made stated in a manner that would permit inspection by an authorized party;
- (5) for each pesticide applied:
 - (A) the product name;
 - (B) the product EPA registration number;
 - (C) the rate of product per unit;
 - (D) the **total volume** of spray mix, dust, granules, or other materials applied per unit; (example: gallons/acre)
 - (E) the name of the pest for which the product was used;
- (6) the site treated (e.g., name of crop, kind of animal, etc.);
- (7) total acres or volume of area treated (e.g., acre, square feet, number of head, etc.);
- (8) wind direction and velocity and air temperature;
- (9) the FAA "N" number for aerial application equipment or identification number or decal number for other types of application equipment;
- (10) the name and department license number of the applicator responsible for the application and, if different, the name of the person actually making the application; and
- (11) the spray permit number for regulated herbicides applied in a regulated county.

(c) If several applications are made from a single load of pesticide to sites in close proximity, a single beginning time may be given for all the applications, but the sequence of applications must be specified by appropriately ordering the applications by person for whom the application was made and by the location of the land where the application was made.

(d) The record of each pesticide application shall be kept current and maintained at the applicator's principal place of business as designated on the applicator's application/renewal for a pesticide applicator's license.

(e) The record of each pesticide application shall be legible and in a format that clearly identifies and sets forth each specific item of information required by this section.

(f) The department may exempt specific record items, which may not be applicable to a type of application upon written request and written approval. The person responsible for keeping records under this section shall maintain a copy of the department's written approval for a record exemption as part of the application recordkeeping requirements of this section.

(g) Records of application shall be made available for inspection to the department immediately upon request at any time during normal business hours and shall contain all the information required by this section except as exempted in writing under subsection (f) of this section. The department's written approval for any record exemption shall be made available to the department representative conducting the records inspection at the time of the inspection.

(h) Copies of records of application must be submitted to the department within the time period specified in a written request by the department and must contain all of the information required by this section except as exempted in writing under subsection (f) of this section. A copy of the department's written approval for any record exemption shall accompany the copies of records submitted under this subsection.

RULE §7.71 - - - Use Inconsistent with Label Directions

It shall be a violation for any person to use or cause to be used a pesticide in a manner inconsistent with its label or labeling. Use inconsistent with the label includes, but is not limited to:

- (1) applications at sites, rates, concentrations, intervals, or under conditions not specified in the labeled directions, except:
- (A) applying a pesticide at any dosage, concentration, or frequency less than that specified on the labeling unless the labeling specifically prohibits deviation from the specified dosage, concentration, or frequency;
 - (B) applying a pesticide against any target pest not specified on the label or labeling if the application is to the crop, animal, or site specified on the labeling, unless the department or EPA has required that the labeling specifically state that the pesticide may be used only for the pests specified on the labeling after the department or EPA has determined that the use of the pesticide against other pests would cause an unreasonable, adverse effect on the environment;
 - (C) employing any method of application not prohibited by the labeling unless the labeling specifically states that the product may be applied only by the methods specified on the labeling or unless prohibited by law or regulation;
 - (D) mixing a pesticide or pesticides with a fertilizer when such mixture is not prohibited by the labeling;
 - (E) when a pesticide is applied in conformance with an approved experimental use permit (EUP);
 - (F) when a pesticide is applied in conformance with an approved emergency exemption granted by EPA to a federal or state agency;
 - (G) when a pesticide is applied in conformance with an approved Special Local Need registration;
 - (H) when applied in any situation receiving prior written approval from EPA.
- (2) tank mixing of pesticides, or using application techniques, or equipment prohibited by the label;
- (3) failure to observe **reentry intervals, preharvest intervals**, grazing restrictions, or **worker protection requirements**:
- (A) it is the responsibility of the person in control of the commodity or site treated to be knowledgeable of and comply with the requirements of this paragraph;
 - (B) if a commercial applicator furnishes the pesticide, it is the commercial applicator's responsibility to notify the person in control of the commodity or site treated of the requirements of this section that pertain to restricted-entry intervals, preharvest intervals, grazing restrictions, or worker protection requirements, prior to, or at the time of treatment.
- (4) improper storage or disposal of the pesticide or its container.
- (5) it shall be a violation for any person to use or cause to be used a pesticide in a manner inconsistent with any permit, emergency exemption or special local needs registration issued by the department or EPA.

NOTE: Allowing *spray drift* is a **use inconsistent with the label** because labels have warnings against drift such as, "Use care to avoid spray drift to susceptible plants." or "Do not permit spray mist containing this product to drift." and there are label instructions on how to reduce spray drift.