CHAPTER 8:

FEDERAL & ARIZONA
AGRICULTURAL LAWS

This is a part of publication az1149: “Arizona Agricultural Pesticide Applicator Training Manual,” 2000, College of Agriculture and Life Sciences, The University of Arizona, Tucson, Arizona, 85721. Full publication located at http://ag.arizona.edu/pubs/insects/az1149/
I. Introduction

Chapter Objectives

By the time you finish this chapter, you will

- have a general understanding of the types of laws and regulations that affect pesticide applicators;
- be aware of the importance of having up-to-date knowledge about how to comply with all laws and regulations that affect your operation.

Terms To Know

**EPA (Environmental Protection Agency)** — Federal agency that administers laws outlined in FIFRA.

**FIFRA (Federal Insecticide, Fungicide, and Rodenticide Act)** — Primary federal law that regulates pesticide use in United States.

**Hazard Communication Standard** — Standard under jurisdiction of Industrial Commission of Arizona (ICA) that guarantees worker’s right to know about any hazard found in workplace, including pesticides.

**OSHA (Occupational Safety and Hazard Administration)** — Federal agency that enforces rules regarding worker safety on job sites.

**Restricted-use pesticide** — Pesticide that can be applied only by certified applicators.

Pesticide regulation can be complex, merging science, public policy, and law. The pesticide regulatory process is never at a standstill, and the Environmental Protection Agency (EPA) continuously updates pesticide decisions as scientific knowledge increases.

If you use pesticides in Arizona, you should be aware of federal and state laws and regulations governing their use, and how these laws apply to your particular situation. This chapter will help you become familiar with U.S. and Arizona legislation, regulatory agencies, and requirements for licenses, permits, and certification.

II. Defining the Terms

The first step in understanding licenses, permits, and certification is to learn what each one enables you to do and to identify those that specifically concern you. The information in this manual is intended primarily for individuals involved in agricultural pest control.

**Licenses** can be issued in either agricultural or structural categories. Licenses are issued for business purposes. Four different types of agricultural licenses are available: custom applicator, agricultural aircraft pilot, agricultural pest control advisor, and application equipment.

A custom applicator’s license, which includes all aerial application, allows an individual or company to make aerial or ground applications, for pay, on agricultural land that belongs to someone else. An agricultural aircraft pilot’s license is necessary for anyone who flies aircraft for aerial pesticide applications.

An agricultural pest control advisor’s license allows an individual to make written recommendations for agricultural pest control. An equipment license is necessary for each piece of equipment used for custom ground or aerial agricultural application.
The three licenses issued for structural purposes (business, qualifying party, and structural pest control advisor) relate to pest control operations in and around urban structures, ornamental shrubs and trees, railroad cars, boats, docks, trucks, airplanes, golf courses, lawns, and cemeteries. More detailed information is in the Arizona Structural Core Manual or in the booklet, Structural Pesticide Applicator Information: Licenses, Permits and Certification, which is available from Agricultural Communication Systems, Publications Distribution Center, at the University of Arizona.

Permits are required to buy or sell pesticides and are issued in two categories: grower and seller. Someone who commercially grows or produces an agricultural commodity needs a grower’s permit to apply or have pesticides applied to his agricultural land. A seller’s permit enables an individual or a firm to sell or deliver pesticides in containers greater than one gallon liquid, fifteen pounds dry, 50 pounds for pesticide and fertilizer combinations, or restricted-use pesticides (RUPs) in any size amounts.

Certification is required to use or supervise the use of pesticides classified as restricted use. These substances have been restricted to limit their availability because their use by inexperienced or untrained people can result in adverse human health or environmental effects, even when the label directions are followed. To be certified, demonstrate competency to handle pesticides without endangering yourself, the public, or the environment. An agricultural applicator is certified by the Department of Agriculture.

An individual in agricultural pest control may be certified as a private or commercial applicator. A private applicator may also apply or supervise application on someone else’s land, as long as no compensation other than trading of personal services is involved. A commercial applicator is paid to use or supervise the use of restricted use pesticides for any purpose on property he does not own.

The following points are important to remember:

1. In agricultural pest control, certification is needed only for restricted-use products; people who apply only non-restricted pesticides need not be certified. Arizona law requires the holder of a custom applicator’s license (agricultural) to be certified as a commercial applicator or to employ someone who is certified (R3-13-204.C.1).

2. Certification credentials do not replace or substitute for any other permit or license required.

3. Licenses, permits, and certification credentials must be renewed annually.

4. Since specific regulations for obtaining agricultural or structural pest control credentials differ, appropriate requirements must be followed.

Professional registration programs

The Certified Crop Advisor (CCA) endorsement is a part of a voluntary program designed to establish base standards of knowledge for individuals who advise growers on crop management and production inputs. The program is coordinated by the American Registry of Certified Professionals in Agronomy, Crops and Soils (ARCPACS); it is not a regulatory designation nor is it affiliated with the Arizona Department of
Agriculture. Requirements for professional endorsement are two years of crop production experience and a B.S. degree in agronomy OR four years of post high school experience. An applicant must also pass CCA state and national certification exams and sign a code of ethics. A CCA certification does NOT exempt an applicator from obtaining and maintaining Arizona Department of Agriculture credentials.

III. State and Federal Laws and Regulatory Agencies

Federal

Pesticides in Arizona are governed by federal and state laws and regulations. The Environmental Protection Agency (EPA), established in 1970, issues pesticide-related rules to administer the primary federal pesticide law, the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) and The Food Quality Protection Act (FQPA) of 1996. FIFRA has been amended several times with the last two amendments, in 1978, and 1988, making the most significant changes. In 1978, under Section 2(ee) three major changes were made. Unless prohibited by the label, (1) a pesticide can be used at less than label rate or prohibited by the label; (2) pesticides can be used to control a target pest not named on the label; and (3) pesticides can be applied using any method of application provided the label does not prohibit it. In 1988, FIFRA was amended to require re-registration of older pesticides within nine years and to restructure the fees for re-registration. FQPA amends FIFRA by defining EPA procedures for determination, issuance, and cancellation of pesticide residue tolerances, and exemptions from tolerance requirements. It develops screening processes for other effects. The current FIFRA amendments continue to have the following requirements:

1. All pesticide products must be registered and classified as restricted (applied by or under the supervision of a certified applicator) or general (use that is not under the supervision of a certified applicator).

2. An uncertified individual can buy and/or apply restricted products under the supervision of a certified applicator, provided the supervisor has authorized and instructed the individual and is readily available during applications.

3. Pesticides may not be used in a manner inconsistent with the label.

4. Pesticide uses that are valid only within a given state are also subject to EPA authority [i.e., Special Local Need registration (24c) and Emergency Exemptions (Section 18)].

Other federal agencies that regulate pesticides include the Department of Transportation (DOT) and the Food and Drug Administration (FDA). DOT regulates interstate pesticide shipments, sets standards for warning signs, and sets standards for simultaneous shipments of pesticides and food. The 1958 Food, Drug and Cosmetic Act (FFDCA) gives the FDA authority to ensure safety of chemicals used in food, drugs, and cosmetics; it authorizes the EPA to establish pesticide tolerances and to establish the concept of health guidelines. The Food Quality Protection Act of 1996 (FQPA) amends the 1958 FFDCA and repeals the Delaney Clause regarding pesticides in processed and livestock food. The 1972 Federal Environmental Pesticide Control Act (FEPCA) gives EPA its pesticide-related responsibilities.

Other Federal Laws

The laws and regulations governing pesticides are more comprehensive than those governing other chemicals. Several are listed below:
1. The Clean Water Act (CWA) gives the EPA jurisdiction over the nation’s waterways, making it suitable for agricultural and recreational use. It regulates both point and nonpoint sources of contamination, which may include pesticides.

2. The Resource Conservation and Recovery Act (RCRA) regulates the generation, transportation, treatment, storage, and disposal of hazardous wastes; it sets national standards for management of hazardous wastes.

3. The Toxic Substance Control Act (TSCA) ensures chemicals will be evaluated for risk and regulates the manufacture and processing of chemicals; it requires that manufacturers and distributors keep inventories of certain chemicals.

4. The Comprehensive Environmental Response Compensation and Liability Act (CERCLA) establishes a trust fund (Superfund) for financing government clean-up of hazardous waste sites.

5. The Occupational Safety and Health Act (OSHA) consolidated many existing federal worker safety laws to cover all employees who may potentially be exposed to hazardous chemicals in the workplace. The Hazard Communication Standard was expanded in 1989 to cover all employees who may be exposed to hazardous chemicals in the workplace. Requirements for material data safety sheets (MSDS) for hazardous chemicals are included in its provisions.

6. The Federal Endangered Species Act makes it unlawful to harm any plant or animal listed by the Fish and Wildlife Service (FWS) as endangered or threatened. Under the program, pesticide use is restricted in areas where endangered species are likely to be exposed. The EPA, in cooperation with the USDA and the FWS, developed the Endangered Species Protection Program to protect listed species from pesticide effects.

7. The Safe Drinking Water Act establishes minimum contaminate levels (MCLs), primarily for water treatment plants. Only a limited number of pesticides have MCLs.

8. The Emergency Planning and Community Right-To-Know Act (EPCRA) may require an emergency plan and contact for the storage of some pesticides that exceed certain amounts.

**State of Arizona**

There are several state agencies responsible for pesticide-related regulations. The Arizona Department of Agriculture (ADA) is the primary state regulatory agency for agricultural pesticide use. State pesticide regulations can be stricter than federal laws but never less strict. Currently, ADA has the authority to issue grower and seller permits and license custom applicators and pest control advisors. ADA licenses equipment, certifies agricultural applicators, and agricultural aircraft pilots. ADA also administers emergency exemptions (Section 18s), and approves Special Local Needs (SLN) registrations.

Other state agencies have the following responsibilities:

1. The Structural Pest Control Commission (SPCC) regulates the commercial application of pesticides in structural and urban situations, licenses companies engaging in the business of structural pest control, and administers certification for all structural applicators.
2. The Arizona Department of Environmental Quality (ADEQ) is responsible for preventing pesticide contamination of the environment. State statutes mandate that the Department conduct monitoring, testing, and evaluations to determine whether a pesticide belongs on the Groundwater Protection List. Additional responsibilities include ensuring proper disposal of hazardous wastes.

3. The Arizona Department of Health Services (ADHS) is responsible for obtaining and compiling pesticide exposure information.

Federal and State Civil and Criminal Violations

There are federal and state fines for civil violations by private and commercial applicators. Criminal violations may carry larger fines and the possibility of time in jail. State penalties for agricultural applicators, pilots, and PCAs include the loss or suspension of license and/or certification.

IV. Arizona Pesticide License Requirements

Custom Applicator’s License

An agricultural applicator who operates a pest control business, must obtain a custom applicator’s license from ADA. The applicant must return a completed application form with a license fee and proof of liability insurance coverage.

The applicant must score at least 75 percent correct on a written core examination, prepared and administered by ADA, to show familiarity with pesticides, statutes, and rules relating to the application and safe use of pesticides, calibration, application techniques, and other areas of pest control operation. The license is valid for one calendar year, but renewal applications must be submitted to ADA no later than December 1, accompanied by the renewal fee. Expiration is December 31.

Custom Applicator Equipment License

ADA licenses air and/or ground equipment used for custom application, such as aircraft, application systems, and certain tractor-powered field sprayers. The license is for each piece of equipment, and expires on December 31 of each year.

The equipment license is considered a permanent fixture and should be clearly visible. It may not be transferred unless the original piece of equipment is leased, sold, traded, destroyed, or is not usable for that year. Equipment licenses must be removed or obliterated if a custom license is suspended or revoked.

Note: You must get permission from ADA to transfer an equipment license.

Agricultural Aircraft Pilot License

Individuals who pilot an aircraft for pesticide applications must be licensed by ADA and hold a valid Federal Aviation Administration Commercial Aircraft Pilot’s license. Applicants must pass, with at least 75 percent correct, a test given by ADA demonstrating knowledge of (1) agricultural pesticides; and (2) safe flight and application procedures, including those pertaining to applications in the vicinity of schools, day care centers, health care institutions, and residences. Applicants must also file an annual renewal application by December 1 and pay a renewal fee. The license is valid for the calendar year issued and expires on December 31 of each year.
Agricultural Pest Control Advisor’s License

The agricultural pest control advisor (PCA) license is issued by ADA. Applicants must pass an exam and a fee is required. PCAs need a license covering all specific categories in which they intend to make written recommendations for agricultural pest control. Annual renewal fee is payable by December 1. PCA licenses will not be renewed unless advisors complete six hours of continuing education units (CEUs) approved by ADA in the previous licensing year or retake the exam.

The ADA prepares and administers the test. Everyone must take the CORE test, covering Arizona pesticide laws, rules and regulations, and general pesticide safety principles and practices. Separate tests are available in the following categories:

- control of insects, mites, and other invertebrates
- control of plant pathogens
- control of nematodes
- control of weed pests
- defoliation
- plant growth regulators
- vertebrate pest control

PCA applicants must score a minimum of 75 percent on each section taken. The license is issued for those areas in which competence is established. The applicant must pass the CORE section before a license is granted. In the event an applicant passes all category tests, but fails to pass the CORE test, the applicant will not be granted a license until the CORE is passed.

Continuing Education Units (CEUs)

ADA requires continuing education units (CEUs) for both private (3 hours), commercial (6 hours), and PCA license (6 hours) recertification. One hour of credit will be given for each fifty (50) minutes of actual instruction on subject matter related to the license or certification. Continuing education instruction must be approved by ADA. Documentation of completion of the CEU credits is provided to ADA. For verification purposes, ADA provides forms for the sponsor of the CEU instruction.

Recordkeeping and Reporting

ADA requires all holders of seller permits to maintain records showing the receipt, sale, delivery, or disposition of all pesticides or pesticide devices for a period of two years.

Private Applicators and Regulated Growers must record pesticide application data on an ADA-approved form after completing an application of a restricted-use pesticide. The record will contain the following:

- name and certification number of applicator
- name and permit number of the seller
- crop and number of acres
- name of the pesticide and EPA registration number
- rate/acre of active ingredient or formulation
- total volume of mix/acre
- date and time of application
- location of field (by county, range, township, and section)
- name of regulated grower and method of application.

This record must be retained for two years after the date of application.

Sensitive Areas and Buffer Zones

As a pesticide applicator you must be aware that there are areas throughout the state that fall under special jurisdiction. The following table lists the guidelines that must be observed for aerial and ground applications of highly toxic or odoriferous pesticides.
Sensitive areas have buffer zones around them created to keep highly toxic pesticides at a safe distance. They are often designated because of past complaints or proximity of schools, day care centers, health care facilities, and residential areas. Applicators are requested to notify the ADA at least 24 hours prior to any application. When you are applying around a school or other areas that might be sensitive, it is good practice to telephone and notify people that there is going to be an application in the area. Speak to someone in a responsible position and keep a record of their name for future reference. Pesticide management areas (PMAs) are designated by the ADA. Applicators must try to notify ADA at least 24 hours prior to any application in these areas.

### V. Arizona Pesticide Permit Requirements

#### Grower’s Permit

A grower’s permit allows the holder to purchase, or contract for the application of, pesticides to lands he owns, rents, or leases for growing or producing an agricultural commodity. Only one permit is necessary for all parcels under the person’s control, unless they buy or apply pesticides under different business names; in this case a permit is needed for each enterprise. The grower completes an ADA application. This permit is paid annually, renewable by March 1 of each year.

#### Seller’s Permit

A seller’s permit is required for an individual or company to engage in the business of selling or delivering liquid pesticides in containers larger than one gallon, dry/granular formulations in quantities greater than fifteen pounds, fertilizer/

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### Table 8.1 Buffer Zones in Arizona

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<thead>
<tr>
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<th>School, Day Care</th>
<th>Health Care</th>
<th>Residential</th>
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</thead>
<tbody>
<tr>
<td>AERIAL APPLICATIONS</td>
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<tr>
<td>Highly Toxic (Liquid)</td>
<td>1/4 mile</td>
<td>400 feet</td>
<td>100 feet</td>
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<tr>
<td>Highly Toxic (Dust)</td>
<td>1/4 mile</td>
<td>400 feet</td>
<td>300 feet</td>
</tr>
<tr>
<td>Odoriferous</td>
<td>1/4 mile</td>
<td>1/4 mile</td>
<td>1/4 mile</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>School, Day Care</th>
<th>Health Care</th>
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</thead>
<tbody>
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<td>GROUND APPLICATION</td>
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</table>
pounds, or RUPs in any container size. The applicant completes a form which is sent to the ADA with a fee. A permit is issued and permit number assigned. Seller and grower permit numbers must appear on each delivery ticket and container delivered. Permits are valid for one year, renewable by March 1. Pesticide combinations in containers over fifty

VI. Arizona Certification for Applying Restricted-Use Pesticides (RUPs)

The ADA certifies applicators who wish to buy, apply, or supervise the use of restricted-use pesticides. Certification training is provided by The University of Arizona’s Cooperative Extension.

Agricultural Applicators

Applicators who use restricted pesticides in the production of an agricultural commodity are certified by the ADA in two categories: private (on land owned or rented by an individual or employer) or commercial (on other people’s property for pay). This does not replace a custom license.

Private Agricultural Applicators

Farmers, orchardists, and others who apply pesticides to their own or their employer’s land to grow or produce an agricultural commodity have a choice of two ways to prepare for the required examination:

1. The University of Arizona’s Cooperative Extension offers classes to prepare for the pesticide Initial Certification Test given by the ADA.
   - or -

2. Self study and written examination: The applicant may obtain study guides from the Publications Distribution Center, Cooperative Extension, (520) 621-1713, then take a written exam at the ADA office or any local ADA district office by appointment. The private applicator is required to pass a CORE examination with a score of 75 percent or higher.

The CORE requires knowledge and understanding in the following areas:

- Statutes and rules relating to the application and use of restricted use pesticides
- Pesticide labels and labeling
- Principles of pest control and pesticide terminology
- Pesticide safety and toxicity
- Pesticide application equipment and calibration
- Common causes of accidents
- Need of protective equipment and clothing
- Poisoning symptoms
- Practicable first aid

After passing the exam, the applicant receives an application to be returned with the certification fee to ADA. Private applicators pay an initial certification fee, which is good for one year. A renewal fee is due September 1, with expiration September 30 of the following year. Three ADA-approved continuing education units (CEUs) are also required for recertification.

Commercial Agricultural Applicators

An applicant for commercial agricultural certification must take and pass, with a grade of 75 percent or higher, two tests prepared and administered by the ADA. The first, or CORE test, covers the following:
A category examination follows the core exam for commercial certification. The applicant must demonstrate practical knowledge in one or more of the following categories:

- Agricultural pest control
- Forest pest control
- Seed treatment
- Aquatic pest control
- Regulatory (rodent) pest control
- Regulatory (M-44) pest control

Anyone failing the CORE and/or category exams may apply for reexamination after seven days. After passing the CORE and category tests, the applicator completes a certification application. Certification credentials will cover only the categories tested and passed. Applicants may test in as many categories as they desire.

Government employees are exempt from the initial commercial applicator certification fee. Certification is valid for one year; the annual renewal (government employees exempt from fee, not renewal) is due by September 1, expiring September 30, the following year. Proof of six continuing education units (CEUs) is required at the time of renewal. Additional information is available at the following addresses:

**Arizona Department of Agriculture**
**1688 West Adams**
**Phoenix, Arizona 85007**
**(602) 542-3578**

**The Structural Pest Control Commission**
**9535 E. Doubletree Ranch Road**
**Scottsdale, Arizona 85258-5514**
**(602) 255-3664**

**Presentation of Continuing Education Units (CEUs)**

In order to present continuing education units (CEUs) for certification credit, the requirements in the following table must be met, and the hours must be approved by the ADA, Environmental Services Division. (See Table 8.2)
**Table 8.2. Requirements for approval of CEUs**

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<tr>
<td>Submitted by: Anyone with an agricultural program dealing with pesticide use</td>
</tr>
<tr>
<td>Required: Form</td>
</tr>
<tr>
<td>Outline showing class title and times Yes</td>
</tr>
<tr>
<td>Hours requested Yes</td>
</tr>
<tr>
<td>Sponsor Identification Yes: Name and addresses (Speaker/presenter biographies may be required)</td>
</tr>
<tr>
<td>Number of presentations approved One at a time</td>
</tr>
<tr>
<td>Submittal dates: Two weeks prior to event ¹</td>
</tr>
<tr>
<td>Category specific: Not required</td>
</tr>
<tr>
<td>Evaluated by: In-house Committee</td>
</tr>
<tr>
<td>Deadline for submission of CEU credits for the year: With renewal application (Renewal due by Sept. 1; expires on Sept. 30) ²</td>
</tr>
<tr>
<td>Contact person: Certification and Training Specialist, ADA</td>
</tr>
<tr>
<td>Contact telephone: (602) 542-0901</td>
</tr>
</tbody>
</table>

¹ Late submissions may be accepted. ² PCA’s have different dates.
Chapter Eight
Federal & Arizona Agricultural Laws — Question and Answer Review

1. Q. What is the full name and acronym of the federal agency mandated to regulate pesticides?
   A. Environmental Protection Agency, or EPA.

2. Q. What is the full name and acronym for the law EPA uses to manage pesticides?
   A. Federal Insecticide, Fungicide, and Rodenticide Act, or FIFRA.

3. Q. What is the full meaning of FQPA?
   A. The Food Quality Protection Act.

4. Q. Discuss the two types of penalties defined by FIFRA for applicators who violate the law?
   A. FIFRA provides civil penalties when the violation of a regulation was unintentional and criminal penalties when the law was knowingly violated.

5. Q. Define restricted entry interval (REI).
   A. The time immediately following application of a pesticide to a treated area when unprotected workers may not enter.

6. Q. EPA regulations require warnings be given to workers. Discuss the warning requirements.
   A. Warnings must be timely to the situation, and the label may require that they be given orally, by posting, or both, and should be given in the language that can be understood by the workers.

7. Q. Which federal agency sets food tolerances for pesticides? Which federal agency enforces food tolerances for pesticides?
   A. EPA sets food tolerances; FDA enforces food tolerances. USDA enforces tolerances in meat.

8. Q. Can states set standards less stringent than Federal FIFRA requirements?
   A. No. States may make standards stricter, but never less strict, than federal standards.

9. Q. What state agency has the primary responsibility for regulating agricultural pesticide use in Arizona?
A. The Arizona Department of Agriculture.

10. Q. Who needs to be certified in Arizona?

A. Anyone who uses or supervises the use of pesticides classified as restricted-use.

11. Q. What is the criteria for a private applicator?

A. A private applicator applies or supervises the application of restricted-use pesticides to produce agricultural commodities on land owned or rented by the applicator or his or her employer. A private applicator may also apply or supervise application on someone else’s land, as long as no compensation other than trading of personal services is involved.

12. Q. What is the criteria for a commercial applicator?

A. A commercial applicator is paid to apply or supervise the application of restricted-use pesticides for any purpose on property he does not own.

13. Q. How often must licenses, permits, and certification credentials be renewed?

A. Licenses, permits, and certification credentials must be renewed annually.