

NEWFOUNDLAND AND LABRADOR
REGULATION 26/12

Pesticides Control Regulations, 2012

under the

Environmental Protection Act

(O.C.2012-082)

(Filed April 3, 2012)

Under the authority of section 111 of the Environmental Protection Act, the Lieutenant-Governor in Council makes the following regulations.

Dated at St. John's , March 30, 2012.

Robert Thompson

Clerk of the Executive Council

REGULATIONS

Analysis

1. Short title

2. Definitions

3. Licences

4. Operator's licence

5. Operator's licence - exemptions

6. Applicator licence categories

7. Applicator's licence

8. Applicator's licence - exemptions

9. Unlicensed assistants

10. Vendor's licence

11. Vendor's licence- exemptions

12. Records

13. Purchase and sale of pesticides

14. Lawns

15. Warnings

16. Protective clothing

17. Occupational health and safety

18. Anti-backflow device

19. Storage

20. Disposal of containers

21. Storage area

22. Penalty

23. Insurance requirement

24. Transitional

25. Repeal

26. Commencement

Schedule

Short title

1. These regulations may be cited as the Pesticides Control Regulations, 2012 .

Back to Top

Definitions

2. In these regulations

(a) "Act" means the Environmental Protection Act;

(b) "agricultural pesticide" means a type of commercial or restricted class pesticide designated for agricultural use;

(c) "approved examination" means an examination, approved by the minister or a person designated by the minister that verifies that an applicator or vendor has met the knowledge requirements of these regulations;

(d) "commercial class pesticide" means a pesticide classified as "commercial" under the Pest Control Products Regulations made under The Pest Control Products Act (Canada), and includes agricultural, commercial, industrial and forestry class pesticides;

(e) "domestic class pesticide" means a pesticide classified and labelled as "domestic" under the Pest Control Products Regulations made under The Pest Control Products Act (Canada);

(f) "lawn" means a plot of grass that is maintained at a regular and approximately uniform height through periodic and regular mowing;

(g) "licence" means a document issued by the minister or a person designated by the minister authorizing the person to whom it is issued to

(i) operate a business or provide a service involving the use or application of a pesticide for reward or hire,

(ii) apply pesticides, or

(iii) sell pesticides;

(h) "permit" means a document in writing issued to a person authorizing the purchase or use of a specific quantity of a named pesticide at a specific location or site for a specific purpose and time as set out in the permit;

(i) "pest" means an injurious, noxious or troublesome insect, fungus, bacterial organism, virus, weed, rodent or other plant or animal, and includes an injurious, noxious or troublesome organic function of a plant or animal;

(j) "pesticide applicator" means a person licensed to apply pesticides;

(k) "pesticide operator" means an entity licensed to operate a business or provide a service involving the use or application of a pesticide for hire or reward;

(l) "pesticide use" means the purchasing, transporting, storing, possessing or handling of a pesticide;

(m) "pesticide vendor" means a person licensed to sell pesticides under the terms and conditions contained in the licence; and

(n) "restricted class pesticide" means a pesticide classified and labelled as "restricted" under the Pest Control Product Regulations made under The Pest Control Products Act (Canada).;

[Back to Top](#)

Licences

3. (1) A licence shall entitle the holder to conduct those activities specified in the licence class for which the licence is issued.

(2) A person shall not possess, store, transport, dispose or otherwise handle a pesticide unless

(a) the person has a valid applicator licence, operator licence or vendor licence; or

(b) the pesticide or person is exempted from the requirement to have a licence.

(3) A licence is valid from the date of issue until the expiry date stated in the licence unless the licence is suspended or cancelled earlier.

(4) A licence is not transferable.

[Back to Top](#)

Operator's licence

4. (1) A person shall not undertake an operation designed to use a pesticide to control a pest without a valid operator's licence.

(2) An application for an operator's licence shall be made to the minister in the approved form and containing the information that the minister or a person designated by the minister may require.

(3) The minister or a person designated by the minister may also require an applicant for an operator's licence to

(a) supply the information as is considered necessary with respect to the operations intended by the applicant; and

(b) undergo a pesticide storage inspection.

(4) An operator's licence shall entitle the holder to

(a) engage a pesticide applicator to conduct an operation involving the use of a pesticide to control a pest; or

(b) purchase, possess, transport, store or dispose of a pesticide in accordance with the provisions of the Act and these regulations.

(5) The minister or a person designated by the minister may direct that a licence be subject to specified terms or conditions which shall be indicated on the licence and the holder of the licence shall abide by those terms or conditions.

(6) The minister or a person designated by the minister may require the holder of an operator's licence to submit a summary of his or her operations at a time and in a form that the minister may determine.

(7) A summary referred to in subsection (6) shall be submitted before a succeeding licence application can be processed.

[Back to Top](#)

Operator's licence - exemptions

5. Notwithstanding section 4 a person undertaking an operation involving

- (a) a domestic class pesticide to be used on his or her own property;
- (b) an agricultural pesticide to be used on his or her own property or property rented by him or her for the purpose of growing crops or raising livestock; or
- (c) a commercial class pesticide designated for the following uses:
 - (i) bactericides used in cutting oils and aviation and marine fuels,
 - (ii) cleansers, deodorizers, disinfectants and soaps,
 - (iii) dust control agents,

(iv) fabric softeners,

(v) chemical formulations intended as bactericides or algaecides for use in swimming pools, domestic water supplies, industrial cooling systems, home aquaria or ornamental pools, or

(vi) surfactants, preservatives, adjuvants and growth regulators

is exempt from the requirement for an operator's licence.

[Back to Top](#)

Applicator licence categories

6. There is established for the purpose of applying pesticides the following applicator licence categories:

(a) an agriculture licence for the use of pesticides by ground application

(i) for the production of agricultural products, including berries, grains, forage crops, nursery sod, grapes, seed crops, ornamentals, tree seedlings, tree fruits, vegetables in fields, orchards or shelter belts, pastures and rangelands,

(ii) for the control of noxious weeds, birds and rodents,

(iii) for aquatic weed control in dugouts with no outflow,

(iv) on Christmas tree plantations,

(v) to control livestock and poultry pests,

(vi) for on-farm seed treatment,

(vii) for soil fumigations, except methyl bromide,

(viii) for pest control around farm buildings associated with crop and livestock production,
and

(ix) excluding pesticide use in greenhouses or commercial seed treatments;

(b) an aquatic licence for the use of herbicides by ground application

(i) for the control of aquatic pests, excluding mosquito and biting fly control, in standing or running water or in areas left exposed during periods of low water, and

(ii) for herbicide applications in lakes, rivers, irrigation canals, ditches and dugouts;

(c) a forestry licence for the use of pesticides by ground application

(i) in forest management operations including site preparation, brushing, conifer release, thinning, insect control, disease control and vertebrate control, and

(ii) in forest seed orchards, outdoor nurseries and plantations;

(d) a greenhouse licence for the use of pesticides in greenhouses and mushroom houses

(i) during the storage, display and production of agricultural crops including vegetables, mushrooms and ornamentals as well as forest tree seedlings, and

(ii) otherwise, for fumigation, except methyl bromide,

and for associated pesticide use on areas immediately surrounding greenhouses;

(e) an industrial vegetation licence for the use of herbicides by ground application

(i) for controlling vegetation on industrial areas including roadsides, powerlines, pipelines, rights-of-ways, railways, well sites, equipment yards, dams, dykes and non-crop land,

(ii) to parking lots, sidewalk cracks and road beds during construction, and

(iii) to control designated noxious weeds on private and public lands;

(f) a landscape licence for the use of pesticides by ground application

(i) for the maintenance of ornamental trees, shrubs, flowers and turf on outdoor residential, commercial and public land, including golf courses and cemeteries, and

(ii) in outdoor nurseries for the propagation of landscape and garden plants;

(g) a mosquito and biting fly licence for the use of insecticides by ground application for the control of mosquito or biting fly larvae or adults;

(h) a fumigation licence for the use of fumigants that are gases at room temperature

(i) for soil fumigation, within enclosed structures or under sheets, and

(ii) for fumigation in grain bins and elevators, building, rail cars, trucks and closed vaults;

(i) a structural licence for the use of pesticides other than herbicides or fumigants

(i) inside a structure or on the exterior surface of a structure, excluding plant pests in greenhouses, and

(ii) including rodenticide use on public or private land; and

(j) an aerial licence for the use of pesticides applied by aircraft onto forest land, non-agricultural land such as for industrial vegetation control, bodies of water for mosquito and biting fly control and agricultural land.

[Back to Top](#)

Applicator's licence

7. (1) A person shall not apply a pesticide without a valid applicator's licence.

(2) An application for an applicator's licence shall be made to the minister in the approved form and containing the information that the minister or a person designated by the minister may require.

(3) A person who applies for an applicator's licence or for the renewal of an applicator's licence shall possess a certificate which indicates that the applicator has passed the approved examination on the safe storage, use, transport, application, handling or disposal of pesticides set by the minister or a person designated by the minister.

(4) The minister or a person designated by the minister may direct that a licence be subject to specified terms or conditions which shall be indicated on the licence and the holder of the licence shall abide by those terms or conditions.

(5) The minister, or a person designated by the minister may require an applicant for a pesticide applicator licence to complete training courses respecting the storage, use, application, handling or disposal of pesticides.

[Back to Top](#)

Applicator's licence - exemptions

8. Notwithstanding subsection 7(1) a person applying

- (a) a domestic class pesticide to his or her own property;

- (b) an agricultural pesticide that the minister or a person designated by the minister shall designate
 - (i) as pesticides for use in animal care which are ready-to-use products for ectoparasite control, and

 - (ii) pesticides for use in animal care which are intended for use on the animal as a surface insect control product; or

- (c) a commercial class pesticide designated for the following uses
 - (i) bactericides used in cutting oils and aviation and marine fuels,

 - (ii) cleansers, deodorizers, disinfectants and soaps,

 - (iii) dust control agents,

 - (iv) fabric softeners,

 - (v) chemical formulations intended as bactericides or algaecides for use in swimming pools, domestic water suppliers, industrial cooling systems, home aquaria or ornamental pools, or

 - (vi) surfactants, preservatives, adjuvants and growth regulators

is exempt from the requirement of an applicator's licence.

[Back to Top](#)

Unlicensed assistants

9. (1) Notwithstanding subsection 7(1), a pesticide applicator using or applying a pesticide under an agricultural or greenhouse licence referred to in paragraph 6(a) or (d) may allow a person who does not have an applicator's licence to apply a pesticide and shall, with respect to that unlicensed person employed by, contracted to or working with that pesticide applicator

(a) ensure that that person, when carrying out activities under the Act or regulations, is under his or her direct supervision and control; and

(b) be responsible for the actions and conduct of that person with respect to anything required to be carried out in accordance with the Act or regulations.

(2) For the purposes of paragraph 9(1)(a) "direct supervision and control" means to be either physically present at the treatment site or available for immediate response through an effective communication system and able to attend at the treatment site within a reasonable period of time.

[Back to Top](#)

Vendor's licence

10. (1) A person shall not sell or distribute a pesticide without a valid vendor's licence.

(2) The minister may issue the following types of vendor licences:

(a) business vendor licences to businesses that desire to sell pesticides; and

(b) certified vendor licences to individuals who desire to sell pesticides and have passed the approved examination.

(3) An individual with a certified vendor licence may sell domestic, commercial and restricted class pesticides.

(4) A business with a business vendor licence may sell domestic class pesticides but may only sell commercial or restricted class pesticides where they employ a certified vendor licensee and the certified vendor licensee sells the pesticide.

(5) An application for a vendor's licence shall be made to the minister in the approved form and containing the information that the minister or a person designated by the minister may require.

(6) The minister or a person designated by the minister may require an applicant for a certified vendor licence or the renewal of a certified vendor licence to show, upon examination at a specified time and location, that he or she possesses adequate knowledge of the application, handling, storage and safe use of the pesticides which he or she intends to sell.

(7) The minister, or a person designated by the minister may require an applicant for a certified pesticide vendor licence to complete training courses respecting the storage, use, application, handling or disposal of pesticides.

(8) The minister or a person designated by the minister may direct that a licence be subject to specified terms and conditions which shall be indicated on the licence and the holder of the licence shall abide by those terms and conditions.

[Back to Top](#)

Vendor's licence- exemptions

11. Notwithstanding subsection 10(1) a person who sells

(a) domestic class pesticides formulated for direct application on people and pets; or

(b) commercial class pesticides designated for the following purposes:

(i) bactericides used in cutting oils and aviation and marine fuels,

(ii) cleansers, deodorizers, disinfectants and soaps,

(iii) dust control agents,

(iv) fabric softeners,

(v) chemical formulations intended as bactericides or algacides for use in swimming pools, domestic water suppliers, industrial cooling systems, home aquaria or ornamental pools, or

(vi) surfactants, preservatives, adjuvants and growth regulators

is exempt from the requirement of a vendor's licence.

[Back to Top](#)

[Records](#)

12. A pesticide vendor shall keep, in a form and manner required by the minister or a person designated by the minister, a record of each purchase and sale of a pesticide.

[Back to Top](#)

[Purchase and sale of pesticides](#)

13. (1) A person shall not have in his or her possession a commercial or restricted class pesticide which has been purchased or obtained from anyone other than a pesticide vendor.

(2) A pesticide vendor shall not sell a commercial or restricted class pesticide to anyone other than a pesticide operator.

(3) Notwithstanding subsection (1), a commercial or restricted class pesticide may be purchased from a vendor who is located outside the province and who does not have a licence where

(a) a pesticide operator, or

(b) a pesticide applicator with a valid agricultural or greenhouse licence

obtains a permit for the purchase of the pesticide from the minister or a person designated by the minister.

(4) An application for a permit to buy pesticides from an unlicensed vendor shall be made to the minister in the approved form and containing the information that the minister or a person designated by the minister may require.

(5) Notwithstanding subsections (1) and (2), a pesticide vendor may sell a commercial or restricted class pesticide to a person who does not have a valid operator's licence where

(a) the pesticide is designated on its label as being for agricultural use and the person has a valid agricultural applicator licence; or

(b) the pesticide is designated on its label as being for greenhouse use and the person has a valid greenhouse applicator licence; and

(c) the pesticide vendor maintains records of the sale as required by the minister.

(6) A pesticide vendor who sells domestic class pesticides shall not sell pesticide and fertilizer products that are blended together.

Back to Top

Lawns

14. (1) A person shall not use a pesticide product that contains one or more of the following chemicals:

(a) carbaryl;

(b) 2,4-dichlorophenoxyacetic acid, commonly referred to as 2,4-D;

(c) mecoprop;

(d) dicamba; or

(e) 2-methyl-4-chlorophenoxyacetic acid, commonly referred to as MCPA

in, on or over a lawn.

(2) A person shall not sell, supply or offer for sale a pesticide that contains one or more of the chemicals in paragraphs (1)(a)-(e) for use in, on or over a lawn.

(3) Subsections (1) and (2) do not apply to a person who uses, possesses, sells or supplies a pesticide for

(a) a golf course;

(b) forestry activities; or

(c) agricultural activities.

(4) Notwithstanding subsections (1) and (2) the minister may allow a pesticide product containing one or more of the chemicals in paragraphs (1)(a)-(e) to be applied to a sports turf or other highly managed turf areas.

[Back to Top](#)

Warnings

15. Where directed by the minister or a person designated by the minister a pesticide operator shall publish warning notices or erect warning notices or warning signs in accordance with that direction.

[Back to Top](#)

Protective

clothing

16. (1) A pesticide operator shall

(a) provide the protective clothing and equipment identified in the instructions of the pesticide label or by the minister or a person designated by the minister; and

(b) ensure that the protective clothing and equipment is used by the pesticide applicator.

(2) A pesticide applicator shall ensure that the protective clothing and equipment referred to in subsection (1) is used by him or her and by an unlicensed assistant as defined in section 9 engaged in the use, handling or disposal of a pesticide.

[Back to Top](#)

Occupational health and safety

17. Notwithstanding a provision of these regulations the Occupational Health and Safety Act applies to all matters affecting the health and safety of workers to which these regulations apply.

[Back to Top](#)

Anti-backflow device

18. Water from an open body of water shall not be introduced by any means into a sprayer, container or other equipment that holds or has been used to hold a pesticide unless the sprayer, container or other equipment is fitted with a device which prevents backflow.

[Back to Top](#)

Storage

19. (1) Subject to sections 38 and 42 of the Act, a commercial or restricted class pesticide or material mixed or treated with a commercial or restricted class pesticide or a container that holds or has been used to hold a commercial or restricted class pesticide shall be kept and stored separately from food and drink destined for human or animal consumption and from living plants by

(a) being kept in a separate room;

(b) being separated from the nearest food, drink and plants by a direct distance of not less than 8 metres; or

(c) other method satisfactory under the order of an inspector.

(2) Subject to sections 38 and 42 of the Act, a commercial or restricted class pesticide or material mixed or treated with a commercial or restricted class pesticide or a container that holds or has been used to hold a commercial or restricted class pesticide shall be transported separately from

(a) food and drink destined for human consumption;

(b) food and drink destined for animal consumption; or

(c) living plants

by being kept in a vapour-proof container, packaged separately in a rigid box or otherwise in such manner as to prevent contamination, damage or injury.

(4) All seed grain treated with a pesticide shall be transported in sacks or other sealed containers or where transported in bulk shall be securely covered by tarpaulin or similar cover to prevent spillage during transport.

(5) Every person who sells, supplies or distributes seed grain or other seed crops or propagation material treated with a pesticide shall label all containers "TREATED WITH (name of pesticide). DO NOT USE FOR FOOD OR FEED."

[Back to Top](#)

Disposal of
containers

20. A container that is used to hold a pesticide shall be disposed of

(a) in the manner recommended by the manufacturer as stated on the pesticide label; or

(b) by decontaminating and rendering it unsuitable for use as a container in a manner identified by the minister or a person designated by the minister and by discarding it in the manner directed by the minister or a person designated by the minister.

Back to Top

Storage area

21. (1) A person who possesses, sells or stores for gain or reward a commercial or restricted class pesticide shall ensure that the storage area has

(a) a source of water in an area in or adjacent to the storage area;

(b) approved safety equipment as required which is properly maintained, functional and available at all times for personnel handling and working with pesticides;

(c) flooring which shall not contain a floor drain or catch basin which is directly or indirectly connected to a private or municipal sewage system or public watercourse;

(d) flooring which shall be capable of being readily cleaned and decontaminated of pesticides stored within;

(e) adequate ventilation by either natural or mechanical means so as to prevent the accumulation of toxic or flammable vapours;

(f) a "Danger—Stored Pesticide" sign posted on all entrances, which is printed in block letters 5 centimetres or more in height;

(g) clean-up procedures consistent with the instructions of the minister or person designated by the minister; and

(h) other provisions which may be stipulated on the licence by the minister or a person designated by the minister.

(2) A person who possesses, sells or stores for gain or reward a commercial or restricted class pesticide shall provide a list of each pesticide and estimated quantities normally held in storage to the chiefs of the local fire departments.

(3) A pesticide vendor or pesticide operator shall not store a commercial or restricted class pesticide on the premises of a private dwelling place unless that storage has been first approved by an inspector with the department authorized to give that approval.

[Back to Top](#)

Penalty

22. Where, with respect to a contravention of these regulations,

(a) a summons is issued to a person by way of a ticket in accordance with the Provincial Offences Act; and

(b) that person is, on summary conviction, found guilty of the offence stated on that ticket,

that person is liable to a fine described in the Schedule to these regulations.

[Back to Top](#)

Insurance

requirement

23. (1) An applicant for an operator's licence, except the Crown, shall provide evidence that his or her activities and those of the applicant's employees or agents that are regulated by the Act are covered by insurance as follows:

(a) commercial general liability insurance with a minimum inclusive limit of \$1,000,000 per occurrence for bodily injury and property damages to include the Crown as an additional insured; and

(b) third party liability insurance in respect of owned, licensed vehicles, subject to minimum limits of \$500,000 with a rider to permit the transportation of pesticides for all vehicles which do or may carry pesticides.

(2) An operator's licence shall not be issued or renewed unless the minister or a person designated by the minister is satisfied as to the sufficiency of the commercial general liability coverage and the third party liability coverage, relating to vehicles, held by the applicant.

(3) Where an insurance contract or insurance policy is lapsed, expired or is cancelled, the licence in respect of which the insurance was required under this section is automatically cancelled.

[Back to Top](#)

[Transitional](#)

24. A licence issued under the Pesticides Control Regulations, 2003 shall expire on the coming into force of these regulations.

[Back to Top](#)

[Repeal](#)

25. The Pesticides Control Regulations, 2003, Newfoundland and Labrador Regulations 57/03, are repealed.

[Back to Top](#)

[Commencement](#)

26. These regulations come into force on May 1, 2012.

[Back to Top](#)

[Schedule](#)

[Penalties](#)

[Penalty](#)

[Environmental Protection Act](#)

[Offence](#)

[First Offence Penalty](#)

[Subsequent Offence](#)

[Penalty](#)

[Section or Subsection](#)

[Fine not more than dollar amount
specified](#)

[Fine not more than dollar amount
specified](#)

[Max](#)

[Min](#)

[Max](#)

Min

33(2)

Lack of licence

2,000

300

2,000

300

34

Invalid insurance

1,000

200

1,000

500

38

Failure to store pesticide properly

1,000

300

1,000

500

39

Improper handling of pesticides

1,000

250

1,000

500

Offence

First Offence Penalty

Subsequent Offence

Penalty

Section or

Subsection

Fine not more than dollar amount
specified

Fine not more than dollar amount
specified

Max

Min

Max

Min

4(5)

Violation of provision or condition of licence by operator

1,000

200

1,000

500

7(4)

Violation of provision or condition of licence by applicator

500

75

500

150

13

Improper purchase/sale of pesticide

2,000

250

2,000

500

14

Using, selling, supplying or offering for sale a pesticide that contains one or more of the chemicals stated in paragraphs 1(a)-(e) for use in, on or over a lawn

5,000

500

5,000

1,000

16

Failure to provide protective clothing or ensuring that protective clothing is worn

1,000

100

1,000

250

20

Improper storage/transport of pesticide

1,000

300

1,000

500

©William E. Parsons, Queen's Printer

(Includes correction of May 4/12)