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**NEWFOUNDLAND AND LABRADOR  
REGULATION 57/03**

*Pesticides Control Regulations, 2003*  
under the  
*Environmental Protection Act*  
(O.C. 2003-224)

*(Filed May 23, 2003)*

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, May 21, 2003.

Deborah E. Fry  
Clerk of the Executive Council

**REGULATIONS**

*Analysis*

1. Short title
  2. Definitions
  3. Licences
  4. Operator's licence
  5. Applicator licence categories
  6. Unlicensed assistants
  7. Vendor's licence
  8. Purchase of pesticides
  9. Handling, storage, transporting and application of pesticides
  10. Anti-backflow device
  11. Storage apart from food and drink
  12. Disposal of containers
  13. Storage area
  14. Insurance requirement
  15. Repeal
-

## Short title

1. These regulations may be cited as the *Pesticides Control Regulations, 2003* .

## Definitions

2. In these regulations

- (a) "Act" means the *Environmental Protection Act* ;
- (b) "agricultural class pesticide" means a class of commercial or restricted class pesticide registered for agricultural use;
- (c) "approved examination" means an examination, approved by the minister, that verifies that an applicator or vendor has met the knowledge requirements of these regulations;
- (d) "certificate" means a document issued to a person upon successful completion of an approved examination;
- (e) "certification" means the recognition by the minister that a person has met the knowledge requirements of these regulations to use or sell pesticides;
- (f) "certification category" means a pest management activity for which a person may be certified under these regulations;
- (g) "certified applicator" means a person who has obtained a certificate for applying pesticides, which is recognized by the minister;
- (h) "certified vendor or dispenser" means a person who has obtained a certificate for selling pesticides, which is recognized by the minister;
- (i) "commercial applicator" means a certified applicator who uses or supervises the use of a pesticide for compensation, not including services in kind;
- (j) "commercial pesticides" means pesticides classified and labelled 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;
- (k) "consumer" means a person who obtains a pesticide for the purpose of applying that pesticide to control a pest and not for resale or retransfer;
- (l) "domestic pesticide" means a pesticide classified and labelled as "domestic" under the *Pest Control Products Regulations* made under *The Pest Control Products Act* (Canada);
- (m) "licence" means a document issued by the minister authorizing the person to whom it is issued to carry on the business of selling or applying pesticides;
- (n) "permit" means a document in writing issued to a person authorizing the 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;
- (o) "pest" means an injurious, noxious or troublesome insect, fungus, bacterial organism, virus, weed, rodent or other plant or animal pest, and includes an injurious, noxious or troublesome organic function of a plant or animal;
- (p) "pesticide operator" means an entity that operates a business or provides a service

involving the use or application of a pesticide or who for hire or reward applies or offers to apply a pesticide;

(q) "pesticide use" means an activity involving a pesticide after the manufacturer's seal has been broken, and includes transporting, storing and handling a pesticide;

(r) "private applicator" means an applicator who uses a pesticide on property owned, leased or rented by him or her or his or her employer, or on the property of another person where used or applied without compensation other than services in kind;

(s) "restricted pesticide" means pesticide classified and labelled as "restricted" under the *Pest Control Products Regulations* made under *The Pest Control Products Act* (Canada);

(t) "retailer pesticide sale" means a sale made to a consumer;

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

(v) "wholesaler pesticide sale" means a sale made to another vendor.

## **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 licence is valid from the date of issue and expires when

(a) it is stipulated in the licence; or

(b) the licence is suspended or cancelled under the Act or these regulations.

(3) A licence is not transferable.

## **Operator's licence**

**4.** (1) A pesticide operator shall obtain an operator's licence to undertake an operation designed to use a pesticide to control a pest.

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

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

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

(3) A licensed operator shall ensure that the protective clothing and equipment identified in the instructions of the pesticide label or by the minister or a person designated by the minister is provided and is used by a licensed pesticide applicator or an unlicensed assistant as defined in section 6 engaged in the use, handling or disposal of a pesticide.

(4) An application for an operator's licence shall be made in a form required by the minister.

(5) Notwithstanding subsection (4), the minister, or a person designated by the minister, may require an

applicant for an operator's licence to supply the information as is considered necessary with respect to the operations intended by the applicant.

(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.

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

(9) Notwithstanding subsection (1), a person undertaking a program involving

- (a) a domestic pesticide;
- (b) an agricultural class pesticide to be used on his or her own property; or
- (c) a commercial or industrial 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,
  - (vi) surfactants, preservatives, adjuvants and growth regulators

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

(10) Notwithstanding subsection (3), the *Occupational Health and Safety Act* and *Occupational Health and Safety Regulations* shall be adhered to where applicable.

### **Applicator licence categories**

**5.** (1) 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, 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 fumigation, 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) and 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 weeds on industrial areas including roadsides, powerlines, pipelines, rights-of-way, railways, well sites, equipment yards, dams, dykes and non-crop land,
  - (ii) to parking lots, sidewalk cracks and road beds during road 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, buildings, 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.

(2) The minister or a person designated by the minister may require an applicant for a licence or the renewal of a licence to show, upon examination at a specified time and location, that he or she possesses adequate knowledge concerning the proper and safe use, application, handling, storage and disposal of a pesticide to be used in a particular applicator licence class.

(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 or a person employed by the applicator, has passed the required examination on the safe storage, use, application, handling or disposal of pesticides set by the minister.

(4) Subsection (3) shall come into force with respect to an agriculture licence under paragraph (1)(a) on January 1, 1997.

(5) An application for an applicator's licence shall be made in the form required by the minister.

(6) Notwithstanding subsection (1), a person applying

(a) a domestic pesticide;

(b) agricultural class pesticides that 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 or industrial 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,

(vi) surfactants, preservatives, adjuvants and growth regulators

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

### **Unlicensed assistants**

6. A pesticide applicator or a pesticide operator shall, with respect to an unlicensed person employed by, contracted to or under the control of that applicator or operator,

- (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.

### **Vendor's licence**

7. (1) A person who desires to sell or distribute a pesticide shall possess a vendor's licence.

(2) A pesticide vendor shall not make a retail sale of a commercial or restricted class pesticide to a person who does not possess an operator's licence under this Act, unless the pesticide to be sold is designated on the label for agricultural use.

(3) A pesticide vendor shall not make a retail sale of a highly toxic pesticide as described in section 8 to a person who does not possess a permit to apply the highly toxic pesticide to be sold.

(4) Pesticide vendors are exempt from the requirement for a vendor's licence in respect to the sale of domestic pesticides and a commercial class or industrial class pesticide designated for the following purposes:

- (a) bactericides used in cutting oils and aviation and marine fuels;
- (b) cleansers, deodorizers, disinfectants and soaps;
- (c) dust control agents;
- (d) fabric softeners;
- (e) chemical formulations intended as bactericides or algaecides for use in swimming pools, domestic water supplies, industrial cooling systems, home aquaria or ornamental pools; and
- (f) surfactants, preservatives, adjuvants and growth regulators.

(5) A person desiring a vendor's licence shall apply to the minister or a person designated by the minister for the licence.

(6) The minister, or a person designated by the minister may require a person who applies for a licence under this section to show upon examination at a specified time and location that he or she possesses adequate knowledge of the application, handling, storage, disposal and proper 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 a person who applies for a licence under this section to complete the courses of training respecting the storage, use, application, handling or disposal of pesticides that are considered necessary.

(8) An application for a vendor's licence shall be made in a form required by the minister.

(9) A wholesale pesticide vendor shall keep in a form and manner required by the minister, a record of each

- (a) sale of commercial or restricted class pesticides; and
- (b) purchase of commercial or restricted class pesticides.

(10) A retail pesticide vendor shall keep in a form and manner required by the minister a record of each

- (a) sale of a commercial or restricted class pesticide; and
- (b) purchase of commercial or restricted class pesticides.

### **Purchase of pesticides**

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

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

(3) Notwithstanding subsection (1), a commercial or restricted pesticide may be purchased from a vendor located outside the province and who is unlicensed, if the licensed operator obtains a permit for such a purchase 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 in the form required by the minister.

(5) Notwithstanding subsections (1), (2) and 7(2), a vendor may sell a commercial or restricted pesticide to an unlicensed operator if the pesticide sold is designated on the label for agricultural use and the purchaser is a licensed applicator with an agricultural designator and if the vendor maintains records of the sales in the manner and form required by the minister.

### **Handling, storage, transporting and application of pesticides**

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

### **Anti-backflow device**

**10.** Water from an open body of water shall not be introduced by any means into a sprayer, container or other equipment of whatsoever kind unless such sprayer, container or other equipment is fitted with a device which prevents backflow.

### **Storage apart from food and drink**

**11.** (1) Subject to sections 38 and 42 of the Act, a pesticide or material mixed or treated with a pesticide or a container that holds or has been used to hold a 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 methods otherwise satisfactory under the order of an inspector in section 99 of the Act.

(2) Subject to sections 38 and 42 of the Act, a pesticide or material mixed or treated with a pesticide or a container that holds or has been used to hold a 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.

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

(4) 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."

(5) Paragraphs (1)(a) and (b) shall not apply to a domestic pesticide.

### **Disposal of containers**

**12.** 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 his or her designate.

### **Storage area**

**13.** (1) A person who sells or stores for gain or reward a commercial or restricted pesticide shall do so in a manner that ensures that a storage area shall have

(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 and/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, material and equipment available to clean up spills or leakage;

(h) security procedures consistent with the instructions of the minister or a person designated by the minister;

(i) another provision which may be stipulated on the licence by the minister or a person designated by the minister.

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

### **Insurance requirement**

**14.** (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) A pesticide 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) If 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.

### **Repeal**

**15. The *Pesticides Control Regulations*, Consolidated Newfoundland and Labrador Regulation 1166/96, are repealed.**

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